

APR 29 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RAMON BIRL,

Petitioner - Appellant,

v.

CALIFORNIA BOARD OF PAROLE
HEARINGS,

Respondent - Appellee.

No. 08-16886

D.C. No. 1:06-cv-01676-LJO-GSA

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence J. O'Neill, District Judge, Presiding

Submitted April 20, 2011**

Before: RYMER, THOMAS, and PAEZ, Circuit Judges.

California state prisoner Ramon Birl appeals 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).

Birl contends that the Board's 2004 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); *Pearson v. Muntz*, No. 08-55728, 2011 WL 1238007, at *5 (9th Cir. Apr. 5, 2011). Because Birl raises no procedural challenges, we affirm.

We deny Birl's request for supplemental briefing.

AFFIRMED.