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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SANTOS CHAVEZ,

Petitioner - Appellant,

v.

BEN CURRY,

Respondent - Appellee.

No. 09-17656

D.C. No. 4:07-cv-05014-PJH

MEMORANDUM\*

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

Submitted June 15, 2011\*\*

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

California state prisoner Santos Chavez appeals pro se 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).

Chavez contends that the Board's 2006 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, 863 (2011) (per curiam). Because Chavez raises no procedural challenges, we affirm.

Chavez further requests that the certificate of appealability be expanded. Because Chavez fails to make a substantial showing of the denial of a constitutional right, the motion is denied. *See* 28 U.S.C. § 2253(c)(2); *see also Hiivala v. Wood*, 195 F.3d, 1098, 1104 (9th Cir. 1999) (per curiam).

**AFFIRMED.**