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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

REED DOUGLAS FRANCE,)	No. C 10-5358 LHK (PR)
)	
Petitioner,)	ORDER OF DISMISSAL
)	
v.)	
)	
WARDEN R. GROUNDS,)	
)	
Respondent.)	
_____)	

Petitioner, a state prisoner proceeding *pro se*, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging a decision by the California Board of Parole Hearings (“Board”) finding him unsuitable for parole. Petitioner has paid the filing fee. For the reasons stated below, the Court DISMISSES the petition for failure to state a cognizable claim for relief.

DISCUSSION

A. Standard of Review

This Court may entertain a petition for writ of habeas corpus “in behalf of a person in custody pursuant to the judgment of a state court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a); *Rose v. Hodges*, 423 U.S. 19, 21 (1975).

A district court shall “award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the

1 applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

2 B. Petitioner’s Claims

3 As grounds for federal habeas relief, Petitioner alleges that the Board violated his due
4 process rights by: (1) denying parole based on insufficient evidence that he is currently a danger
5 to society; (2) denying parole based solely on his record of alcoholism; and (3) denying parole
6 arbitrarily. However, the Supreme Court has recently made clear that a prisoner’s federal due
7 process claim regarding a denial of parole is limited to whether he received the minimum
8 procedures necessary under the federal constitution. *Swarthout v. Cooke*, No. 10-333, 2011 WL
9 197627 (U.S. Jan. 24, 2011) (per curiam). Specifically, this Court’s inquiry is limited to whether
10 Petitioner was given an opportunity to be heard, and given a statement of reasons for the denial.
11 *Id.* at *2, citing *Greenholtz v. Inmates of Neb. Penal and Correctional Complex*, 442 U.S. 1, 16
12 (1979). Thus, Petitioner’s allegations fail to state a cognizable claim for federal habeas relief.
13 *See id.*

14 **CONCLUSION**

15 Accordingly, this case is DISMISSED for failure to state a claim. The Clerk shall close
16 the file and enter judgment in this matter.

17 **CERTIFICATE OF APPEALABILITY**

18 A certificate of appealability will not issue. Reasonable jurists would not “find the
19 district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*,
20 529 U.S. 473, 484 (2000). Petitioner may seek a certificate of appealability from the Court of
21 Appeal.

22 IT IS SO ORDERED.

23 DATED: 2/18/11

24 
LUCY H. KOH
United States District Judge