

**EXECUTIVE REPORT
ON
PAROLE REVIEW
DECISIONS**

**DECISIONS FOR THE PERIOD
January 1, 2016 through December 31, 2016**



BY GOVERNOR EDMUND G. BROWN JR.



OFFICE OF THE GOVERNOR

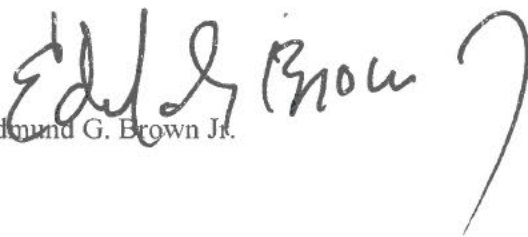
**MESSAGE FROM THE GOVERNOR
CONCERNING
PAROLE REVIEW DECISIONS**

To the Members of the Senate and Assembly of the State of California:

In accordance with Article V, section 8, subdivision (b) of the California Constitution, I submit this report on the actions I have taken in 2016 in review of decisions by the Board of Parole Hearings. Of these decisions, I reversed 99. I have included copies of each of my actions.

The report may be found at http://gov.ca.gov/docs/2016_Executive_Report_on_Parole_Review_Decisions.pdf. You may also call the Governor's Office at (916) 445-2841 for a hard copy of the report.

Sincerely,

A handwritten signature in black ink that reads "Edmund G. Brown Jr." with a large, stylized flourish at the end.

Edmund G. Brown Jr.

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JESUS CECENA, C-08487
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On November 3, 1978, 70's street gang members Jesus Cecena and Jose Arteaga drank beer with friends and smoked marijuana laced with PCP. Shortly before 1:00 a.m., Mr. Cecena and Mr. Arteaga were pulled over for speeding by San Diego Police Officer Archie Buggs. Officer Buggs was in full uniform, including a bullet-proof vest, and he was driving a marked patrol vehicle with his red lights flashing. Officer Buggs approached Mr. Cecena, who was in the driver's seat, and saw a beer can in the vehicle, which he removed and placed on the roof. As Officer Buggs walked to the rear of the car, Mr. Cecena grabbed Mr. Arteaga's revolver, got out of the car, and followed Officer Buggs. Mr. Cecena opened fire and shot six rounds at Officer Buggs; two shots deflected off Officer Buggs' bullet-proof vest, three struck Officer Buggs in the right side, and, lastly, Mr. Cecena shot Officer Buggs once in the right temple from close range, splattering blood all over his hands and clothing. Mr. Cecena then ran back to the car and sped away with the lights off, nearly hitting a witness as he fled. Mr. Cecena and Mr. Arteaga went to Mr. Cecena's girlfriend's mother's house, where they wiped down the revolver and wrapped the weapon and the expended casings in a red bandana. Mr. Cecena washed Officer Buggs' blood off his hands, and hid the pistol and casings under a bucket in the backyard. Mr. Cecena and Mr. Arteaga were arrested November 4, 1978.

Mr. Cecena was initially sentenced to life in prison without the possibility of parole for first-degree murder with a special circumstance. In 1982, the Court of Appeal reduced his sentence to 7 years to life pursuant to the California Supreme Court's decision in *People v. Davis* (1981) 29 Cal.3d 814. That case held that the Penal Code did not permit minors convicted of murder with special circumstances to be sentenced to life without the possibility of parole. In 1990, Proposition 115 passed which amended the Penal Code to explicitly allow for life without parole sentences for minors like Mr. Cecena who are convicted of murder with special circumstances.

GOVERNING LAW

The question I must answer is whether Mr. Cecena will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008))

44 Cal. 4th 1181, 1214.) Additionally, I am required to give “great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner” when determining a youthful offender’s suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Cecena suitable for parole based on his age at the time of the crime, lack of criminal history, remorse, self-help programming, lack of serious misconduct since 1987, parole plans, marketable skills, vocational and educational accomplishments, risk assessment, and acceptance of responsibility.

I recognize that Mr. Cecena was only 17 years old when he committed this crime. I acknowledge that he experienced instability in his childhood. He reported that he feared his father and characterized him as “a good provider, but strict, stern, standoffish, and unapproachable.” He stated he witnessed a significant amount of arguing between his parents, who divorced when he was 13, and that he blamed himself for the divorce at the time. He reported having little contact with his father after the divorce, and noted that his mother became depressed and distant. He claimed these issues led him to abuse drugs and alcohol, to drop out of school, and to join a gang for acceptance and protection. The psychologist who evaluated Mr. Cecena in 2014 opined that “factors including immaturity, impulsivity, recklessness...and lessened capacity to extricate himself from a dysfunctional home environment and crime-producing settings all conceivably contributed to the controlling offense.”

I also acknowledge Mr. Cecena has made efforts to improve himself while incarcerated. He completed numerous vocational training programs and earned positive work ratings for his work at the Prison Industry Authority. He has not been disciplined for serious institutional misconduct since 1987. He participated in self-help programming, including Alcoholics Anonymous, Celebrate Recovery, Anger Management, Victim Impact, Lifers’ Support Group, and Criminals and Gangmembers Anonymous. I carefully examined the record for evidence demonstrating his increased maturity and rehabilitation, and gave great weight to all the factors relevant to diminished culpability as a juvenile, his hallmark features of youth, and his subsequent growth in prison during my consideration of Mr. Cecena’s suitability for parole. However, they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Cecena turned a routine stop for speeding into a cold-blooded execution of a beloved police officer who worked earnestly to protect his community. Mr. Cecena’s actions had a devastating impact not only on Officer Buggs’ family and friends, but also on those who served with him, the law enforcement community generally, and members of the public.

I reversed the Board’s 2014 grant of parole because of Mr. Cecena’s failure to sufficiently explore his motivations for so readily and coldly executing a police officer. He also did not accept full responsibility for murdering Officer Buggs and failed to acknowledge the calculated and deliberate nature of his actions. Although the Board found Mr. Cecena suitable for parole

again in August 2015, I still believe he poses an unreasonable risk of danger to the public if released from prison.

Mr. Cecena still cannot give a credible explanation for the reasons he killed a police officer in cold blood. He told the psychologist in 2015 that the “main” reasons he shot Officer Buggs were simply to “get away” and “not get caught.” He also claimed that he was afraid his father would “abandon” him if he got in trouble. Similarly, when asked by the Board in 2015 why he committed this crime, he responded, “Because I didn’t want my dad to know what I was doing.” He believed his “only option” out was to murder Officer Buggs. These explanations are grossly inadequate. This was certainly not Mr. Cecena’s first time getting in trouble with law enforcement or being pulled over by a police officer. Mr. Cecena amassed an “extensive” juvenile record prior to the life crime. He was first referred for juvenile proceedings at age 14 for joyriding. Thereafter, he was referred for juvenile proceedings for curfew, runaway, malicious mischief, possession of tobacco, possession of a knife, and paint sniffing. Approximately two years prior to the life crime, Mr. Cecena was adjudged a ward of the juvenile court for paint sniffing, and a year later he was convicted of two counts of burglary and malicious mischief. He was committed to a “ranch-type” school for boys and was released just months before the life crime. Mr. Cecena’s statements still do not explain why, when he was confronted by law enforcement on this particular day, as opposed to the many others in the past, he made the decision to conceal from his father the trouble he was getting into by murdering Officer Buggs. I do not believe Mr. Cecena has sufficiently explored his motivations for perpetrating this horrendous crime.

I am also troubled that Mr. Cecena continues to whitewash the murder of Officer Buggs. The appellate opinion affirming Mr. Cecena’s conviction for first-degree murder noted that his shots “were clustered in a pattern between one and one and a half inches in diameter so as to show Cecena took careful aim.” Yet, in his 2015 interview with the psychologist, Mr. Cecena insisted his actions were “impulsive and rather panicked.” He told the psychologist in 2015 that he had never shot a gun before killing Officer Buggs and that he did not have the skill to aim bullets at certain body parts. He stated he just aimed the gun at Officer Buggs and “continued to shoot after the gun was empty.” He denied there was any pause between his shots. He similarly told the Board in 2015 that he was responsible for all the shots, but claimed he was not aiming at any particular body part. The record contradicts Mr. Cecena’s statements. A witness reported having heard several shots in close succession, followed by a pause and then one final shot. The Appellate Court found that “the single shot to Officer Buggs’ temple was likely designed to accomplish its purpose as the last shot fired, the finishing wound.” The Court concluded, “the firing of six carefully aimed shots over a period of time, including the additional time it took Buggs to draw his gun and fire, involved a deliberative thought process planned, motivated and carried out...to resist capture and kill the officer.” Similarly, at sentencing, the judge observed that the evidence “showed a cool, calculated judgment, a deliberate killing. The shots fired in that officer were deliberate and were with skill.” Mr. Cecena’s characterization of his actions as impulsive indicates to me that he is minimizing the callousness of the crime and his intent to execute Officer Buggs. I am not convinced that Mr. Cecena will be able to abstain from violence given the fact he has yet to confront—in an adequate and forthcoming manner—the nature of his actions and what led him to gun down a police officer.

My concerns about how Mr. Cecena is severely minimizing his crime could be further bolstered by statements made by Officer Buggs' partner in the field, former San Diego police officer Jesse Navarro, at Mr. Cecena's 2015 parole hearing. Officer Navarro revealed that prior to Officer Buggs' murder, he and Officer Buggs "had a lot of confrontations with [Mr. Cecena] in regards to his violent demeanor." Officer Navarro stated that Officer Buggs and he had previously arrested Mr. Cecena and he "couldn't count the number of times" that Mr. Cecena threatened to kill both of them. This allegation, if true, raises serious questions about Mr. Cecena's motivations for killing Officer Buggs and directly contradicts Mr. Cecena's testimony that he never had a previous "run-in" with Officer Buggs and that the crime was impulsive and panicked. I direct the Board to conduct an investigation into Officer Navarro's statements in order to determine if this information can be corroborated. I am not willing to brush aside Officer Navarro's statements, and I ask the Board to thoroughly question Mr. Cecena about these assertions to determine whether he is making genuine efforts to confront the issues that led to his crime.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Cecena is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Cecena.

Decision Date: January 15, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ELLIOTT CHATTMON, E-22335
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

On August 26, 1988, Elliot Chattmon broke into a home to burglarize it after everyone had left for the morning. He had previously broken into the same house, and saw a safe inside. He stayed in the house all day. That evening, Emmie Cabatan, her 8-year-old daughter Romina Cabatan, and her 1-year-old daughter Audrey Cabatan returned home. Emmie discovered Mr. Chattmon hiding in the master bedroom when she went to put Audrey in her crib. Mr. Chattmon ordered Emmie to open the safe, but Emmie did not comply. Mr. Chattmon held his gun to Romina's head and again ordered Emmie to open the safe. Romina attempted to break free from Mr. Chattmon's grasp, and Mr. Chattmon shot her in the chest, killing her. Mr. Chattmon then shot Emmie in the neck, killing her.

GOVERNING LAW

The question I must answer is whether Mr. Chattmon will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Chattmon suitable for parole based on his age at the time of the crime, remorse, acceptance of responsibility, maturity, and participation in self-help programming.

The parole authority is required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).) I recognize that Mr. Chattmon committed this crime when he was 17 years old crime and that he has since been incarcerated for over 27 years. Mr. Chattmon reported witnessing substance abuse and domestic violence in his home as a child, and had a stressful relationship with his father. He lived in a neighborhood where drugs, shootings, and

crime were prevalent. At the time of this crime, Mr. Chattmon reported that he was working two jobs and trying to make enough money to move away from the problems in his parents' home. The psychologist who evaluated Mr. Chattmon in 2015 noted that he "appeared to have made maturational and emotional gains during his incarceration," and that he "has demonstrated good impulse control and has avoided negative influences." I also acknowledge that Mr. Chattmon has made efforts to improve himself in prison. He received above average to extraordinary ratings from his work supervisors, and has been commended by multiple work supervisors for his positive attitude and behavior. He has participated in some self-help programming, including Narcotics Anonymous, Project Choice, and Insight. He has not been disciplined for serious misconduct since 2009. I carefully examined the record for evidence demonstrating Mr. Chattmon's increased maturity and rehabilitation, and gave great weight to all the factors relevant to diminished culpability as a juvenile, his hallmark features of youth, and his subsequent growth in prison during my consideration of his suitability for parole. However, they are outweighed by negative factors that demonstrate Mr. Chattmon remains unsuitable for parole.

Mr. Chattmon's crime was deplorable. He broke into an acquaintance's house and stayed there for hours until Emmie and Romina Cabatan returned. When they would not open the safe, Mr. Chattmon shot and killed 8-year-old Romina in front of her mother, Emmie. He then turned the gun on Emmie, and shot her in the neck, killing her. Emmie's husband returned home after Mr. Chattmon fled and found his 1-year-old daughter crying on the bedroom floor next to Emmie's feet with blood on her body. To say that this crime devastated the Cabatan family would be an understatement.

Mr. Chattmon has not yet adequately explained how he came to commit this senseless crime. He told the Board that he was motivated by greed and a desire to get easy money. Mr. Chattmon reported that when he had previously burglarized the Cabatan house, he noticed a safe, and that "I had convinced myself that they probably had a few thousand dollars in there, and I was determined to get into it." He said that when the family returned, "my mind was racing, I didn't know what I was going to do. I had no intentions on shooting either one of them." He reported that he got into a struggle with 8-year-old Romina and shot her as she tried to get away from him. When the psychologist asked why shooting Romina was not enough for him to stop what he was doing, Mr. Chattmon said, "I don't know if I will ever have an answer to that other than my obsession for that money. It didn't seem real at the time."

It remains unclear to me why Mr. Chattmon was suddenly willing to escalate his behavior to the point that he was prepared to murder a child and her mother over the unknown contents of their safe. The psychologist concluded that Mr. Chattmon expressed "limited" insight into the behavior and characteristics that contributed to the crime. She concluded that he "has some gaps with regard to his self-awareness related to the life crime." Mr. Chattmon must do more to demonstrate that he understands how he came to commit this crime and how to avoid violence in the future.

Additionally, Mr. Chattmon has yet to demonstrate a sustained commitment to rehabilitation. As recently as 2009, Mr. Chattmon was disciplined for fighting with another inmate. He has participated in only a handful of self-help programs during almost three decades in prison. I

Elliott Chattmon, E-22335

First Degree Murder

Page 3

would expect someone in Mr. Chattmon's position to commit himself whole-heartedly to self-improvement to demonstrate that he is committed to living without violence if released. I encourage him to dedicate himself to his rehabilitative efforts to show that he has made an enduring commitment to refraining from violence in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Chattmon is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Chattmon.

Decision Date: January 15, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

REGGIE DAVIS, B-88416
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On several occasions, Reggie Davis and Robert Johnson discussed a plan to locate a couple in a secluded area, kill the male, and rape and kill the female. On one occasion, they confronted a couple while posing as police officers, but left when they recognized one of the intended victims. On July 4, 1977, they approached Michael Windsor and Brenda Hawkins in a city park. Mr. Johnson pointed a shotgun at Mr. Windsor while Mr. Davis tried to force Ms. Hawkins into his car. Ms. Hawkins broke free and ran. Mr. Davis said, "Shoot him now," and Mr. Johnson shot Mr. Windsor with the shotgun, killing him. Mr. Davis took the shotgun, ran after Ms. Hawkins, and fired one shot at her but did not hit her.

