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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WALTER MCCOTTRELL,

Plaintiff - Appellant,

v.

ROBERT L. AYERS, Jr.,

Defendant - Appellee.

No. 08-15060

D.C. No. CV-07-01089-PJH

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Phyllis J. Hamilton, District Judge, Presiding

Submitted May 24, 2011\*\*

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

California state prisoner Walter McCottrell 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.

McCottrell contends that his due process rights were violated by the Board's

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\* 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).

2004 decision finding him unsuitable for parole, because the decision 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, 863 (2011) (per curiam). Because McCottrell raises no procedural challenges, we affirm.

Further, because McCottrell has not 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.**