

MAR 10 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CHRIS SALGADO,

Petitioner - Appellant,

v.

ANTHONY P. KANE, Warden,

Respondent - Appellee.

No. 08-16491

D.C. No. 3:05-cv-02681-JSW

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Jeffrey S. White, District Judge, Presiding

Submitted March 8, 2011**

Before: FARRIS, LEAVY, and BYBEE, Circuit Judges.

California state prisoner Chris Salgado appeals pro se from the district court's judgment denying his 28 U.S.C. § 2254 habeas petition. We have jurisdiction under 28 U.S.C. § 2253, and we affirm.

* 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).

Salgado contends that the Board's 2003 decision to deny him parole was not supported by "some evidence" and therefore violated his due process rights. The only federal right at issue in the parole context is procedural, and the only proper inquiry is what process the inmate received, not whether the state court decided the case correctly. *See Swarthout v. Cooke*, 131 S. Ct. 859, 862-63 (2011). Because Salgado raises no procedural challenges, we affirm.

Further, because Salgado has not has made a substantial showing of the denial of a constitutional right, we decline to certify his remaining claims. *See* 28 U.S.C. § 2253(c).

AFFIRMED.