GOVERNING LAW

The question I must answer is whether Mr. Davis will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The parole authority is required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).) I recognize that Mr. Davis' crime was committed when he was 18 years old and that he has since been incarcerated for over 37 years. He reported that he felt "abnormal" while growing up due to a hearing disability, and that his parents were alcoholics who physically abused him. He witnessed domestic violence as a child, and had an unstable home life. I do not discount that Mr. Davis was immature, irresponsible, and reckless at the time of the crime. I also acknowledge that Mr. Davis has made efforts to improve himself in prison. He received above average to extraordinary ratings from his work supervisors, and was commended by a work supervisor in 2015 for his efforts. He has participated in self-help programming, including Alcoholics Anonymous, Life Skills, and Nonviolent Communication.

He has not been disciplined for serious misconduct since 1987. I carefully examined the record for evidence demonstrating Mr. Davis' increased maturity and rehabilitation, and gave great weight to all the factors relevant to diminished culpability as a juvenile, his hallmark features of youth, and his subsequent growth in prison during my consideration of his suitability for parole. However, they are outweighed by negative factors that demonstrate Mr. Davis remains unsuitable for parole.

Mr. Davis' crime was deeply disturbing. He and his crime partner concocted a chilling plan to rob, rape, and kill strangers. They targeted Mr. Windsor and Ms. Hawkins and attempted to carry out their intentions. Mr. Windsor was shot and killed, and Ms. Hawkins escaped with her life, despite Mr. Davis' attempt to shoot her. Mr. Davis was the driving force behind this cold, calculated crime. I note that the Mr. Windsor's brother wrote movingly about the pain his family continues to feel as a result of his death.

Mr. Davis' has not yet adequately explained how he came to plan and commit this shocking crime. He told the Board that he had anger and resentment due to his hearing impairment, and that those feelings led to "fantasies of control." He said, "My mind developed curiosities and fantasies of what it would be like to kill somebody, what it would be like to have my way with a female." Mr. Davis reported that because of his lack of communication and social skills, he developed detachment from others' feelings and "right to life." He said, "[A]s I got older I felt a more urgent need to express a desire to actually accomplish...either killing somebody or seeing somebody be killed." Mr. Davis told the Board that about a year before this crime, his sexual fantasies became "nonconsensual...Coming upon a girl and just doing what I want to do." He said that the "element of force...putting her in fear for her life" developed a few weeks before he committed this crime. He told the Board that he knew right from wrong, and that he knew killing and rape were wrong. Mr. Davis said, "I knew all this, but my mind was saying you need to do this anyway."

These explanations do little to account for why Mr. Davis began fantasizing about rape and murder in the first place, and how he came to act on those fantasies. While an unstable adolescence and hearing impairment undoubtedly had a significant impact on Mr. Davis, they simply do not explain his desire to rape and kill, or why he acted on that desire despite knowing it was wrong. The psychologist who evaluated Mr. Davis in 2013 wrote that Mr. Davis had "a less than optimal degree of understanding into the factors and underlying causes that contributed to his commission of [this] crime." Until Mr. Davis can better explain how he developed these fantasies and why he felt compelled to act on them, I cannot be assured that he will not have these fantasies again, and for unknown reasons, act on them.

Finally, at the hearing, Mr. Davis was asked if he still had fantasies about rape and murder. He denied having current rape fantasies, but regarding killing someone he said, "Honestly, I think everybody does, but then I think the difference is acting on it and what your thought processes are after that kind of a thought crosses your mind." I am disturbed that Mr. Davis appears to continue to harbor homicidal thoughts, and that he seems to believe such thoughts are normal. At his next hearing, I direct the Board to thoroughly question Mr. Davis about his past and current violent thoughts so they can better assess his current risk of violence.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Davis is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Davis.

Decision Date: January 15, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

BRUCE DAVIS, B-41079
First Degree Murder (two counts)

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Bruce Davis was a member of Charles Manson’s cult known as “the Family.” In the summer of 1969, the twenty-member Family lived on the Spahn Ranch and fervently embraced Manson’s apocalyptic and warped worldview. Manson believed that a civilization-ending war between the races—known as Helter Skelter—was imminent, and that the Family would emerge from hiding in the desert at the end of the war to take control of the world. Manson came to believe that the Family would have to trigger the start of the race war by committing atrocious, high-profile murders of white victims to incite retaliatory violence against blacks. *See People v. Manson* (1976) 61 Cal.App.3d 102, 127-30. According to former member Barbara Hoyt, preparing for Helter Skelter physically, mentally, and financially was the all-pervasive fabric of the Manson Family’s daily life.

In July 1969, Manson spoke with a group of Family members, including Davis, about the need to raise money and supplies to relocate to the desert. Gary Alan Hinman, an aspiring musician known to the Family, was discussed as a possible source of funds. On July 26, 1969, Davis was seen in the company of Manson and Robert Beausoleil. Beausoleil was wearing a sheathed knife, and Davis was holding a 9-millimeter Radom gun he had purchased under a false name. That night, Davis drove Family members Mary Brunner, Susan Atkins, and Robert Beausoleil to Mr. Hinman’s residence and returned to the Ranch. Two days later, Manson received a telephone call indicating that Mr. Hinman “was not cooperating.”

Manson and Davis returned to Mr. Hinman’s house. When they arrived, Mr. Hinman had already been struck with a gun in a struggle in which the gun had discharged. Davis took the gun away from Beausoleil and pointed it at Mr. Hinman while Manson sliced Mr. Hinman’s face open with a sword, cutting from his left ear down to his chin. Mr. Hinman was bandaged and put into bed, slipping in and out of consciousness. Davis and Manson drove back to the Ranch in Mr. Hinman’s Fiat station wagon. Brunner, Atkins, and Beausoleil remained at Mr. Hinman’s house for two more days while Mr. Hinman lay bleeding. Beausoleil eventually stabbed Mr. Hinman in the chest and smothered him with a pillow. Mr. Hinman’s badly decomposed body was found on July 31, 1969. Inside the home, the words “political piggy” and an animal paw print were drawn on the walls with Mr. Hinman’s blood.

On August 9 and 10, 1969, several Family members participated in the gruesome murders of Sharon Tate, Leno and Rosemary LaBianca, and four other victims. *See generally People v. Manson, supra*, 61 Cal.App.3d 102. Davis did not participate in and was not charged with these crimes. Davis admits he found out about the Tate-LaBianca murders the next day.

Donald “Shorty” Shea was a stuntman and ranch hand at the Spahn Ranch. Manson Family members believed Mr. Shea was a police informant. In late August 1969, Manson and his followers discussed plans to kill Mr. Shea. Manson, in the presence of several members, including Davis, told them they were going to kill Mr. Shea because he believed that Mr. Shea was a “snitch.”

Around the evening of August 27, 1969, Mr. Shea asked longtime friend, Ruby Pearl, if he could stay at Mrs. Pearl’s home. Mr. Shea was very nervous and kept looking around, saying, “It gives me the creeps to stay here.” Mrs. Pearl had no place for Mr. Shea to stay. As she drove away, she saw a car pull up and several Manson members emerge from the car. She saw Davis, Manson, Charles “Tex” Watson, and Steven “Clem” Grogan approach and surround Mr. Shea. She left the area and never saw Mr. Shea again.

The following day, the Manson Family left the Spahn Ranch and went to the desert. According to trial testimony from Barbara Hoyt, Manson recounted the details of the Shea murder to a group of members. Manson said that “they had killed Shorty [Shea]” and “they cut him up in nine pieces.” Manson described how they had taken Mr. Shea for a ride, hit him in the head with a pipe, and then stabbed him repeatedly. Manson also related that Mr. Shea was “real hard” to kill until they “brought him to ‘now.’” (The term “now” to the Manson Family meant absence of thought.) Davis, agreeing with Manson’s description of the murder, stated: “Yeah, when we brought him to now, Clem cut his head off,” adding, “That was far out.” As Manson described the murder, Davis nodded his head and smiled several times. *See People v. Manson* (1977) 71 Cal.App.3d 1, 21-22. Davis later bragged to one Family member, Alan Springer, that they had ways of taking care of “snitchers” and had already taken care of one. Davis told Springer, “We cut his arms, legs and head off and buried him on the ranch.”

Davis was arrested on December 7, 1970, after evading capture for over a year. He was convicted of two counts of first degree murder and conspiracy to commit murder and robbery.

GOVERNING LAW

The question I must answer is whether Davis will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate’s pre- or post-incarceration history, or the inmate’s current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) In rare circumstances, the aggravated nature of the crime alone can provide a valid basis for denying parole even when there is strong evidence of rehabilitation and no other evidence of current dangerousness. (*Id.* at pp. 1211, 1214.)

DECISION

The Board of Parole Hearings found Davis suitable for parole based on the time he has served in prison, lack of history of other violent crime, stability in prison, remorse, age, education, participation in self-help programs, insight into his crimes, and support in the community.

I acknowledge that Davis is now 73 years old and that he has been incarcerated for the past 45 years. He has not been disciplined for serious misconduct in over 35 years. He is involved in the chapel and religious studies and has participated in self-help courses including Yokefellows, Alternatives to Violence, and Life Awareness. He has continued his education and has been commended by staff. I commend Davis for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

The horror of the murders committed by the Manson Family in 1969 and the fear they instilled in the public will never be forgotten. Bruce Davis and the other members of the cult were united in a perverse goal of starting a race war. They believed they could start the war, go into hiding, and then emerge as leaders. The Manson Family was consumed with daily preparation for this supposedly inevitable apocalypse, and Davis's crimes were intended to support such efforts and initiate the bloody battles. Davis drove others to Gary Hinman's house to violently rob him because they believed he had money that could support the Family. Two days later, Davis and Manson returned to the house and Davis held Mr. Hinman at gunpoint while Manson slashed his face open. The others held Mr. Hinman hostage and continued to extort him while he bled profusely, until Beausoleil stabbed him to death and smothered him. They then used Mr. Hinman's blood to write and draw messages intended to incite even more devastating violence. Two weeks later, other members of the Manson Family continued the cult's macabre objectives, going "creepy crawling" into the night to carry out the seven notorious Tate-LaBianca murders. The public's panic continued to rise for yet another two weeks before Davis, Manson, and others beat, stabbed, chopped, and buried Donald Shea because they suspected him of being an informant. It was over a year later when Davis was finally arrested. These crimes rightfully remain seared into the nation's conscious and represent that "rare circumstance" in which the aggravated nature of the crimes alone is sufficient to deny parole.

But the crimes alone are not the only evidence that Davis remains unsuitable for parole. I have reversed grants of parole to Davis twice before, not only because of his atrocious crimes, but also because he minimized the nature and extent of his responsibility for these murders and his role in the Manson Family. In 2013, I noted that Davis has spent decades downplaying his role in the murders and the Family's activities. He was still revealing new details about the murders over four decades later—that he sliced Mr. Shea from his armpit to his collarbone while the others stabbed Mr. Shea and that another man also witnessed or participated in Mr. Shea's killing. Contrary to the record, Davis described being only a reluctant participant in the group's violence, and being more interested in sex and drugs. I noted in 2014 that Davis was still dodging responsibility for his active role in the murders and was continuing to paint himself as a passive follower of Charles Manson.


I do not accept Davis's claims that he subscribed to only part of the Manson Family world view – the women, sex, and drugs – and just tolerated the group's violence to get "more of what [he] wanted." He said he was drawn to Charles Manson because "[H]e had influence with women that I never had and I admired. He had access to drugs. He had access to things that I wanted. I admired that. I wanted some of that and I took his acceptance as real acceptance." He told the Board in 2015 that the acceptance, sex, and drugs "really took care of my agenda at the time." He claimed that the group's focus changed from "peace and love to Helter Skelter" while he was abroad. And he continued, "The scenario had changed so when I got back it was about we've got to get – we've got to be armed and there's going to be a race war, et cetera. And so I wanted to be like the rest of the guys and so I bought a pistol." He reported that he came to participate in these murders because "when these murders happened they were part of just a picture of what the family was doing, what I wanted to be accepted in. They were part of just a happening around and I didn't object for one minute on my part." He reported, "I had some lightweight reservations but not enough to stop me. So any feelings I had to the contrary weren't significant enough to change my behavior." Davis acknowledged, "I knew better. I knew it was illegal. I knew it was wrong by certain – but I disregarded all that..."

As I've discussed twice before, Davis's own actions demonstrate that he had fully bought into the depraved Manson Family beliefs. It is clear that preparing for Helter Skelter physically, mentally, and financially was the primary daily focus of each member of the group. Davis drove others to extort money from Mr. Hinman and came back, armed, two days later with Manson himself. He not only watched as Manson cut Mr. Hinman's face open with a sword, but held him at gunpoint while Manson was doing so. And he knew that Mr. Hinman was suffering and that the torture and extortion would continue as he drove away in Mr. Hinman's car. Davis now admits that he was present during the planning of Mr. Shea's murder and that he "sliced" him, along with the others. He bragged to others about the gory nature of the crime and was fully willing to participate weeks after he knew the grotesque details of the seven Tate-LaBianca murders. The 2015 psychologist concluded, "Mr. Davis has not addressed what aspect of his personality...allowed him to callously participate in two murders, despite his acknowledgment that he felt sick and depressed after the first murder of Gary Hinman." As noted above, his statements at his recent hearing confirm this. Davis has not explained what, other than a desire for acceptance, allowed him to suspend reality to accept that Helter Skelter was real and that he needed to contribute—in a violent way—to the beginning of the apocalypse.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Davis is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Bruce Davis.

Decision Date: January 22, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JEREMY SUTHERLAND, T-56023

Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On January 20, 2001, Jeremy Sutherland, James Taylor, and Carla Cline confronted Thomas Sparks because they believed that Mr. Sparks was a child molester. Someone struck Mr. Sparks over the head with a metal bar, killing him. Mr. Sutherland and Mr. Taylor returned the next day and dumped the body in the woods, where it was found by hunters a week later. The coroner concluded that the cause of death was blunt force trauma from two “crushing blows” to the head. Mr. Sutherland was arrested April 11, 2001. He admits helping move Mr. Sparks’ body but denies hitting Mr. Sparks.

GOVERNING LAW

The question I must answer is whether Mr. Sutherland will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate’s pre- or post-incarceration history, or the inmate’s current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Sutherland suitable for parole based on his acceptance of responsibility, insight, lack of recent disciplinary history, self-help programming and vocational upgrades, and parole plans.

The parole authority is required to give “great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner” when determining a youthful offender’s suitability for parole. (Pen. Code, § 4801, subd. (c).) I recognize that Mr. Sutherland’s crime was committed when he was 22 years old and that he has since been incarcerated for 14 years. He reported that his parents’ divorce when he was very young caused him stress, and that he began acting out and associating with “troubled kids” as a result. I also acknowledge that Mr. Sutherland has made efforts to improve himself while incarcerated. He has not been disciplined for serious misconduct since 2011. Mr. Sutherland earned a paralegal certificate and wrote letters to at-risk youth. He has

participated in some self-help programming, including Narcotics Anonymous. I carefully examined the record for evidence demonstrating Mr. Sutherland's increased maturity and rehabilitation, and gave great weight to all the factors relevant to the diminished culpability of juveniles, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole. I commend Mr. Sutherland for taking positive steps, but they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Sutherland's crime was disturbing. He and his crime partners beat Mr. Sparks to death, then dumped his body in the woods. Mr. Sutherland had many opportunities to remove himself from the situation, but instead chose to participate in deadly violence and then attempted to cover it up.

