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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ANGEL MENCHACA,</p> <p style="text-align: center;">Petitioner - Appellant,</p> <p>v.</p> <p>JIM HAMLET, Warden,</p> <p style="text-align: center;">Respondent - Appellee.</p>
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No. 06-17249

D.C. No. CV-04-02263-CRB

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Charles R. Breyer, District Judge, Presiding

Submitted July 22, 2008**

Before: B. FLETCHER, THOMAS, and WARDLAW, Circuit Judges.

Angel Menchaca, a California state prisoner, appeals from the district court's judgment denying his 28 U.S.C. § 2254 petition. We have jurisdiction pursuant to 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 finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

The State's contention that Menchaca does not have a federally protected liberty interest in parole is foreclosed. *See Sass v. Cal. Bd. of Prison Terms*, 461 F.3d 1123, 1127-28 (9th Cir. 2006). The State's contention that a Certificate of Appealability is required for this appeal is also foreclosed. *See Rosas v. Nielsen*, 428 F.3d 1229, 1231-32 (9th Cir. 2005).

Menchaca contends that the California Board of Prison Terms' (the "Board") 2000 decision finding him unsuitable for parole violated his due process rights. We conclude that the Board's decision was supported by some evidence in the record. *See Sass*, 461 F.3d at 1128-29. The state court's decision denying this claim was neither contrary to, nor based on an unreasonable application of, clearly established federal law, as determined by the Supreme Court of the United States. *See* 28 U.S.C. § 2254(d); *see also Sass*, 461 F.3d at 1128-29.

Menchaca's remaining contention is without merit.

AFFIRMED.