

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

AUG 11 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

STANLEY KELLEY,

Petitioner - Appellant,

v.

ROBERT K. WONG, Warden;
OFFICE OF THE GOVERNOR,

Respondents - Appellees.

No. 09-15939

D.C. No. 2:05-cv-01713-ALA

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Arthur L. Alarcón, Circuit Judge, Presiding

Submitted August 2, 2011 **

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

California state prisoner Stanley Kelley 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.

* 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).

Kelley contends that the his due process rights were violated because the Governor's 2004 decision to deny him parole was not supported by "some evidence." This claim is foreclosed by *Swarthout v. Cooke*, 131 S.Ct. 859, 863 (2011) (holding that the only federal right at issue in the parole context is procedural).

To the extent that Kelley contends that the Governor violated his due process rights by failing to hold a hearing before reversing the grant of parole by the California Board of Prison Terms, that contention is foreclosed by *Styre v. Adams*, __ F.3d __, 2011 WL 2176465, at *1-2 (9th Cir. June 6, 2011) (holding that *Cooke* implicitly rejects argument that the Governor was required to hold a hearing before reversing the Board's decision granting parole).

Kelley's remaining claims lack merit.

AFFIRMED.