Mr. Sutherland has a decades-long record of violent, criminal behavior. As a juvenile, he was convicted of assault with a deadly weapon, theft, grand theft auto, and burglary. He was arrested for possession of a dangerous weapon several months after committing this crime. Mr. Sutherland joined the Skinheads at age 15 and joined the War Skins gang in prison. He associated with white supremacist gangs until 2009, and admitted participating in riots, assaulting inmates, making and transporting weapons, instructing other white inmates to attack black inmates, and discussing assaulting officers. He was disciplined 11 times for serious misconduct in prison including mutual combat, possession of alcohol and weapons, battery on an inmate, participating in a riot, and obstructing an investigation into an attack on another inmate. As recently as 2011, he was received serious rules violations for mutual combat and possession of 20 razors. Confidential information indicates that in 2013, Mr. Sutherland and several other inmates were extorting and threatening other inmates in circumstances that bear troubling resemblance to the circumstances of his life crime. After many years of violence and gang activity, Mr. Sutherland's short and recent period of compliance with the rules does not assure me that he is prepared to refrain from violent behavior in the future.

Mr. Sutherland has not adequately explained how he came to commit this crime. At his 2015 hearing, Mr. Sutherland reported that he and Mr. Taylor initially found Mr. Sparks fumbling with his pants near a naked child. Mr. Sutherland said that he and Mr. Taylor confronted and punched Mr. Sparks, then calmed down when the child's mother appeared unconcerned. According to Mr. Sutherland, he and Mr. Taylor left several hours later and met up with other friends who said that Mr. Sparks had previously molested a child. Mr. Sutherland explained that he then called another acquaintance ask about Mr. Sparks because he was "trying to perpetuate this tough guy image" in front of his crime partners. Mr. Sutherland claims that they later returned to Mr. Sparks' residence later only because Ms. Cline wanted to do drugs there. Mr. Sutherland did not discuss the circumstances of the murder at his hearing, but maintained that he "did not deal the death blow." He said that he had low self-esteem because his parents divorced when he was young, and that on the night of the crime, he "was trying to impress the people that I was hanging around. I wanted to impart that hey, I'm not an outsider, you know." He told the 2015 psychologist that his "[p]oor decisions and drugs," "association with criminals," and "criminal thinking" contributed to the crime.

These explanations simply do not account for Mr. Sutherland's actions. By his own account, he made many deliberate decisions throughout the course of the night that kept him at the center of this crime, but he has done little to explain how he arrived at those decisions. The psychologist noted that Mr. Sutherland "cited poor judgment, distorted thinking, and stress, but failed to explain how and why these issues impacted his decisions." The psychologist concluded that Mr. Sutherland "has not clearly identified the interpersonal, intrapersonal or contextual factors that contributed to his past antisocial criminal behavior." Mr. Sutherland told the Board that he did not begin to take responsibility for this crime until 2009, and I note that he has participated in very few self-help programs. Mr. Sutherland must do more to address, in a comprehensive way, how he came to act so violently and how he can refrain from doing so in the future.

Mr. Sutherland's risk ratings support my concerns. The 2015 psychologist rated him an overall moderate risk of future violence, and concluded that while incarcerated Mr. Sutherland "has grown older, but there has been no significant corresponding increase in maturity, insight, and self control." The psychologist also noted that "[h]e has made no concerted or sustained effort at rehabilitation or change." Until Mr. Sutherland does so, I do not believe he is ready to be released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Sutherland is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Sutherland.

Decision Date: January 22, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ALFREDO ACOSTA, B-07643

First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On August 14, 1966, Alfredo Acosta arrived at the house of his 80-year-old mother-in-law, Maria Sanchez, to confront his wife Jenny about an alleged affair. Mr. Acosta's three children, niece, and brother-in-law, Yisodoro Cortez, were also present that night. Mr. Acosta pushed his wife to the floor and kicked her leg when she tried to get up. He then threatened to pack his bags and leave with their children. Mr. Acosta's wife, mother-in-law, and brother-in-law told Mr. Acosta that they would call the police. Mr. Acosta replied, "Go ahead and call them and I'll kill each one that comes over here." Mr. Acosta and his wife continued to argue until Mr. Acosta pulled a gun out of his waistband and shot her as she sat on a couch. He ignored her pleas to stop and shot her two more times, killing her. He then shot and killed Ms. Sanchez and Mr. Cortez. Mr. Acosta gathered the four crying children and left them and the gun at his cousin's house. Mr. Acosta then walked to the home of his girlfriend, Victoria Macias, and strangled her to death in bed.

GOVERNING LAW

The question I must answer is whether Mr. Acosta will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) In rare circumstances, the aggravated nature of the crime alone can provide a valid basis for denying parole even when there is strong evidence of rehabilitation and no other evidence of current dangerousness. (*Id.* at pp. 1211, 1214.)

DECISION

The Board of Parole Hearings found Mr. Acosta suitable for parole based on his length of incarceration, self-help programming, lack of serious misconduct in prison, acceptance of responsibility, current age, positive work ratings, risk assessment, and parole plans.

I acknowledge that Mr. Acosta is 76 years old, has been incarcerated for over 49 years, and has made some efforts to improve himself while incarcerated. He has only been disciplined for

serious misconduct twice, in 1981 and in 2001. He has participated in self-help classes, including Alcoholics Anonymous, Alternatives to Violence, Bullying, and Effects of Domestic Violence. He earned his GED and completed vocational training. Since my reversal, Mr. Acosta has continued to participate in Alcoholics Anonymous. I commend Mr. Acosta for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

I reversed Mr. Acosta's grant of parole in 2014 based on his crimes and his failure to offer a credible explanation for callously murdering four individuals. Unfortunately, nothing in Mr. Acosta's narrative has changed and my concerns remain.

Mr. Acosta's actions were shocking and horrific. When he found out his wife was allegedly cheating on him, he murdered her, her mother, and her brother, all in front of Mr. Acosta and her three young children and a niece. Mr. Acosta's extreme violence did not end there. He then went to his girlfriend's house and strangled her to death. The level of violence Mr. Acosta demonstrated in such a short amount of time is exceptionally disturbing. Irrespective of any additional factors, Mr. Acosta's killing spree represents that "rare circumstance" in which the aggravated nature of the crimes alone is sufficient to deny parole.

But the quadruple-murder alone is not the only evidence that Mr. Acosta remains unsuitable for parole. Due to the particularly heinous nature of these crimes, Mr. Acosta must demonstrate extraordinary insight into how he came to act so violently before he should be released. As stated in my last reversal, when asked by the 2014 panel why he murdered the victims, Mr. Acosta said that he had "lost control" and was "confused at that time." He said he confronted his wife over a suspected affair and that he killed her because he was angry, despite describing their marriage as "excellent." He could not point to anything about his personality that could explain why he murdered his wife. His reasons for murdering the victims, according to the psychologist, were "essentially identical" in 2015. He told the psychologist that he "lost control" on the night of the life crime and experienced an overwhelming sense of emotional turmoil at the thought of his wife having an affair. He said he strangled his girlfriend because he was "still reactive" and was "not thinking clearly." The psychologist noted that he "clearly struggled to further detail the factors which triggered his reactions." When asked by the Board in 2015 what prompted him to kill four people, he said, "I was living a wild life. You know, that's all I can say is... That I didn't know how to think."

Mr. Acosta's statements fall short in explaining what led him to kill his wife, his mother-in-law, his brother-in-law, and then strangle his girlfriend to death all in a matter of hours. His violent rampage was grossly disproportionate to any explanation he has offered. The psychologist who evaluated Mr. Acosta in 2015 stated that, "To date, Mr. Acosta has not offered any additional clarification, suggesting he either does not know what triggered such a violent response, or he has elected not to share that insight for unclear reasons." Mr. Acosta has had decades to reflect upon his actions, but he has never identified what it was that allowed him to coldly murder four people. This is troubling and I continue to encourage him to thoughtfully reflect upon his actions.

Alfredo Acosta, B-07643

First Degree Murder

Page 3

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Acosta is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Acosta.

Decision Date: January 29, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ERIC BROWN, D-14622
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

While awaiting sentencing for an involuntary manslaughter conviction in an unrelated case, Eric Brown met Rosa Fricke. After three months of dating, Mr. Brown moved in with Ms. Fricke. On November 15, 1983, according to Mr. Brown, they fought over a man that Ms. Fricke had been dating. Mr. Brown claims Ms. Fricke retrieved a knife from the kitchen, but that he took it away from her. Mr. Brown struck Ms. Fricke several times with a pipe, choked her, and bound her hands behind her back. Ms. Fricke attempted to escape by jumping out of a window, but Mr. Brown dragged her back inside, continued beating her with the pipe, punched her, stomped on her with his feet, and stabbed her with the knife 12 times, killing her.

GOVERNING LAW

The question I must answer is whether Mr. Brown will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Brown suitable for parole based on his lack of a juvenile criminal record, commendations from staff, remorse, acceptance of responsibility, risk assessment, current age, lack of disciplinary history in prison, self-help programming, positive work ratings, and parole plans.

I acknowledge Mr. Brown has made efforts to improve himself while incarcerated. He has participated in self-help classes including Narcotics Anonymous, 12-Step Recovery, and Alternatives to Violence. He has received positive work ratings and a substantial number of commendations from prison staff. Since I reversed Mr. Brown's parole grant in 2014, he has participated in Domestic Matters, Victim Impact, and In-Building Self-Help, and he has continued to participate in Victim Offender Reconciliation and receive positive laudatories from

staff. I commend Mr. Brown for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

I reversed Mr. Brown's grant of parole in 2014 based on his crime, his failure to sufficiently address his domestic violence issues, and his lack of self-help programming in the area of domestic violence. While I commend Mr. Brown for enrolling in a domestic violence class, little has changed since my last reversal and my concerns remain.

This crime was extremely violent. Mr. Brown described his girlfriend as "the best thing that happened to me," yet he beat, stabbed, and choked her to death simply because he suspected she may have been cheating on him. She was desperately trying to escape, but was unable to overpower Mr. Brown. The amount of brutality that Mr. Brown inflicted on Ms. Fricke is alarming. This was not the first time that Mr. Brown had killed someone. Just months before this crime, he was convicted of involuntary manslaughter after he shot and killed a man following an argument over the fact that the victim was allegedly improperly parked in front of the business he was guarding. He was sentenced to five years in prison concurrent to the life crime.

I am still concerned that Mr. Brown has not sufficiently addressed his history of domestic violence. Mr. Brown viciously attacked Ms. Fricke and even when she tried to escape through the window he pulled her back inside and starting kicking and stomping on her until she was dead. When asked by the Board in 2015 why he was so violent towards women, especially given the fact that he was not exposed to domestic violence as a child, he first said he believed it had to do with "when I entered in that relationship with Rosa." He further explained, "It came from me just lashing out...Basically, she was nagging me about being irresponsible...I realized that with the older women, I had resentment and jealousy in me already that I hadn't even – I hadn't even dealt with." But, his violence towards women did not start when he "entered" the relationship with Ms. Fricke. Mr. Brown acknowledged verbally and physically abusing his previous fiancée after he began using cocaine. He reported that he struck her in the face on three occasions and that he choked her. She eventually left him and took their daughter because she was afraid of him. I am encouraged to see that Mr. Brown enrolled in a domestic violence class and has been journaling about the topic. I urge Mr. Brown to reflect more deeply on his actions and how he came to be so violent, especially towards women. However, in view of the nature of this crime and his being sentenced for a separate killing, I am not yet ready to have the parole board release Mr. Brown at this time.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Brown is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Brown.

Decision Date: January 29, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DANIEL LOPEZ, J-88647
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On October 3, 1995, Daniel Lopez and his long-term live-in girlfriend, Christine Dickerson, argued about academic problems the couple's teenage daughter was having. Mr. Lopez slapped their daughter, and Ms. Dickerson threatened to go to her father's house. She locked herself in a bathroom for a short time, then tried to leave the house. Mr. Lopez blocked her path, and pushed her into a bedroom and locked the door. The couple's 15- and 10-year-old daughters picked the door's lock with a knife and saw Mr. Lopez forcibly holding Ms. Dickerson down on the bed. The girls began hitting Mr. Lopez, which gave Ms. Dickerson a chance to break free. Ms. Dickerson tried again to leave the house, but Mr. Lopez grabbed a .20 gauge shotgun and ordered her not to leave. Mr. Lopez grabbed the back of Ms. Dickerson's shirt and poked her in the back with the barrel of the shotgun. Ms. Dickerson attempted to push the barrel away from her, and told her daughters to leave the house. The girls started to go to a neighbor's house and left the front door open. Mr. Lopez shot Ms. Dickerson once in the leg. The girls heard the gunshot, turned around, and saw their mother fall to the floor. While Ms. Dickerson tried to pull herself upright, Mr. Lopez shot her again, killing her as their daughters watched from across the street. Mr. Lopez barricaded himself in the house for several hours until finally surrendering to police officers late that night.

GOVERNING LAW

The question I must answer is whether Mr. Lopez will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Lopez suitable for parole based on his self-help programming, lack of serious rules violations, insight, parole plans, acceptance of responsibility, and risk assessment.

I acknowledge Mr. Lopez has made efforts to improve himself while incarcerated. He has never been disciplined for serious misconduct during his 20 years of incarceration. Mr. Lopez received satisfactory work ratings, and has been working toward his GED. He has participated in self-help programs including Alcoholics and Narcotics Anonymous, Criminals and Gangmembers Anonymous, and Stress Management. I commend Mr. Lopez for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Lopez' crime was senseless. After drinking all day, he shot his girlfriend twice, killing her. Rather than calling for medical help, Mr. Lopez barricaded himself in their home for hours, eliminating any chance Ms. Dickerson had to survive. I note that Ms. Dickerson's sister wrote movingly about the anguish her family continues to feel as a result of Ms. Dickerson's death.

Mr. Lopez has yet to adequately explain how he came to use such violence against someone he purportedly loved dearly. He told the Board that when he slapped his 15-year-old daughter during an argument, Ms. Dickerson "got upset at me but I was just only trying to do right." He said that when Ms. Dickerson wanted to go to her father's house, he became angry and shot her because he could not "see her leaving and being with another man." Mr. Lopez explained that he had been feeling depressed and lonely because Ms. Dickerson had been spending a lot of time caring for her mother, who had cancer. He told the psychologist who evaluated him in 2015 that he was resentful because "[w]e weren't being a family. We weren't spending quality time together." Mr. Lopez told the Board that after he shot Ms. Dickerson, he stayed in the house with her body to "[s]pend time with her. Because I knew I would never see her again...I was telling her I was sorry. I was praying with her."

Mr. Lopez' statements simply do not explain why he shot and killed Ms. Dickerson in front of their daughters. His explanation that he killed her because they weren't spending enough time together is nonsensical. Mr. Lopez was drunk and escalated a minor argument when Ms. Dickerson objected to him slapping their daughter. It is not clear to me why he was so willing to kill his girlfriend of many years merely because she expressed a desire to go to her father's house after a fight. Until Mr. Lopez demonstrates that he more fully understands how he came to inflict such violence with so little provocation, I do not believe he is ready to be released.

