

DEC 21 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TIMOTHY BUSCH,

Petitioner - Appellant,

v.

A. P. KANE; et al.,

Respondents - Appellees.

No. 09-15225

D.C. No. 5:06-cv-06271-JF

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Jeremy D. Fogel, District Judge, Presiding

Submitted December 19, 2011**

Before: GOODWIN, WALLACE and McKEOWN, Circuit Judges.

California state prisoner Timothy Busch 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.

Busch contends that the Board’s 2005 decision to deny him parole was not supported by “some evidence” and therefore violated his due process rights. The

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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*, 131 S. Ct. 859, 863 (2011); *Roberts v. Hartley*, 640 F.3d 1042, 1045-47 (9th Cir. 2011) (applying *Cooke*). Because Busch raises no procedural challenges, we affirm.

AFFIRMED.