

SEP 21 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RODNEY L. SCOTT,

Petitioner - Appellant,

v.

ARNOLD SCHWARZENEGGER,

Respondent - Appellee.

No. 07-55029

D.C. No. CV-03-02560-AHS

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Alicemarie H. Stotler, Senior District Judge, Presiding

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

California state prisoner Rodney Scott appeals pro se from the district court's judgment denying his 28 U.S.C. § 2254 habeas petition.

* 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).

We have jurisdiction under 28 U.S.C. § 2253¹, and we affirm.

Scott contends that the Board of Prison Terms' 2001 decision to deny him parole was not supported by "some evidence" of his future dangerousness and therefore violated his due process rights. As some evidence does support the Board's decision, his contention is not availing. *See also Hayward v. Marshall*, 603 F.3d 546, 562 (9th Cir. 2010).

AFFIRMED.

¹We certify for appeal, on our own motion, the issue of whether the 2001 decision of the California Board of Prison Terms to deny parole violated due process.