I am also concerned about Mr. Lopez' history of substance abuse. Despite the fact that he attributes this crime in part to his heavy abuse of alcohol, Mr. Lopez told the psychologist that alcohol "relaxed" him. The psychologist concluded that he "discounted the effect of alcohol on his behavior" and "would benefit from considering the effects of alcohol on his personality and behavior." Mr. Lopez had been drinking all day at the time of this crime, and had previously had many discussions with Ms. Dickerson about the effect of his drinking on their relationship. He must do more to assure me that he understands the severity of his substance abuse and the importance of maintaining his sobriety in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Lopez is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Lopez.

Decision Date: January 29, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

COREY ROOT, K-35651
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On September 16, 1995, gang members Corey Root and Armando Gonzalez drove a stolen car through the parking lot of a convenience store after they heard rival gang members were standing outside of the store. As they drove by, they stared at Eloy Gutierrez, a rival gang member who was standing in front of the store. Mr. Root and Mr. Gonzalez circled around and drove through the lot again, and yelled out their gang names. Mr. Root then took out a .22 caliber handgun and shot Mr. Gutierrez once in the head, killing him. Mr. Root and Mr. Gonzalez fled and robbed a person at gunpoint a few days later. On September 20, 1995, Mr. Root and Mr. Gonzalez decided to flee to Washington. A California Highway Patrol officer attempted to pull them over for speeding, but the men sped up and a high speed chase ensued. Mr. Root and Mr. Gonzalez eventually struck another vehicle before flipping over. Mr. Root attempted to run away, but was apprehended shortly thereafter.

GOVERNING LAW

The question I must answer is whether Mr. Root will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Root suitable for parole based on his educational and vocational achievements, age at the time of the crime, insight, maturity, self-help programming, commendations from staff, sincerity, acceptance of responsibility, remorse, and parole plans.

I acknowledge that Mr. Root was 18 years old when he shot a rival gang member in the head, killing him. He reported that his parents had an abusive relationship and he never met his biological father who had a substance abuse problem and served time in prison. His mother drank a lot and had unstable relationships so he was largely unsupervised, which led him to join a gang at age 14. In 2015, the psychologist noted that his history “includes juvenile criminal behavior as well as difficulty understanding the effect his antisocial behavior has had on others, taking advantage of other people, acting responsibly, and controlling his behavior.” In Mr. Root’s twenty years of incarceration, there has been significant opportunity for him to reform, but it has only been recently that he has taken steps to turn his life around.

I commend Mr. Root for recently dropping out of a gang, and participating in self-help programming including Alcoholics and Narcotics Anonymous, Criminals and Gangmembers Anonymous, Celebrate Recovery, and Living with Purpose. Additionally, he has remained disciplinary-free since 2011 and he has received exceptional work ratings. I carefully examined the record for evidence demonstrating his increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his hallmark features of youth, and his subsequent growth in prison during my consideration of Mr. Root’s suitability for parole. However, I remain troubled by his continued violent misconduct in prison until he disassociated from prison gangs in 2012.

Mr. Root has a lengthy record of violent, criminal behavior that he maintained for decades. As a juvenile, he joined a gang at age 14 and was convicted of several crimes including recklessly setting fire to the property of another, possession of live ammunition by a minor, threatening a public officer, commercial burglary, receiving stolen property, and escape from juvenile hall. Once in prison, Mr. Root’s violence escalated. He was validated as a Mexican Mafia associate in 2009, and served an indeterminate term in the Segregated Housing Unit at Pelican Bay State Prison until he debriefed in 2012. He admitted being a shot caller, running a yard, committing assaults, smuggling and selling drugs, making and carrying weapons, and communicating with gang leaders via cell phone. Additionally, he was disciplined 8 times for serious misconduct. Nearly all of his violations were for violence or drugs, including possessing inmate manufactured alcohol twice in 2001, assaulting an inmate in 2002, possessing methamphetamine and a weapon in 2003, testing positive for methamphetamine in 2004, refusing to obey an order to stop yelling out gang calls in 2007, attempting to flush papers during a cell search in 2007, and participating in a hunger strike in 2011. Mr. Root also admitted abusing alcohol from age 13 to 31, smoking marijuana from age 13 to 30, using methamphetamine heavily from age 14 to 31, and using heroin heavily from age 21 to 31, ending his use in 2008. Given his serious and sustained pattern of impulsivity, violence, and substance abuse that extended for the majority of Mr. Root’s incarceration, I cannot conclude that he has sufficiently demonstrated his suitability for parole.


I am encouraged to see that Mr. Root debriefed from the Mexican Mafia and began engaging in self-help classes around 2012. The 2015 psychologist rated him an overall moderate risk of future violence. The psychologist opined that “given additional participation in vocational, educational, and self-help activities, it is expected that his risk of violence will be lower than at present time.” Given his poor behavior for many years and his only recent progress, I believe he

needs more time to engage in self-help programming and demonstrate a sustained commitment to non-violent, positive behavior.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Root is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Root.

Decision Date: January 29, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DAVID HAYWARD, D-84182
Second Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ X _____

STATEMENT OF FACTS

David Hayward and Michael Sheehan were roommates at a board and care facility for individuals with mental health issues. The two men were involved in several arguments and Mr. Hayward had hit and pushed Mr. Sheehan on multiple occasions. On July 22, 1987, the men got into an argument and Mr. Hayward forcibly marched Mr. Sheehan 1.8 miles to an isolated beach. A wrestling match ensued and Mr. Hayward slammed Mr. Sheehan's face into the ocean floor several times, rendering him unconscious. He then held Mr. Sheehan under water until he drowned and watched his body float away. He returned to the facility where he changed his clothes and took part in a search for Mr. Sheehan.

GOVERNING LAW

The question I must answer is whether Mr. Hayward will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) The parole authority is required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Hayward suitable for parole based on his stable mental health, lack of violence while incarcerated, acceptance of responsibility, understanding of his mental health needs, and parole plans.

I recognize that Mr. Hayward's crime was committed when he was 19 years old and that he has since been incarcerated for 28 years. The psychologist who evaluated him in 2014 reported that Mr. Hayward had a "turbulent upbringing punctuated by hyperactivity, inattentiveness, impulsiveness, as well as him being physically and sexually victimized." He suffered from "emotional disturbance" at a very young age, leading to violent outbursts, tantrums, fits of rage,

and fighting. At the time of this crime, Mr. Hayward and Mr. Sheehan were roommates at a facility for the mentally ill, and they had argued and fought on several prior occasions. I also acknowledge that Mr. Hayward has made some efforts to improve himself in prison. He has only been disciplined for serious misconduct four times during his incarceration and has not acted out violently towards others. Mr. Hayward earned vocational certification and routinely received above average work ratings before he was psychiatrically unassigned from work. He has participated in some self-help programs, including Alcoholics Anonymous, Personal Growth, and Controlling Anger. He was commended by a psychiatric technician in 2015 and a correctional officer in 2014 for his positive attitude and behavior. I note that the psychologist concluded that Mr. Hayward “has demonstrated more responsible behavior” by developing work skills, and that he has had “some sustained periods of compliance” with mental health regimens and “has been able to better control his rage outbursts.” I carefully examined the record for evidence demonstrating Mr. Haywards’s increased maturity and rehabilitation, and gave great weight to all the factors relevant to the diminished culpability of juveniles, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole.

Mr. Hayward’s crime was astonishingly callous. After fighting with Mr. Sheehan, Mr. Hayward forced him to walk nearly two miles to the beach. Mr. Hayward attacked Mr. Sheehan, slammed his face into the ocean floor to knock him out, and drowned him. After watching Mr. Sheehan’s body float out to sea, Mr. Hayward had the audacity to walk back to the facility, change his clothes, and pretend to participate in a search for Mr. Sheehan. Mr. Sheehan demonstrated a disturbing level of indifference toward his victim’s life in committing this crime.

Mr. Hayward has a long and serious history of mental illness. He was first diagnosed with schizoaffective disorder when he was 15, a diagnosis confirmed by each of the psychologists who have evaluated him during his incarceration. The 2014 psychologist noted that Mr. Hayward’s “adult functioning was interrupted by the uncontrolled mental illness with continued rage outbursts, impulsivity, and psychosis....interventions were numerous but his compliance with treatment was sporadic.” During his incarceration, Mr. Hayward has been treated at various levels of care for his mental illness, including multiple commitments at Atascadero State Hospital, most recently in 2010 when he displayed psychotic, delusional symptoms and stopped taking his medication. As recently as 2011, he refused to take his psychiatric medication because he believed it was “twisting” his moods. Even on medication, he continued experiencing serious symptoms including “mild auditory hallucinations, mood swings, and paranoia” in 2013.

I am concerned that Mr. Hayward has not yet demonstrated a permanent commitment to complying with his treatment plans and remaining free of violence. When the psychologist asked him for a specific plan for how he would prevent violent outbursts in the future, he merely replied, “I’m all grown up now.” He told the Board that “the reason I haven’t gotten off the medication again is simply because it’s working,” although he acknowledged that medications had stopped working previously for various reasons. He admitted that when he “took the law into my own hands” and stopped taking his medication in 2010, it was because he felt it “wasn’t working right.” While Mr. Hayward insisted that he would not respond similarly in the future,


the psychologist concluded that his “historic pattern of medication non-compliance calls into question his overall level of insight into the benefit of this crucial intervention.” She continued, “[I]t is not expected that he will always seek out the necessary help if left to his own devices.” These conclusions are troubling, especially in light of the fact that Mr. Hayward murdered his roommate after deciding to go off of his medication for about a week. I would like to see a longer period of compliance with his medication regime to be assured that Mr. Hayward really understands how critical it is, not only for his own health, but also the safety of others.

Mr. Hayward’s 2014 risk assessment supports my concern. The psychologist rated him an overall moderate risk of future violence, and noted that while Mr. Hayward has avoided acting violently in prison, his mental illness has “led to full blow[n] psychiatric decompensation multiple times in the past.” She continued, “Without the provision of intensive and continuous monitoring in the future, even the slightest challenge, annoyance, or perceived deviousness could increase his risk for a violent outburst...mental health interventions will be crucial if he hopes to achieve even a modicum of success in the free world.”

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Hayward is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Hayward.

Decision Date: February 5, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JOSE PEREZ, J-52596
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On June 12, 1994, Jose Perez got into a car with fellow gang members Carlos Chavez and Anthony Guerrero. The group spotted seventeen-year-old rival gang member Braulio Velez in a car with three others. Mr. Chavez identified Mr. Velez as having previously attacked his brother. Mr. Perez, Mr. Chavez, and Mr. Guerrero pursued the vehicle and threw beer bottles at the car. Both vehicles pulled into a parking lot and Mr. Velez fled on foot. Mr. Chavez, Mr. Guerrero, and Mr. Perez chased down Mr. Velez and viciously beat him to the ground. While Mr. Velez was huddled in a fetal position, Mr. Perez pulled out a buck knife and stabbed Mr. Velez twice in the back, killing him.

GOVERNING LAW

The question I must answer is whether Mr. Perez will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Perez suitable for parole based on his age at the time of the crime, lack of institutional misconduct since 2007, positive programming, vocational training, remorse, parole plans, and acceptance of responsibility.

I acknowledge that Mr. Perez was 16 years old when he stabbed a rival gang member twice in the back, killing him. He explained that his father was an alcoholic and a drug addict who physically abused the entire family. In addition to the physical abuse, Mr. Perez reported that his father sexually abused his sisters and was eventually incarcerated after impregnating his sister. With his father gone, Mr. Perez felt isolated from his family and joined a gang at age 13. In

2015, the psychologist noted that, "Mr. Perez displayed characteristic behaviors indicative of a juvenile delinquent attempting to win the approval of others. He was immature, impulsive, reckless, and engaged in negative behavior. His history of violence as a juvenile was related to his gang lifestyle." During Mr. Perez's incarceration, there has been significant opportunity for him to reform, but it has only been recently that he has taken steps to turn his life around.

Mr. Perez has made some efforts to improve himself in prison. He has held numerous institutional jobs and completed some vocational training. He has participated in self-help programming, including Alcoholics and Narcotics Anonymous, Criminals and Gangmembers Anonymous, and Dismantling Gang Association. Additionally, Mr. Perez dropped out of the gang and has remained disciplinary-free in prison since 2007. I carefully examined the record for evidence demonstrating Mr. Perez's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole. However, I remain troubled by his history of violent misconduct.

Mr. Perez's crime was senseless and cruel. He terrorized Mr. Velez during a high speed car chase before hunting him down on foot with the aid of two other gang associates. Unarmed, outnumbered, and alone, Mr. Velez was viciously beaten to the ground. While huddled in a defensive fetal position, Mr. Perez stabbed Mr. Velez twice in the back, killing him.

Even at 16 years old, this was not Mr. Perez's first conviction for a serious crime. At the time of the murder, Mr. Perez was on probation for a forced oral copulation charge. In 1993, Mr. Perez was drinking with friends after school when one of the friends pulled a 14-year-old girl aside. The friend took the girl behind a shed, forced her to orally copulate him, and raped her. A few minutes later, Mr. Perez forced the girl to orally copulate him. Mr. Perez then sodomized the girl as she was simultaneously forced to orally copulate Mr. Perez's friend once again. Mr. Perez denied culpability for this crime in his 2015 psychological assessment, stating he was "only arrested because the victim was heavily intoxicated." At his 2015 hearing, when asked if the victim ever told him "no," Mr. Perez stated he didn't remember and reported, "I was sexually deprived back then. That was one of my main things, objectives back then that made me feel better about myself was my conquests against women." These statements are concerning because they severely downplay his role in and responsibility for this crime. I am not convinced that he understands the serious nature of his actions.

I am also concerned that Mr. Perez has maintained a record of violent, criminal behavior for decades, both in and outside of prison. As a juvenile, he joined a gang at age 13 and routinely sold narcotics, broke into cars, and fought with others, in addition to being convicted of forced oral copulation. Once in prison, Mr. Perez's behavior did not change. He associated with the Northern Hispanics until as recently as 2010. He received rules violations reports in 2000 for being under the influence of alcohol, and most recently in 2007 for participating in a race riot. He also admitted abusing drugs and alcohol in prison as recently as 2003. His continued criminal behavior in prison demonstrates a serious pattern of misconduct.

Mr. Perez's psychological evaluation supports my concerns. The 2015 psychologist rated him a moderate overall risk of future violence if released, based in part on his record of violence. The psychologist opined, "his propensity toward violence is not viewed as a transient feature of his juvenile years, and more accurately reflects a chronic personality characteristic." Given his extended period of very bad behavior, I need to see more time pass before I can be convinced that Mr. Perez is truly committed to non-violent, positive behavior.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Perez is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Perez.

Decision Date: February 5, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

EVERARDO HERRERA, J-69031

Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On December 25, 1993, police responded to the home of Everardo Herrera after they received a call that his two-month old daughter Michelle Herrera was not breathing. Michelle was transported to the hospital where she remained in a coma before being pronounced dead the next day. The autopsy determined that the cause of death was hemorrhagic shock syndrome brought on by blunt force trauma to the infant's head and abdomen. The autopsy also revealed that the infant suffered thirteen rib fractures, massive internal bleeding, and hemorrhaging of the anus and vagina consistent with sexual assault. The doctor also noted bruising on both sides of the child's buttocks indicating that pressure was applied to the area to open the child's anus. Herrera admitted some involvement to law enforcement before being taken into custody.

