

AUG 05 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LEO GONZALES,

Petitioner - Appellant,

v.

B. CURRY, Warden,

Respondent - Appellee.

No. 08-17719

D.C. No. 3:07-cv-02342-WHA

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
William H. Alsup, District Judge, Presiding

Submitted August 2, 2011\*\*

Before: RYMER, IKUTA, and N.R. SMITH, Circuit Judges.

California state prisoner Leo Gonzales appeals pro se 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).

Gonzales contends that the Board's 2005 decision to deny him parole was not supported by "some evidence" and therefore violated his due process rights. This claim is not cognizable in federal habeas proceedings. *See Swarthout v. Cooke*, 131 S. Ct. 859, 862-63 (2011) (per curiam).

Gonzales has not made a substantial showing of the denial of a constitutional right with respect to his uncertified claims. We accordingly decline to certify them. *See* 28 U.S.C. § 2253(c)(2).

**AFFIRMED.**