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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RON MORTON, Jr.,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>JAMES D. HARTLEY, Warden, Avenal State Prison,</p> <p>Respondent - Appellee.</p>
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No. 08-15338

D.C. No. CV-06-00873-OWW

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Oliver W. Wanger, Senior District Judge, Presiding

Submitted June 15, 2011\*\*

Before: CANBY, O'SCANNLAIN and FISHER, Circuit Judges.

California state prisoner Ron Morton, Jr. 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.

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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).

Morton 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. *Swarthout v. Cooke*, 139 S.Ct. 859, 863 (2011); see *Roberts v. Hartley*, 2011 WL 1365811 at \*2-3 (9th Cir. Apr. 12, 2011) (applying *Cooke*). Because Morton raises no procedural challenges, we affirm.

Petitioner's motion to stay pending the final outcome of *Cooke* is denied as moot.

**AFFIRMED.**