GOVERNING LAW

The question I must answer is whether Mr. Herrera will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Herrera suitable for parole based on his length of incarceration, lack of criminal history, positive programming, remorse, responsibility, age, vocational training, realistic parole plans, and risk assessment.

I acknowledge that Mr. Herrera has made efforts to improve himself while incarcerated. He has participated in self-help programming including Alcoholics and Narcotics Anonymous, Anger Management, and the Long Term Offenders Pilot Program. He has been working towards his General Education Degree for several years and he has not been disciplined since 2009. I commend Mr. Herrera for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Herrera's crime is horrendous. During the week leading up to Christmas he sexually assaulted his own two-month-old daughter. Later, on Christmas day, he viciously beat her to death. Michelle was innocent and utterly defenseless. Michelle's tender age and close relationship to Mr. Herrera make this crime especially horrifying and unsettling. These are not the actions of a loving father.

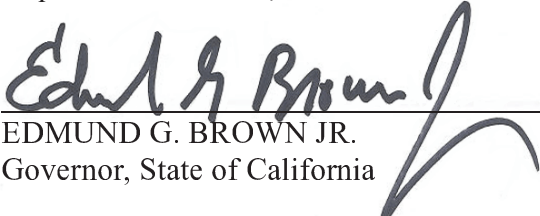
Mr. Herrera's explanations for why he sexually assaulted Michelle are troubling. During his 2015 hearing, Mr. Herrera explained that the main reason he sexually assaulted his daughter stemmed from a childhood experience. He explained that when he was 5-years-old, a teenage boy forced him to watch as he forcefully fondled a young girl. Mr. Herrera explained that the teenage boy looked him in the eye and told him, "that if I wanted to be the luckiest man on earth, I also had to do the same things." Mr. Herrera stated, "I connected myself in my mind with the past, with the friend that abused the child in front of me...and the motivation for me to do that was that if I did that I was going to have a good job, and I was going to be able to support my children." When pressed further on this response, Mr. Herrera continued that he was motivated by "the belief that I had then, that if I did that I was going to be lucky, and I was going to get a good job to help and move forward my family." Mr. Herrera also added that he was "totally drunk" during the sexual assault. These explanations are wholly unacceptable. Mr. Herrera's statement that he believed sexually assaulting his two-month-old daughter would bring him luck and financial success is bizarre. Such twisted logic manifests a profound lack of understanding of the sexual assault he perpetrated on his daughter.

I am also troubled by the inconsistencies in Mr. Herrera's account of the life crime and the factual record. During the 2015 hearing, when asked to describe what he did to Michelle, Mr. Herrera explained that he "hit her" once with an "open hand...in her head, her face." This description doesn't reconcile with the severity of Michelle's injuries. As outlined in the autopsy, there was "multiple bruising in the area of the victim's stomach" which "could have been caused by a punch to the stomach." Additionally, "there was bruising and stretching of the main vein attached below the heart" which was "also consistent with a punch to the abdomen." Although Mr. Herrera admitted to hitting Michelle once in the face, the autopsy revealed that "there was evidence that the victim received multiple blows to the left side of her head." Mr. Herrera's description of the life crime is clearly inconsistent with Michelle's injuries. This inconsistency indicates that Mr. Herrera is not being honest about what he did to his child. Accordingly, I do not believe that Mr. Herrera is prepared to be released at this time.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Herrera is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Herrera.

Decision Date: February 12, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

SONYA HUTSON, W-27774
Second Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ **X**

STATEMENT OF FACTS

Sonya Hutson was pregnant and had been living with her boyfriend for four months when she apparently learned that he was having an affair with Linda McGraw. On August 24, 1986, Ms. Hutson armed herself with a kitchen knife and went to her boyfriend's ex-wife's home to confront him. Upon arriving at the home, Ms. Hutson argued with Ms. McGraw, who was 22 weeks pregnant. Ms. Hutson stabbed Ms. McGraw in the chest puncturing Ms. McGraw's heart. Ms. McGraw's fetus died the next day and Ms. McGraw died on September 11, 1986.

GOVERNING LAW

The question I must answer is whether Ms. Hutson will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Ms. Hutson suitable for parole based on her support in the community, remorse, upbringing, insight, age, participation in self-help, recent improved behavior, and hard work.

I acknowledge that Ms. Hutson's crime was committed when she was 21 years old and that she has since been incarcerated for nearly 30 years. Ms. Hutson's childhood was difficult. Her mother died when she was only 6 or 7 years old and she never had any contact with her father. She was raised by her maternal grandmother and they didn't have much money. At some point in her youth, Ms. Hutson reports that her uncle raped her at gunpoint. School was also very difficult for Ms. Hutson. She was frequently truant and she reportedly got into fights because she was teased by other children. Her first arrest was when she was only 14, and by 16, Ms.

Hutson was arrested for stabbing a teenage girl at least seven times with a knife after accusing her of trying to steal the boyfriend of a friend. She committed this murder at 21.

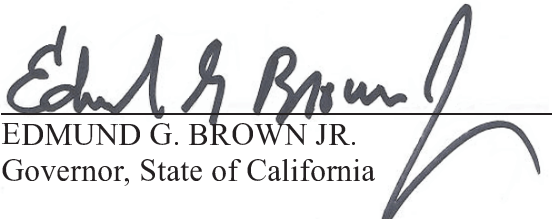
Ms. Hutson has now been incarcerated for nearly 30 years and is 51 years old. She has attended a good deal of self-help programming and completed vocational training in cabinet making, despite her limited cognitive abilities. She has been awarded as the “Most Determined” and “Most Improved” inmate in one self-help program. She has struggled with health issues including cancer and diabetes and currently requires a walker. She had auditory hallucinations as recently as 2014 and reported that she has heard her mother’s voice “before I was going to do something not good.” She has not been disciplined for serious misconduct since 2012. I gave great weight to all the factors relevant to her diminished culpability as a juvenile when she committed this crime, her youthfulness at the time of this crime, and her subsequent growth in prison during my consideration of her suitability for parole, but I do not think she is ready to be released.

Ms. Hutson’s history of volatile and violent behavior has continued well into her prison term. She has received eleven rules violation reports, most for violent behavior. Just in the last ten years, Ms. Hutson has been disciplined for six different violent episodes. In 2005, Ms. Hutson struck another inmate with a broom handle in the face and arms while the other inmate was trying to protect herself. Ms. Hutson pushed another inmate in 2006. In 2008, Ms. Hutson grabbed her cellmate, who was following orders to come out of the room, and threw her to the back of the room. She took an aggressive stance and announced that she refused to allow her cellmate to come out. In 2009, she and another inmate were caught struggling over a makeshift weapon. Later, in November 2011, she was disciplined for biting another inmate during a heated argument. In July 2012, Ms. Hutson became agitated and twisted her body from side to side to slip out of her handcuffs while she was being escorted by correctional officers. She resisted as multiple staff members had to use physical force to place her onto a mattress. I commend Ms. Hutson for her good behavior in the past few years, but given her long-term, unpredictable violence, I believe she still represents an unreasonable risk of danger. I would like to see a longer period of stable and positive conduct before she is released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Ms. Hutson is currently dangerous. When considered as a whole, I find the evidence shows that she currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Ms. Hutson

Decision Date: February 12, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JUAN JIMENEZ, T-60843
Second Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ X _____

STATEMENT OF FACTS

On June 24, 2001, Juan Jimenez killed his 24-year-old girlfriend, Christina Salazar. Mr. Jimenez claimed that Ms. Salazar was cheating on him, and that he saw her with another man the night before the murder. Mr. Jimenez confronted Ms. Salazar with this evidence; Ms. Salazar denied that she was cheating. Mr. Jimenez picked up a screwdriver from a nearby counter and stabbed Ms. Salazar in the back of the head, the temple, and the neck. Because Ms. Salazar did not die quickly enough, Mr. Jimenez snatched a phone cord out of the wall and used it to strangle her. Jimenez stored Ms. Salazar's body in a plastic barrel in garage while he cleaned up the crime scene. Jimenez later stuffed Ms. Salazar's body into a suitcase, then buried her in a shallow grave near the San Bernardino Mountains.

GOVERNING LAW

The question I must answer is whether Mr. Jimenez will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Jimenez suitable for parole based on his growing maturity during incarceration, his risk rating, acceptance of responsibility, remorse, participation in self-help programs, vocational accomplishments, lack of a criminal record, marketable skills, and parole plans.

I recognize that Mr. Jimenez's crime was committed when he was 20 years old and that he has since been incarcerated for nearly 15 years. I acknowledge that he experienced instability in his childhood. He explained that he grew up poor and that his family was homeless at times. He

reported fights between his older half-brothers and half-sister that were sometimes “physical” and “extreme.” He says that he felt unwanted and unloved by his older half-brothers. He was close with his older half-sister, until she began running away from home at which time he felt abandoned by her. He stated that he did not get along with his father who often belittled him because Mr. Jimenez had dyslexia and could not read or write. He felt that he suffered abusive corporal punishment by his mother. At the age of 13 he left the family in Houston, Texas and moved in with his older half-sister in Whittier, California. The psychologist who evaluated Jimenez in 2015 opined that his “history suggested a need for stimulation, poor behavioral controls, and impulsivity.”

I also acknowledge that Mr. Jimenez has made some efforts to improve himself in prison. He obtained a GED and a business literacy certificate from Palo Verde College. He was not disciplined for serious misconduct during his incarceration. Mr. Jimenez volunteered as a peer tutor and health educator, he wrote letters to at-risk youth, and participated in self-help programs including Alcoholics and Narcotics Anonymous, Self-Awareness, Alternatives to Domestic Aggression and Violence, and Domestic Violence Prevention. I carefully examined the record for evidence demonstrating Mr. Jimenez’s increased maturity and rehabilitation, and gave great weight to all the factors relevant to the diminished culpability of juveniles, the hallmark features of youth, and his subsequent growth in prison during my consideration of his suitability for parole. However, they are outweighed by negative factors that demonstrate he remains unsuitable.

Mr. Jimenez’s crime was disturbingly callous. He waited until Ms. Salazar, a young mother of two toddlers, had turned her back and then he brutally attacked her in the most atrocious manner. Mr. Jimenez’s first serious relationship ended in murder. Members of Ms. Salazar’s family appeared at the hearing to oppose parole and discuss their persistent feelings of loss and the devastating impact on Ms. Salazar’s children.

I am troubled by Mr. Jimenez’s explanations for his criminal conduct. He told the psychologist in 2015 that growing up, his mother was “insecure,” “clingy,” and “always on edge,” fearing that his father would leave her. Mr. Jimenez reported that his parents’ relationship impacted the way he was in his own relationships because he was very “clingy” and “kept things bottled in.” Regarding Ms. Salazar, he explained, “I was afraid of losing her. I was afraid of being abandoned, rejected.” He continued, “when I first seen her kiss the guy and I confirmed it, that’s when I felt like I wanted to kill her.” He claimed that when he killed Ms. Salazar, “I was jealous, angry, insecure. Substance abuse problems, callous, and a coward.”

These statements do not explain Mr. Jimenez’s uncontrolled violence. Jealousy rears its head in many if not most relationships. Couples fight, even when they are in committed, monogamous, long-term relationships. While jealousy and fights can lead to feelings of insecurity, they do not generally lead to murder. It is still unclear why Mr. Jimenez stabbed Ms. Salazar with a screwdriver then strangled her with a phone cord, especially given the fact he claimed he never physically abused her in the past. Such an extreme reaction to normal relationship issues must be better explained. I encourage Mr. Jimenez to probe more deeply into why he chose murder rather than some other method of resolution.

I am also concerned that Mr. Jimenez has not yet developed the insight or the ability to control his emotions when faced with a similar situation. Mr. Jimenez told the Board that throughout his life, and in his relationship with Ms. Salazar, "I didn't know how to express myself, I kept things bottled up." He also admitted, "I still have trouble expressing myself. I still have trouble saying what I'm feeling like." He explained that in future relationships, if he begins to feel tension, he will "walk away, go talk to someone, call for help. ... If I still feel mad and upset, and worse comes to worse, I'll call my parole officer. Tell him, hey, lock me up[.]" Mr. Jimenez is making real progress, but needs more clarity and a very specific plan for dealing with jealousy, abandonment, and rejection in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Jimenez is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Jimenez.

Decision Date: February 12, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DAVID BERNICH, H-30688
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On July 14, 1991, David Bernich, Anthony Nix, and Donald Howard were socializing at Mr. Bernich's apartment. Mr. Howard got into an argument with his girlfriend and Mr. Bernich asked him to leave. As Mr. Howard was leaving, he broke a window in the apartment, shattering glass onto Mr. Bernich's sleeping daughter. Mr. Bernich and Mr. Nix followed Mr. Howard to confront him and the three fought in the street. Mr. Howard fought off Mr. Bernich and Mr. Nix and they fled. Mr. Bernich and Mr. Nix returned armed with garden tools. Mr. Howard procured a butcher knife. Mr. Bernich struck Mr. Howard several times, knocking him down. Mr. Bernich and Mr. Nix continued striking and kicking Mr. Howard even after he was unconscious. Mr. Howard sustained a jab to the heart from a garden hoe and repeated blows to his head, killing him.

GOVERNING LAW

The question I must answer is whether Mr. Bernich will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Bernich suitable for parole based on his remorse, acceptance of responsibility, positive programming, age at the time of the crime, sustained sobriety since 2002, lack of institutional misconduct since 2003, risk assessment, vocational training, and parole plans.

Mr. Bernich was 19 years old when he beat Mr. Howard to death with a garden hoe. He explained that his parents divorced when he was five years old, that his mother was an alcoholic, and that his step-father was physically abusive. Mr. Bernich also stated that many of the family members he grew up with were gang members and drugs addicts. He reported never having a stable home and living with various relatives for short periods of time. In 2012, the psychologist noted that, "Mr. Bernich's offense was violent and occurred at a young age. He had substance abuse problems, and experienced problems with depression while in prison. He had early maladjustment problems, continued to break the law while on probation, and has previously been diagnosed with a personality disorder." At the outset of Mr. Bernich's incarceration, his criminality and propensity for violence increased. While he has commenced on a more positive path in recent years, I am still concerned with Mr. Bernich's explanation and understanding of what caused this violent and hateful behavior.

Mr. Bernich has made efforts to improve himself in prison. He earned his GED in 2008, and has completed multiple vocational programs. He has participated in self-help classes including Alcoholics and Narcotics Anonymous, Substance Abuse, and Violence Aftermath. Since I reversed Mr. Bernich's parole grant in 2014, he has participated in Celebrate Recovery and Recovery in Motion, and has served as the Chairman for Criminals and Gangmembers Anonymous. Additionally, he has received positive work ratings and several commendations from prison staff. I commend Mr. Bernich for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

I reversed Mr. Bernich's grant of parole in 2014 based on his crime, his violent conduct in prison, and minimization of his involvement in white supremacist gangs. I asked Mr. Bernich to be more forthright about his gang involvement and to better explain his decision to tattoo his body with several gang-related symbols. Although the Board found Mr. Bernich suitable for parole again in October 2015, little has changed since my last reversal.

