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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>HAROLD HARVEY HAWKS,</p> <p>Petitioner - Appellee,</p> <p>v.</p> <p>BEN CURRY, Warden CTF; et al.,</p> <p>Respondents - Appellants.</p>

No. 10-17154

D.C. No. 3:08-cv-04605-JSW

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Jeffrey S. White, District Judge, Presiding

Submitted December 19, 2011**

Before: GOODWIN, WALLACE, and McKEOWN, Circuit Judges.

Ben Curry and Randy Grounds appeal from the district court’s judgment granting California state prisoner Harold Harvey Hawks’ 28 U.S.C. § 2254 habeas petition. We have jurisdiction under 28 U.S.C. § 2253, and we vacate and remand.

* 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).

The district court granted relief in connection with the Board of Parole Hearings' 2007 decision to deny Hawks parole. Intervening Supreme Court authority explains that 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, 862-63 (2011) (per curiam). Because Hawks raised no procedural challenges, we vacate the district court's judgment.

VACATED and REMANDED.