

GINSBURG, J., concurring

SUPREME COURT OF THE UNITED STATES

GARY SWARTHOUT, WARDEN *v.* DAMON COOKE

MATTHEW CATE, SECRETARY, CALIFORNIA
DEPARTMENT OF CORRECTIONS AND
REHABILITATION *v.* ELIJAH CLAY

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 10–333. Decided January 24, 2011

JUSTICE GINSBURG, concurring.

In *Superintendent, Mass. Correctional Institution at Walpole v. Hill*, 472 U. S. 445, 455 (1985), this Court held that, to comply with due process, revocation of a prisoner’s good time credits must be supported by “some evidence.” If California law entitled prisoners to parole upon satisfaction of specified criteria, then *Hill* would be closely in point. See *In re Rosenkrantz*, 29 Cal. 4th 616, 657–658, 59 P. 3d 174, 205 (2002). The Ninth Circuit, however, has determined that for California’s parole system, as for Nebraska’s, *Greenholtz v. Inmates of Neb. Penal and Correctional Complex*, 442 U. S. 1 (1979), is the controlling precedent. *Hayward v. Marshall*, 603 F. 3d 546, 559–561 (2010) (en banc)). Given that determination, I agree that today’s summary disposition is in order.