This was an exceptionally violent crime. Mr. Bernich attacked Mr. Howard for revenge well after Mr. Howard left the apartment. He teamed up with Mr. Nix to outnumber and overpower Mr. Howard and brutally beat him to death with garden tools. Mr. Bernich had ample opportunity to remove himself from the confrontation. Instead, he took Mr. Howard's life after Mr. Howard was lying unconscious on the ground. His death made a lasting impact on Mr. Howard's family.


I remain concerned by Mr. Bernich's record of violence in prison and his continued minimization of his gang affiliation. He joined the United Society of Aryan Skinheads while in prison and got at least six gang-related tattoos on his body. These tattoos include the word "Skinhead" across his back, "Hitler," a rune symbol and fist indicating allegiance to the United Society of Aryan Skinheads, and at least four swastikas. As a result of his allegiance to the Skinheads, Mr. Bernich also committed stabbing assaults in 1993 and 2003, a battery resulting in serious injury in 2001, and he engaged in mutual combat in 1993 and 1998.

Although Mr. Bernich maintains he dissociated from the Skinheads in 2005, his current explanations for why he joined the gang and for why he received such hateful and racist tattoos are lacking. During his 2015 hearing Mr. Bernich told the panel, "I got tatted up because I wanted to hide behind it. I wanted to fit in, you know, be labeled as white, you know, because I didn't want to get assaulted, you know. I was scared." In his 2012 risk assessment the psychologist reported, "He admitted to associating himself with the Skin Heads in prison in order to feel some protection from the other inmates who were gang members. He said that he was never formally a prison gang member." These explanations downplay his extended affiliation with the Skinheads. Really, Mr. Bernich demonstrated a deep and strong commitment to the white supremacy gang values as demonstrated by his numerous stabbings and violent fights. All of these tattoos show a real commitment to an extremely violent, racist ideology. Mr. Bernich was not merely a passive associate of the gang seeking protection; he was a willing participant. I don't believe Mr. Bernich has been completely candid about the nature of his gang involvement. More recently, Mr. Bernich's behavior has been very positive and he has demonstrated a solid commitment to a number of rehabilitative programs. This is very important and commendable. Nevertheless, given the length and degree to which his life was dedicated to serious violence and violent ideology, I am not yet prepared to approve his release.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Bernich is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Bernich.

Decision Date: February 26, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DAVID ROE, K-00467
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On January 12, 1992, David “Polar Bear” Roe turned himself into the police and told them where to find Tami Koby’s body. Ms. Koby had been stabbed 35 times, including once after she had died. At least 10 of the stab wounds were fatal. The medical examiner found no defensive wounds from the knife, but found many bruises and abrasions consistent with Ms. Koby having been held down and struggling during the stabbing.

Mr. Roe told the police that on January 11, 1992, Ms. Koby had picked David Smith and him up from a party. She drove Mr. Roe and Mr. Smith to a nearby dump. Mr. Smith began kissing Ms. Koby, who accepted his advances at first, then objected. Mr. Smith became angry and told her that she had to do what he said or he would kill her. When Ms. Koby objected again, Mr. Smith forced Ms. Koby to orally copulate him. When she stopped, he hit her in the back of the head and threatened to kill her. Mr. Smith pulled out a knife and ordered Ms. Koby to remove her clothes. After she complied, Mr. Smith told her to orally copulate Mr. Roe. Ms. Koby pretended to orally copulate Mr. Roe while Mr. Smith raped her. When Mr. Smith noticed that she was only pretending, he held the knife to her side until she unzipped Mr. Roe’s pants and began performing oral sex. After Mr. Smith finished, he told Ms. Koby to get dressed. Mr. Smith drove Ms. Koby and Mr. Roe to a secluded area, turned around, and stabbed Ms. Koby once in the chest with the knife. Mr. Smith and Ms. Koby got out of the car and fought, and Ms. Koby gained control of the knife. Mr. Roe took the knife from Ms. Koby and gave it back to Mr. Smith. At some point, Mr. Smith said, “Well, I have to kill her cause I raped her,” and Mr. Roe responded “All right dude, well I’m walking.” Mr. Roe walked up the road, plugging his ears. After he heard Ms. Koby scream one last time, he turned around and walked back to the scene. He saw Mr. Smith stab Ms. Koby one more time. Mr. Smith pulled the knife out of Ms. Koby’s body and they drove off. Mr. Roe was arrested after showing the location of the body to police.

GOVERNING LAW

The question I must answer is whether Mr. Roe will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate’s pre- or post-incarceration history, or the inmate’s current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008))

44 Cal. 4th 1181, 1214.) .) Additionally, I am required to give “great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner” when determining a youthful offender’s suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Roe suitable for parole based on his age at the time of the crime, risk assessment, insight, lack of criminal history, lack of institutional misconduct since 2004, sobriety, and sincerity.

I recognize that Mr. Roe’s crime was committed when he was 16 years old and that he has since been incarcerated for 24 years. I acknowledge that he experienced instability in his childhood. He reported that his parents abused drugs and after his father cheated on his mother, his father was largely absent from his life. He referred to his brother as his “biggest tormentor” because he teased and bullied him a lot, and humiliated him in front of his friends. He said he began associating with his brother’s friends and engaging in negative behavior in order to stop the bullying. The psychologist who evaluated Mr. Roe in 2013 opined that he was “highly susceptible to the influence of his peers and gang associations” and “failed to fully consider the consequences of his actions beyond himself.” The psychologist noted his “impulsivity, recklessness, and need for acceptance and approval continued into his incarceration.” However, the psychologist concluded that when he disassociated from gang activity, he began on a positive path and has since “demonstrated improved impulse control, a greater sense of personal responsibility, and an ability to contemplate and appreciate the consequences of his decisions.”

I also acknowledge that Mr. Roe has made some efforts to improve himself in prison. He has not been disciplined for serious misconduct since 2004. He has participated in self-help programs including Narcotics Anonymous, Victim Awareness, Lifers’ Support Group, and Victim Impact. He has completed vocational training and received positive work ratings. I carefully examined the record for evidence demonstrating Mr. Roe’s increased maturity and rehabilitation, and gave great weight to all the factors relevant to the diminished culpability of juveniles, his youthfulness at the time of the crime, and his subsequent growth in prison during my consideration of his suitability for parole. However, they are outweighed by negative factors that demonstrate he remains unsuitable.

Mr. Roe’s crime was horrifying. He participated in the violent sexual assault of a young woman, and then stood by as Mr. Smith stabbed her to death. When Ms. Koby managed to gain control of the knife, Mr. Roe took it from her and gave it back to Mr. Smith so he could resume the attack. Mr. Roe displayed a disturbing callousness in committing this crime.

Mr. Roe has not yet adequately explained how he came to commit this crime. He told the Board that despite seeing his crime partner threaten Ms. Koby with a knife, he thought they were all engaging in consensual sex. Mr. Roe explained, “I honestly thought that she was into it because she wasn't saying no. She was cooperating...she didn't voice an opinion or she didn't say no.” When the Board asked him why he returned the knife to Mr. Smith after he knew Mr. Smith

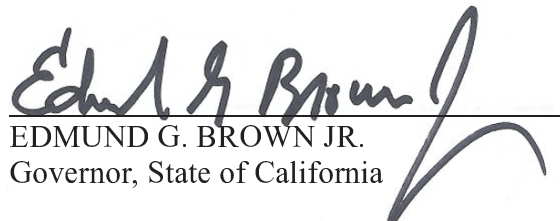
wanted to kill the victim, Mr. Roe replied, "I'm going with what he says. The acceptance, me being part of this gang, him being an older person...I felt if I did not give him the knife or if I went against what he was doing, then he was going to do the same thing to me." This explanation is not credible. Mr. Roe was in full control of the knife and had an opportunity to leave the situation and get help if he wanted. In fact, Mr. Roe had already started to leave the area, but came back to the scene after he heard Ms. Koby screaming. Additionally, Mr. Roe's claim that he believed that Ms. Koby was willingly performing oral sex on him is not believable. He saw Mr. Smith hit Ms. Koby in the back of the head and threaten to kill her. He also saw Mr. Smith pull out a knife and hold it against Ms. Koby while she orally copulated Mr. Roe. It is very troubling that, despite the threats and the knife, Mr. Roe somehow saw this act as consensual.

Once he entered prison, Mr. Roe's violent behavior continued to escalate. He was disciplined for serious misconduct 11 times, including for stabbing an inmate, slashing another with a weapon, multiple mutual combats, possession of weapons, and punching an inmate in the face. Mr. Roe associated with white supremacist gangs including the Nazi Low Riders, Skinheads, and Peckerwoods. He participated in a wide range of violent activity on behalf of the gangs, including stabbing other inmates, fighting, and making and distributing weapons. Mr. Roe also demonstrated his commitment and loyalty to these groups with tattoos of powerfully violent symbols – swastikas on his hands and stomach, Skinhead symbols, a portrait of Adolf Hitler on his arm, lightning bolts, and multiple other gang tattoos on his head and chest. These tattoos very visibly communicate the threat of violence. Mr. Roe spent many years associating with these extremely violent groups and his behavior in prison advanced their warped ideology. Even after he came to the Sensitive Needs Yard in 2003, he continued using methamphetamine, heroin, and marijuana until 2007. Confidential reports indicate that he was selling drugs and threatening to assault other inmates as recently as 2010. Because of his record in prison, for me to conclude that he is committed to living differently in the future, Mr. Roe must do more to show that he understands the impact of his actions and the violent and hateful symbols he has decided to place on his body and that he has rejected the violent ideology that he embraced for so many years.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Roe is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Roe.

Decision Date: February 26, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

CHARLES NEWPORT, T-16959
Second Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ **X** _____

STATEMENT OF FACTS

On June 10, 2000, Charles Newport and Melissa Hanson went to a party where Mr. Newport consumed cocaine and alcohol. They left the party and went to Ms. Hanson's house where they began kissing on her bed. Ms. Hanson stopped kissing and rolled over to go to sleep. Mr. Newport felt rejected and began insulting her, and Ms. Hanson slapped him. Mr. Newport then grabbed a pillow and held it over her face, smothering and killing her. Ms. Hanson's mother came to the bedroom door and Mr. Newport blocked the door and told her he was changing so she would leave. Mr. Newport put Ms. Hanson's body in the closet and fled through the window. Ms. Hanson's mother found her body in the closet the next morning. When Mr. Newport was found by police officers, it appeared he had attempted suicide by consuming sleeping pills. A confession note in which Mr. Newport admitted to the murder and a suicide note were found in his car at the time of his arrest.

GOVERNING LAW

The question I must answer is whether Mr. Newport will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Newport suitable for parole based on his remorse, youthfulness at the time of the crime, insight, parole plans, self-help programming, and lack of serious misconduct while in prison.

I acknowledge that Mr. Newport's crime was committed when he was 19 years old and that he has since been incarcerated for 15 years. Mr. Newport reported that at the time of the crime, he experienced untreated depression and anxiety, and that he had been abusing drugs and alcohol for years in an attempt to self-medicate. He had frequent panic attacks and said that he dropped out of high school as a result. I also acknowledge that Mr. Newport has made some efforts to improve himself in prison. He has never been disciplined for serious misconduct. Mr. Newport has participated in self-help programs including Alcoholics and Narcotics Anonymous, Depression Management, and Domestic Violence Awareness. He earned his GED, obtained some vocational training, and was commended by prison staff for his positive attitude and behavior. I carefully examined the record for evidence demonstrating Mr. Newport's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole.

Mr. Newport's crime is shocking. When he felt sexually rejected by his friend, he suffocated her with a pillow. Mr. Newport then shoved her body into a closet and left through a window, leaving her mother to find her body after he fled. I note that Ms. Hanson's mother and brother wrote movingly about the continuing sense of loss and pain they experience as a result of her death.

I reversed the Board's 2014 parole grant because of the senseless nature of the crime and because I found that Mr. Newport's explanations of why he murdered Ms. Hanson were insufficient. Although the Board found Mr. Newport suitable for parole again in 2015, my concerns have not been alleviated.

Mr. Newport has not yet adequately explained how he came to suffocate Ms. Hanson with so little provocation. As in 2014, he told the Board that he became angry several times on the night of the crime, and that those events and his ongoing low self-esteem issues helped fuel his attack on Ms. Hanson. He reported being "a little upset" when he agreed to drive several friends around for the night. He said that he later felt rejected and "took it really personally" when a girl at a nightclub "just kind of blew me off." Mr. Newport also explained that he felt "ripped off" when he thought a friend shortchanged him during a beer run, but that he "calmed down a little bit" when he realized he was mistaken. He said that when Ms. Hanson wanted to stop kissing him and go to sleep, he felt rejected and "she became the next target of my aggression." He said when she slapped him after he began swearing at her, "I just remember seeing red. I was just so angry...she became the target of all this crap that I had built up." He said that he put the pillow over her face, and "I held her down and I held her down. And then I started to calm down, you know. That rage just subsided a little bit. She wasn't moving anymore."

These explanations may shed some light on why Mr. Newport experienced frustration throughout the night, but they do not sufficiently explain his extraordinary overreaction or his sudden decision to kill Ms. Hanson, a friend he cared about. Many people regularly experience feelings of rejection and frustration without physically attacking those around them. In order to show that he is prepared to face future challenges without responding violently, Mr. Newport

must better understand and explain how he came to react with such anger and violence in the face of minor provocation.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Newport is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Newport.

Decision Date: March 4, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

RICARDA SORIA, W-18412
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On April 24, 1981, Ricarda Soria invited Stacy Benjamin to her home with the unstated intention of forcing Ms. Benjamin to pay a \$185 drug debt owed to William Forrester. When Ms. Benjamin arrived at Ms. Soria's home with a mutual friend, Paula Geddling, Leo Rutherford, Don Beardslee, Mr. Forrester, and Ms. Soria were waiting for them. Mr. Rutherford held the women at gunpoint and apparently shot Ms. Geddling in the arm. The women's hands and feet were bound with tape, and their mouths were gagged. The group decided to kill both Ms. Benjamin and Ms. Geddling. Ms. Geddling was murdered first. Ms. Soria doled out bullets, two at a time, so that Mr. Forrester could shoot Ms. Geddling four times, including twice in the head at close range. Ms. Benjamin was murdered the same night. She was driven from San Mateo County to Lake County where Mr. Rutherford strangled her with wire purchased by Ms. Soria, after which time, Mr. Beardslee slashed Ms. Geddling's throat. Mr. Beardslee was convicted of two counts of first degree murder, sentenced to death, and ultimately executed for his involvement. Ms. Soria has served 34 years for her participation.

GOVERNING LAW

The question I must answer is whether Ms. Soria will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Ms. Soria suitable for parole based on her length of incarceration, risk rating, recent programming, expressions of remorse, acceptance of responsibility, and because she had not received any serious rules violations in six years.

