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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBERT MENDOZA,

Petitioner - Appellee,

v.

ROBERT HERNANDEZ, Warden,

Respondent - Appellant.

No. 08-55824

D.C. No. 3:05-CV-01938-L-NLS

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
M. James Lorenz, Senior District Judge, Presiding

Submitted May 5, 2011**
Pasadena, California

Before: REINHARDT and HAWKINS, Circuit Judges, and COGAN, District
Judge.***

* 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).

*** The Honorable Brian M. Cogan, District Judge for the U.S. District
Court for Eastern New York, Brooklyn, sitting by designation.

Warden Robert J. Hernandez appeals the grant of Robert Mendoza's habeas petition. We have jurisdiction under 28 U.S.C. § 2553. We reverse.

Federal due process requires only that a prisoner seeking parole receive an opportunity to be heard, notification of the reasons for any denial, and advance access to the record. *See Swarthout v. Cooke*, 131 S. Ct. 859, 862 (2011); *Pearson v. Muntz*, --- F.3d ----, No. 08-55278, 2011 WL 1238007 (9th Cir. 2011). The parties agree that Mendoza was afforded this constitutionally adequate process. The district court did not have the benefit of these subsequent decisions, which now compel a denial of Mendoza's petition.

REVERSED.