IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

EDDIE THOMAS,

Petitioner,

vs.

R. GROUNDS, Warden,

Respondent.

No. C 10-01357 JW (PR)

ORDER DENYING HABEAS PETITION; DENYING CERTIFICATE OF APPEALABILITY

This is a habeas corpus case filed by a state prisoner pursuant to 28 U.S.C. § 2254. The petition is directed to a denial of parole.

BACKGROUND

In 1983, Petitioner was sentenced to a term of 25 years to life in state prison after pleading guilty to first degree murder in Madera County Superior Court. After a parole suitability hearing on December 23, 2008, the Board of Parole Hearings ("Board") found Petitioner suitable for parole. On January 2, 2009, the Governor reversed the Board's decision and denied parole. Petitioner sought habeas relief in the state superior, appellate, and supreme courts, all of which were denied. Thereafter, Petitioner filed the instant federal petition.

DISCUSSION

The only issue in this case is Petitioner's claim that the parole denial was not supported by "some evidence." The United States Supreme Court has recently held that "[i]n the context of parole . . . the procedures required [by the due process clause] are minimal . . . an opportunity to be heard and . . . a statement of the reasons why parole was denied . . . '[t]he Constitution . . . does not require more." Swarthout v. Cooke, 131 S.Ct. 859, 862 (2011). That is, there is no due process requirement that a parole denial be supported by "some evidence." The petition therefore is without merit.

CONCLUSION

For the reasons set forth above, the petition for a writ of habeas is DENIED.

Pursuant to Rule 11 of the Rules Governing Section 2254 Cases, a certificate of appealability ("COA") under 28 U.S.C. § 2253(c) is DENIED because it cannot be said that "reasonable jurists" would find the district court's assessment of the constitution claims debatable or wrong. See Slack v. McDaniel, 529 U.S. 473, 484 (2000).

DATED: May 3, 2011

JAMES WARE
United States District Chief Judge

United States District Court
For the Northern District of California

UNITED STATES DISTRICT COURT

FOR THE

NORTHERN DISTRICT OF CALIFORNIA

EDDIE THOMAS,

Plaintiff,

v.

R GROUNDS et al,

Defendant.
_____/

Case Number: CV10-01357 JW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on May 4, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Eddie Thomas C-58679
CTF
P. O. Box 689
Soledad, CA 93960-0689

Dated: May 4, 2011

Richard W. Wieking, Clerk

Susan Imbriani

By: Susan Imbriani, Deputy Clerk