I acknowledge that Ms. Soria's crime was committed when she was 18 years old and that she has since been incarcerated for nearly 35 years. Ms. Soria's childhood was difficult. Her parents divorced when she was 11. Ms. Soria told the Board that her father was very angry about the divorce, "and he expected and tried to manipulate us children into hating my mother [.]. . . So we had a lot of secrets and a lot of pent up stuff to deal with and didn't know how to deal with them." She also explained, "I was put into the role of mother, wife, sister, woman of the house. Ms. Soria told the Board, that she when was 11 years old, her father would take her on "dates." She also said that for about six months, she engaged in prostitution because "I was homeless, jobless and that's the only way I knew how to make any money." I also acknowledge that Ms. Soria has made some efforts to improve herself in prison. She recently completed self-help programs such as Criminal and Addictive Thinking, Finding Peace Through Healing, Anger Management, and Bullying Awareness. Ms. Soria received above average to exceptional work ratings before being unassigned due to medical conditions. Ms. Soria also reported completing three college courses. I carefully examined the record for evidence demonstrating Ms. Soria's increased maturity and rehabilitation, and gave great weight to all the factors relevant to the diminished culpability of juveniles, her youthfulness at the time of this crime, and her subsequent growth in prison during my consideration of her suitability for parole.

Ms. Soria actively participated in two horrific and sordid murders. She lured the women to her home under false pretenses knowing she was inviting them to danger. After Ms. Gedding's husband arrived and the group discussed and decided to kill the women, Ms. Soria drove Ms. Gedding's husband back home so that he would have an alibi. She then went to the site of Ms. Benjamin's murder where - - two at a time - - she gave Mr. Forrester the bullets he needed to kill Ms. Benjamin. Afterwards, Ms. Soria drove to a neighborhood store and purchased wire so that Mr. Rutherford could make a garrote to strangle Ms. Gedding. Ms. Soria then coldly drove away leaving two bodies in her wake.

I am not yet convinced that Ms. Soria is prepared to be released. Ms. Soria did not denounce violence and criminal activity after she participated in this brutal double murder. Instead, once in prison, she amassed 60 serious rule violations. She received the last violation after serving nearly 26 years in prison. Ms. Soria repeatedly refused to report to work, and failed to regularly attend her assigned classes. Nor did Ms. Soria turn away from the drugs she claims contributed to her participation in the murders of Ms. Benjamin and Ms. Gedding. She continued to indulge in illegal narcotics. She was issued at least ten drug-related serious rule violations. Although Ms. Soria claims she stopped using drugs in 2005, she served nearly 30 years in prison before she participated in programs designed to prevent substance abuse relapse. I commend Ms. Soria for making some rehabilitative gains in the past few years. However, she has not shown a sustained commitment to recovery or rehabilitation. Because Ms. Soria has spent so many years breaking the rules, I don't feel confident that she can be released. I would like to see a longer period of responsible and positive conduct.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Ms. Soria is currently dangerous. When considered as a whole, I find the evidence shows that she currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Ms. Soria.

Decision Date: March 4, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

REGINALD BRYANT, C-13232

First Degree Murder and Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On August 8, 1978, Reginald Bryant was the leader of a group of five young men who lured or forced 16-year-old La Neice Brooks into Mr. Bryant's garage. They had Ms. Brooks smoke PCP furnished by Mr. Bryant. Several of the young men, including Mr. Bryant, raped her, penetrated her vagina with a foreign object, and forced her to orally copulate them. Mr. Bryant decided they had to "get rid of her" because he did not want the police "coming around his house." He retrieved a rifle and a pistol and gave the pistol to Curtis Jones. Mr. Bryant then ordered Ms. Brooks to get dressed. Ms. Brooks was able to put on her sweater, pants, and stockings, but her blouse, shoes, and panties were left in the garage. Mr. Bryant, Mr. Jones, and Joseph May marched the girl to a stolen car driven by Tyrone Armstead. As Ms. Brooks pleaded with the men not to kill her, they drove her to a pedestrian tunnel under a freeway. Once the car stopped, Mr. Armstead, Mr. May, and Jerome McGhee ran away. Mr. Bryant and Mr. Jones shot Ms. Brooks five times, killing her. The following day, Mr. Bryant bragged about killing her.

Four months after the murder of Ms. Brooks, Mr. Bryant was involved in another murder. On December 28, 1978, Eliza Jones went to the house of his ex-girlfriend. While Mr. Jones was there, Mr. Bryant and Joe Jefferson arrived, saw Mr. Jones, and left. They went to retrieve a gun from a friend who lived nearby. Mr. Jones left his ex-girlfriend's house 20 minutes later and Mr. Bryant and Mr. Jefferson were waiting for him. As Mr. Jones drove away, he was shot three times in the head.

GOVERNING LAW

The question I must answer is whether Mr. Bryant will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Bryant suitable for parole based on his acceptance of responsibility, length of incarceration, age at the time of the crime, recent good behavior in prison, support in the community, and psychological evaluation.

I acknowledge that Mr. Bryant's crime was committed when he was 17 years old. Mr. Bryant's parents separated when he was 12 years old and he was raised primarily by his mother. He was first arrested at 11 years old and became a member of the Crips. He was arrested for these crimes when he was a senior in high school. Mr. Bryant is now 54 years old and he has been incarcerated for 37 years. He has made some efforts to improve himself in prison. He has not been disciplined for serious misconduct in the past 10 years and completed a few vocational training programs. He earned his GED in 1994 and has been involved in self-help classes including Narcotics Anonymous, Anger Management, and Victim Awareness. He has received satisfactory to exceptional work ratings. I carefully examined the record for evidence demonstrating Mr. Bryant's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole.

It is difficult to imagine the nightmare Ms. Brooks had to endure when she was drugged, raped repeatedly by different men, and then pleaded for her life before being shot five times. It is shocking that even after being involved in this atrocious rape and murder, Mr. Bryant would coldly carry out the murder of Mr. Jones only a few months later.

I reversed Mr. Bryant's 2013 grant of parole because of his role in both of these horrific crimes and because he made preposterous claims minimizing the coercion and violence that he and his friends employed. At that time, Mr. Bryant told the Board that the men did not force Ms. Brooks to have sex with them and implied that she voluntarily walked to the car where she would be killed.

Mr. Bryant maintained these claims in his later psychological evaluation, but finally acknowledged to the Board in 2014 that Ms. Brooks did not voluntarily have sex with him and his friends. He explained in 2015, "I wasn't ready to face the facts that what I did was wrong." When asked how he could be involved in the rape and murder of Ms. Brooks, then be involved in the murder of Mr. Jones only months later, Mr. Bryant pointed to his "defects of character," his "callousness, self-pride, ego." He said, "I didn't care about nobody. ... it was part of the lifestyle that I lived." It is good that Mr. Bryant has now decided to speak more candidly about the horrible things he did to Ms. Brooks and the murder of Mr. Jones. Nevertheless, the horror of the crimes that he perpetrated on a young girl living in his own neighborhood and the explanations he is able to give do not incline me to approve his parole. Mr. Bryant must frankly explain why he lied for so many years and was able to treat another so callously without any human sentiment then go on to kill someone else four months later. Given all these circumstances, Mr. Bryant has to face facts more directly and reflect more deeply on what it is he did and how he conducted himself.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Bryant is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Bryant.

Decision Date: March 11, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

EDWINA DOTSON, W-16641
Second Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ **X** _____

STATEMENT OF FACTS

On May 29, 1979, Danny Allen and Edwina Dotson confronted Danny's estranged wife, Morrie Allen, in her parking garage and forced her into a car. While they drove her to Danny and Edwina's apartment, Morrie grabbed a hammer from the backseat and hit Edwina in the head. When they arrived at the apartment, Danny ordered Morrie to go upstairs. Danny tied her up with an electrical cord and wrapped surgical tape around her mouth, eyes, and head. He punched Morrie several times and told her that he was going to kill her. He beat Morrie's face until it began to swell over the edges of the tape. Danny put Morrie in the bathtub face down and held her head under water. When Morrie struggled, Danny told Edwina to help him hold her down. Edwina pushed Morrie's head back under the water and placed a knee against Morrie's back until she stopped moving. Danny then poured salt down Morrie's throat and on her vagina, poured bleach all over her body, put the body in a large plastic bag and a cardboard box, and put it in a dumpster. The body was never found.

GOVERNING LAW

The question I must answer is whether Mr. Dotson¹ will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Dotson suitable for parole based on his age at the time of the crime, remorse, acceptance of responsibility, current age, lack of recent serious rules violations, and risk assessment.

¹ According to the 2013 and 2015 psychological evaluations, Dotson now identifies as a male. For that reason, I refer to him using male pronouns throughout this decision.

I acknowledge that Mr. Dotson's crime was committed when he was 17 years old and that he has since been incarcerated for 36 years. Mr. Dotson reported enduring childhood trauma including physical abuse from his adoptive mother and living on the street for several years before he committed this crime. He told the Board that he participated in this crime because he had finally found a relatively stable living environment and that he did not want to jeopardize it by refusing to help his crime partner. I also acknowledge that Mr. Dotson has made some efforts to improve himself in prison. He has not been disciplined for serious misconduct since 1997. He has participated in self-help programs including Beyond Violence, Breaking Barriers, and Substance Abuse Treatment. In 2015, two correctional officers commended Mr. Dotson for his positive behavior and attitude. Mr. Dotson has also completed vocational programs and has worked for the Prison Industry Authority. I carefully examined the record for evidence demonstrating Mr. Dotson's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole.

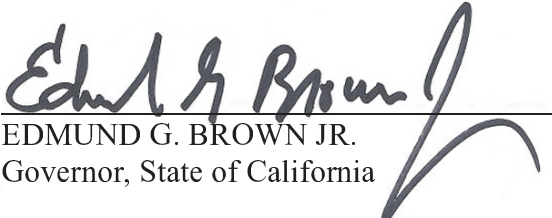
This crime was horrifying. Mr. Dotson and Mr. Allen kidnapped Mr. Allen's wife, restrained and beat her, and drowned her before desecrating and disposing of her body. Mr. Dotson displayed a disturbing disregard for human life in committing this crime.

Mr. Dotson did not turn away from violence and criminal activity after this brutal murder. Instead, once in prison, he amassed more than 70 serious rules violations, including kicking a correctional officer, threatening officers and inmates, and multiple mutual combats. In 2007, his cellmate reported that Mr. Dotson hit her in the eye. In 2009, a work supervisor requested that Mr. Dotson be removed from his work program after Mr. Dotson got into an altercation with a clerk. The supervisor reported prior problems with Mr. Dotson and believed he was "a threat to this factory." In 2012, staff observed injuries on Mr. Dotson's face that were consistent with being in a fight. And in 2013, Mr. Dotson was counseled for being loud and disruptive in a clinic. He aggressively approached a nurse and refused to leave until the nurse activated an alarm and correctional officers escorted Mr. Dotson away. I commend Mr. Dotson for making some positive gains. But between his lengthy, violent disciplinary history and recent aggressive behavior, he has not demonstrated a sustained ability to refrain from violence. Until Mr. Dotson demonstrates a more prolonged period of positive behavior, I cannot be sure that he is capable of living without violence in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Dotson is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Dotson.

Decision Date: March 11, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

COREY GLASSMAN, D-65638

First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Junko Owaki was an 18-year-old foreign exchange student from Japan. On February 18, 1986, Corey Glassman and Gina Florio were drunk and leaving a friend's house and saw Ms. Owaki. Ms. Owaki mentioned to Mr. Glassman that she had just received \$2,200 from her father to pay for car repairs. Mr. Glassman told Ms. Florio about the money, and Ms. Florio said she wanted to steal the money, but said that they would have to kill Ms. Owaki to avoid getting caught. Mr. Glassman agreed. Ms. Florio and Mr. Glassman lured Ms. Owaki through a field and tunnel until they reached a drainage ditch. During the walk, Ms. Florio handed her knife to Mr. Glassman. Once at the drainage ditch, Ms. Florio and Mr. Glassman grabbed Ms. Owaki and slammed her head against a wall several times. Ms. Owaki said "I know what you want. Just take the money" and promised not to report them to the police. Mr. Glassman said, "No, we can't take that chance." Mr. Glassman tried to kill Ms. Owaki by slitting her throat and strangling her. Mr. Glassman repeatedly stabbed Ms. Owaki in the head, back, and hands. He eventually discarded the knife on the ground, and Ms. Florio picked it up, jammed it into Ms. Owaki's throat, and twisted it around. Mr. Glassman then stuck his fingers inside Ms. Owaki's throat and ripped her flesh apart. Ms. Owaki was stabbed 99 times, including 40 times in the throat, and with such force that the blade penetrated her brain and broke two bones in her spine. Mr. Glassman and Ms. Florio pushed Ms. Owaki's body into the drainage water, took her purse, and fled.

GOVERNING LAW

The question I must answer is whether Mr. Glassman will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Glassman suitable for parole based on his age at the time of the crime, remorse, acceptance of responsibility, maturity, parole plans, and risk assessment.

I acknowledge that Mr. Glassman's crime was committed when he was 16 years old and that he has since been incarcerated for almost 30 years. He reported experiencing a tumultuous childhood, including the unexpected death of his father, sexual abuse at the hands of a mentor, and losing a close relationship with his stepfather. He also reported drinking alcohol before the crime, and indicated that he began drinking and using drugs at age 11 or 12 to escape negative feelings and mask his emotions. I also acknowledge that Mr. Glassman has made some efforts to improve himself in prison. He has not been disciplined for serious misconduct since 1996. He earned his GED and two associate's degrees, completed several vocational programs, and received above average to exceptional work ratings. Mr. Glassman participated in self-help programs including Alcoholics Anonymous, Codependence Awareness, and Substance Abuse. I carefully examined the record for evidence demonstrating Mr. Glassman's increased maturity and rehabilitation, and gave great weight to all the factors relevant to the diminished culpability of juveniles, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole.

This crime was senseless and shocking. Mr. Glassman and Ms. Florio launched a vicious, unprovoked attack on Ms. Owaki. Mr. Glassman strangled her, stabbed her dozens of times, and ripped her throat apart with his hands. His actions were utterly reprehensible.

In 2014, I reversed Mr. Glassman's parole grant based on the horrific nature of the crime and Mr. Glassman's inadequate explanations for his participation in it. Although the Board found him suitable for parole again in 2015, my concerns have not been alleviated.

Mr. Glassman still has not offered an adequate explanation for how he came to commit this heinous crime. He told the Board at his 2015 hearing that greed, entitlement, selfishness, and his desire to buy drugs motivated him to rob Ms. Owaki. He explained that when Ms. Florio suggested killing her, Mr. Glassman agreed because he felt trapped and did not want to lose Ms. Florio's friendship. He said that after enduring losses during his childhood, he craved a place in a group and felt it was important to feel connected and not alone. These explanations and Mr. Glassman's age at the time may shed some light on why he would rob Ms. Owaki, but they do not sufficiently explain why he was so willing to kill her in such a violent fashion. Mr. Glassman reported that even after Ms. Owaki offered to give them the money and promised not to tell the authorities about the robbery, he "just told her matter-of-factly that we can't take that chance." Ms. Owaki gave him a way out, and instead of taking it, he coldly and savagely attacked her. Mr. Glassman must do more to account for the extreme nature of his attack on Ms. Owaki. Until he does so, I cannot be assured that he will refrain from violence in the face of future challenges.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Glassman is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Glassman.

Decision Date: March 11, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DENNIS JEWELL, D-46354
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On June 8, 1985, Dennis Jewell took his brother-in-law's truck without permission. While driving drunk, Mr. Jewell broadsided a car containing Jeannette Willis and her four children, 6-month-old Mark, 7-year-old Torey, 9-year-old Ebony, and 11-year-old Brandon. Ms. Willis and her four children died. Mr. Jewell's blood alcohol content was between 0.32 and 0.33 percent a couple of hours after the crash. He was convicted of five counts of second degree murder and sentenced to 77 years-to-life.

