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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>GEORGE COSIO,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>A. P. KANE,</p> <p>Respondent - Appellee.</p>
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No. 07-15474

D.C. No. CV-05-01966-CRB

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Charles R. Breyer, District Judge, Presiding

Submitted May 25, 2010**

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

California state prisoner George Cosio appeals pro se from the district court's judgment denying his 28 U.S.C. § 2254 habeas petition. We have jurisdiction

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

under 28 U.S.C. § 2253,¹ and we affirm.

Cosio contends that the Board's 2004 decision to deny him parole was not supported by "some evidence" and therefore violated his due process rights.

Following an independent review of the record, *see Himes v. Thompson*, 336 F.3d 848, 853 (9th Cir. 2003), we conclude that the state court's conclusion that some evidence supports the Board's decision was not objectively unreasonable. *See* 28 U.S.C. § 2254(d); *see also Hayward v. Marshall*, No. 06-55392, 2010 WL 1664977, at *11, *17 (9th Cir. Apr. 22, 2010).

AFFIRMED.

¹ We certify for appeal, on our own motion, the issue of whether the 2004 decision of the California Board of Prison Terms ("the Board") to deny parole violated due process.