

JAN 07 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CARLTON SCRANTON,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>JIM MACDONALD,</p> <p>Respondent - Appellee.</p>

No. 07-35252

D.C. No. CV-06-00029-DWM

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, Chief District Judge, Presiding

Submitted December 17, 2008**

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

Montana state prisoner Carlton Scranton appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2254 habeas petition challenging the Board of Pardons and Parole's 2004 and 2006 decisions finding him unsuitable for

* 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).

parole. We have jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

Scranton contends that his due process rights were violated because he was promised parole upon completion of an intensive treatment program. This contention fails as the record indicates that Scranton was only offered the opportunity for parole upon successful completion of an intensive treatment program. Scranton received all the process he was due in connection with the denial of his parole. *See Greenholtz v. Inmates of Nebraska Penal and Correctional Complex*, 442 U.S. 1, 12 (1979).

To the extent that Scranton argues that his equal protection rights were violated, this claim also fails. *See Serrano v. Francis*, 345 F.3d 1071, 1082 (9th Cir. 2003). The district court properly denied Scranton's petition on the merits. *See Cassett v. Stewart*, 406 F.3d 614, 623-24 (2005).

AFFIRMED.