GOVERNING LAW

The question I must answer is whether Mr. Jewell will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

Mr. Jewell's September 2015 parole hearing resulted in a tie vote. The commissioner found Mr. Jewell suitable for parole based on his lack of violence in prison, acceptance of responsibility, remorse, insight, rehabilitative efforts with regard to his alcoholism, and health condition. The deputy commissioner found him unsuitable based on his uncertain risk of relapse, lack of insight into the origin of his severe alcoholism, ongoing anger and control issues, and failure to fully address his depression given its relationship to his alcoholism. During the Board's October 2015 *en banc* meeting, a majority of the Board found Mr. Jewell suitable for parole.

I acknowledge that Mr. Jewell is 64 years old, has terminal liver cancer, and has been incarcerated for over 30 years. He has not been disciplined for serious misconduct since 1999 and has never been disciplined for violence during his incarceration. He earned his associate's degree and historically received positive reviews from work supervisors. He has participated in self-help programs, including Alcoholics and Narcotics Anonymous, Celebrate Recovery, and Anger Management. I commend Mr. Jewell for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Jewell's crime was senseless. His blood alcohol level was an astounding 0.32 to 0.33 percent two hours after he crashed into Ms. Willis' car, killing her and her four children. This was not Mr. Jewell's first offense involving alcohol. Prior to this crime, he was convicted of two other DUIs, and he has acknowledged that all of his arrests were related to his alcohol use. Neither Mr. Jewell's previous convictions nor his participation in court-ordered alcohol programs resulted in any substantial change in his behavior—he continued to drive while intoxicated and eventually killed a mother and her four children.


I am concerned that Mr. Jewell will not remain sober if released given his long history of severe alcoholism. At his 2015 hearing, Mr. Jewell said he had been drinking “[a]s long as [he] can remember” and that his drinking became problematic in his early twenties. He reported that he had tried to stop drinking “countless times” before he came to prison, but “drinking was still that important” to him because of “the craving.” Mr. Jewell stated that despite the marital, familial, and legal problems caused by his alcoholism, he was unable to stop drinking because he “really wasn't that serious about not drinking anymore.” When explaining why he was not at risk of relapsing, Mr. Jewell repeatedly stated that he no longer craved alcohol, was emotionally stable, and no longer suffered from a personality disorder which he believed contributed to his alcoholism. Although Mr. Jewell may no longer be as susceptible to alcohol use as he once was, the psychologist who evaluated him in 2015 observed that his statement that there is no risk that he will relapse to be “naïve.” Given Mr. Jewell's lengthy history of abusing alcohol and the uncertainty regarding whether he has finally gotten his inordinate craving for alcohol fully under control, I do not think he is ready to be released.

Finally, I would note that the Board of Parole Hearings voted in 2013 and 2014 under section 1170 (e) of the Penal Code, authorizing compassionate release, to recommend that Mr. Jewell's sentence be recalled given his terminal illness. The superior court denied the recommendation both times. In this proceeding, the Board of Parole Hearings acted under the provisions of an order of the Three Judge Panel. Absent these provisions, the minimum eligible parole date for Mr. Jewell would be in 2037 because of his 77-to-life term. The long sentence given in this case reflects the trial court's judgment of the magnitude of harm Mr. Jewell caused.

CONCLUSION

Under all the circumstances of this case, I do not believe Mr. Jewell should be released.

Decision Date: March 11, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

KENNETH JOHNSON, H-16563

First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On May 8, 1990, Devontae Lewis was killed in a drive-by shooting. Three witnesses identified the driver of the car as Crips member Michael Blessed. These witnesses reported seeing Kenneth Johnson, also a member of the Crips, lean out of the passenger side window with a blue “gang-type” scarf in hand, and fire several shots. Johnson maintains that he was not involved in the life crime and is innocent.

GOVERNING LAW

The question I must answer is whether Mr. Johnson will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate’s pre- or post-incarceration history, or the inmate’s current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give “great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner” when determining a youthful offender’s suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Johnson suitable for parole based on his age, maturity, positive work performance, educational achievements, self-help programming, insight, and remorse.

I acknowledge that Mr. Johnson’s crime was committed when he was 22 years old and that he has since been incarcerated for almost 26 years. According to the record, at 2 years of age, Mr. Johnson was found on the street going through trash cans to find food for himself and his 9-month-old brother. He claims that his foster mother was strict and abusive and that she died when he was 12. Mr. Johnson joined the Crips at 16 and began committing crimes. I also acknowledge that Mr. Johnson has made some efforts to improve himself in prison. He has participated in self-help programs including Alcoholics Anonymous, Insight, and Nonviolent Conflict Resolution. In 2015, three correctional officers and an instructor commended Mr.

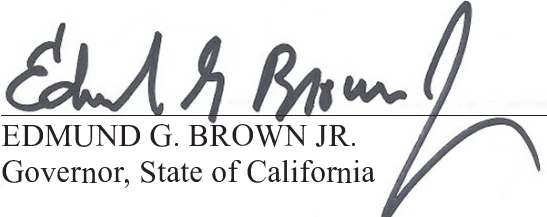
Johnson for his positive behavior and attitude. He earned his GED and received satisfactory to exceptional work ratings. The psychologist who evaluated Mr. Johnson in 2013 concluded that he “has made concerted efforts to change his lifestyle and in the past several years he has begun to follow a pro-social path.” I carefully examined the record for evidence demonstrating Mr. Johnson’s increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole.

Mr. Johnson’s behavior in prison does not assure me that he is willing to abide by the rules. He has been disciplined eleven times for serious misconduct in prison. He has been given combined Security Housing Unit terms totaling over three years for his behavior including possession of two stabbing weapons in 1994, mutual combat in 2000, and assaulting an inmate with a stabbing weapon in 2004. During this 2004 incident, staff had to break up the fight between inmates using chemical agents, a 40mm direct impact launcher, and side handle baton. In 2008, Mr. Johnson was suspected of involvement in the assault of another inmate who was no longer active in the Crips. In 2004, correctional staff intercepted a letter Mr. Johnson wrote to another member of the Crips discussing “arrangements” to have another inmate assaulted or killed. In 2001, Mr. Johnson was placed in Administrative Segregation after being one of nine inmates counting cadence while exercising, chanting, “Kill, Kill,” followed by, “C/O, C/O.” Mr. Johnson’s behavior does not inspire confidence that he is prepared to refrain from violence and criminal activity if released. I encourage him to demonstrate through his conduct and participation in available self-help classes that he has made a long-standing commitment to rehabilitation.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Johnson is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Johnson.

Decision Date: March 11, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ELIO CASTRO, D-36836
Second Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ **X**

STATEMENT OF FACTS

Late on the night of August 3, 1985, Elio Castro climbed through the kitchen window of his neighbors' home with a knife in his hand. He planned to rob 65-year-old Ofelia Godinez and her sister, Maria Godinez. Once inside, a struggle ensued. The Godinez sisters were able to push Mr. Castro outside of the home, but not before Mr. Castro stabbed Ofelia once in the chest, killing her.

GOVERNING LAW

The question I must answer is whether Mr. Castro will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Castro suitable for parole because he has not committed a serious rule violation since 1995. The Board also relied on his age, self-help programming, expressions of remorse and acceptance of responsibility, and risk assessment.

I acknowledge that Mr. Castro has made some efforts to improve himself in prison. He has participated in self-help programming such as Alcoholics and Narcotics Anonymous, Stress Management, and Breaking Barriers. He has served over 30 years on his 16-to-life sentence and has not engaged in violent conduct in over 20 years. I acknowledge that Mr. Castro has some significant cognitive limitations and I commend Mr. Castro for taking these positive steps. But these considerations are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Castro's crime was senseless and cruel. He told the Board that he regularly did work for the Godinez sisters and had even been inside their home on the day of the murder doing some painting. Motivated apparently by greed, Mr. Castro waited until the lights were off to invade

the home to rob the sleeping women. Rather than fleeing when he woke the sisters, Mr. Castro struggled and stabbed Ofelia with his knife before going back to his own home to go to sleep. This crime demonstrates a callous disregard for the lives of others.

Mr. Castro has not yet adequately explained the murder of Ofelia Godinez. Mr. Castro told the psychologist in 2013 that he went to the home of the Godinez sisters to collect money owed to him for mowing the lawn. He claimed that once he was inside, Ofelia's sister, Maria, came from behind and pushed him, which caused him to stab Ofelia. But at his hearing in 2015, he told the Board that the Godinez sisters had already paid him and that he took the knife with him because "I was going to rob her for money." He claimed that the murder was an accident. The psychologist who evaluated Mr. Castro in 2013 observed that he utilized "common criminal psychological defenses of minimization and rationalization." While I recognize that Mr. Castro's intellectual abilities are somewhat limited, it is clear that the murder of Ofelia Godinez was not an accident. I am troubled by his shifting stories over the years and believe he has the intellectual capacity to tell the truth about his crime. Because he has not, I am not confident that he understands the nature of his crime deeply enough that he will not commit violent crimes in the future.

I am also deeply disturbed by Mr. Castro's repeated sexual assaults on young children. He was arrested in 1977 for oral copulation and sodomy with a person under 14 when a 9-year-old boy reported that Mr. Castro had offered him money, recyclables, and a bicycle if the boy would accompany him to an orange grove. The child claimed that when he hesitated, Mr. Castro pulled out a knife and threatened to "cut his head off" if he did not keep walking. The young boy reported that once they arrived at the orange grove, Mr. Castro forced the boy to orally copulate him and then attempted to penetrate the young boy's anus. This charge was dismissed by the court approximately five months later, but similar claims arose again in 1982. Mr. Castro's 7-year-old cousin reported that Mr. Castro had undressed her, laid on top of her while naked, and rubbed his penis against her vagina. Mr. Castro disputed his cousin's story, telling the investigating officers that it was his cousin who had "caressed" and seduced him and that she had done so on multiple occasions. While his cousin's claims were being investigated, Mr. Castro's 6-year-old stepson also reported that Mr. Castro had orally copulated him on several occasions and had wanted him to orally copulate Mr. Castro as well. Mr. Castro was ultimately sentenced to two months in jail and three years on probation for child annoyance for molesting his cousin. When the 2013 psychologist asked Mr. Castro about the 1977 arrest, "he recalled fondling the vaginas of two 13-year-old females in separate incidents." It is notable that Mr. Castro has not been questioned in significant depth about these sexual acts. I ask the psychologist and the Board to delve into this area in Mr. Castro's next psychological evaluation and hearing to provide some confidence that Mr. Castro has developed a sufficient understanding of his actions to be assured that he will not act out similarly in the future.

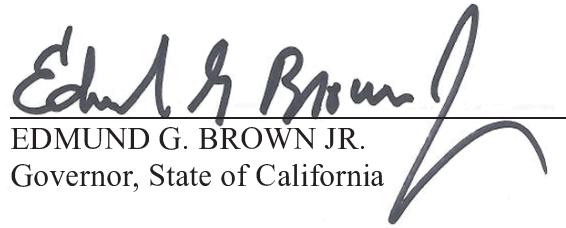
CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Castro is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an

Elio Castro, D-36836
Second Degree Murder
Page 3

unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Castro.

Decision Date: March 18, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

THOMAS ACOSTA, B-56898
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On August 31, 1977, Nuestra Familia members Thomas Acosta, Raymond Hernandez, and Simon Munoz, along with Carmen Acosta, drove to the home of Jesse De La Cruz, a Nuestra Familia dropout. The men were acting on orders from gang members in prison to kill Jesse. Ms. Acosta knocked on the door of the De La Cruz home, but only Ernest De La Cruz was there. She knocked on the door again and Mr. Acosta and Mr. Hernandez forcibly entered the home. Mr. Acosta and Mr. Hernandez stabbed Ernest over 50 times and slashed his throat, killing him. Mr. Munoz testified that Mr. Acosta admitted he cut Ernest's throat and bragged it was his "fifth star," indicating it was fifth "hit" for the Nuestra Familia.

GOVERNING LAW

The question I must answer is whether Mr. Acosta will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Acosta suitable for parole based on his length of incarceration, current age, acceptance of responsibility, educational and vocational upgrades, risk assessment, and parole plans.

I acknowledge that Mr. Acosta is 64 years old, periodically uses a walker, and has been incarcerated for nearly 39 years. He has made efforts to improve himself while incarcerated. He has participated in self-help programming including Alcoholics and Narcotics Anonymous, Celebrate Recovery, Victim Impact, Domestic Violence, and Timelist. He dropped out of the Nuestra Familia in the 1980s and has not been disciplined for serious misconduct since 1993. He has completed vocational training programs. I commend Mr. Acosta for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Acosta's crime is callous and brutal. He hunted down a Nuestra Familia dropout, but when he could not find him, he killed the dropout's brother by violently stabbing him over 50 times and slashing his throat. He then bragged about how it was his "fifth star" for the gang.

Mr. Acosta has an alarming history of violence. He had been out of prison for just over one month, but did not hesitate to carry out the ruthless murder of Mr. De La Cruz on behalf of his gang. Just two years before killing Mr. De La Cruz, Mr. Acosta stabbed a fellow inmate to death on the prison yard on orders of the Nuestra Familia. He was eventually convicted of voluntary manslaughter and sentenced to serve three years in prison, concurrent with his life term. And two years before killing the other inmate, Mr. Acosta and two other inmates forced an inmate to orally copulate them and threatened to continue to beat the inmate's brother until he did. For this, Mr. Acosta was sentenced to serve 6 months to 15 years in prison. Once in prison, he continued his involvement in the Nuestra Familia and rose to the rank of lieutenant.


Mr. Acosta's explanations for such extreme violence are inadequate. He told the psychologist that he committed the life crime to "bolster his status" within the gang and, "I wanted to show that I was dedicated to their prison gang. I didn't feel I was viewed as that." He told the Board that he felt hopeless and was simply following orders. With respect to the forced oral copulation, Mr. Acosta described his own actions, "I was an animal. I was a beast. I wasn't acting right." He said that they decided to "take advantage" of the other inmate because he was homosexual and because his brother "was a rat." These statements do not sufficiently explain his actions. The 2015 psychologist concluded that Mr. Acosta has "relatively limited awareness about why he joined a gang and committed the life crime." I share these concerns and am not yet convinced that Mr. Acosta sufficiently understands what it was that led him to commit such violent acts.

My concerns are supported by the psychologist's recent assessment of Mr. Acosta's probability of committing another sex crime. The Static-99R measures risk factors empirically shown to be associated with sexual recidivism. Mr. Acosta was rated a "high" risk of reoffending sexually in the future. While the psychologist "opined that his risk for sexual re-offense is *significantly lower*" than the score on the instrument's risk estimate, I remain concerned about the sufficiency of Mr. Acosta's understanding of the reasons he committed such violent crimes and also because of the statistical probability of him committing another crime involving sexual violence.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Acosta is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Acosta.

Decision Date: March 25, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

STEPHANUS SIDHARTA, E-02225

Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Stephanus Sidharta hired Carmon Cox, a 22-year-old escort, for sex and tried to start a relationship with her, but Ms. Cox declined. Approximately six weeks later, on August 7, 1987, Mr. Sidharta booked a hotel room under an alias and hired Ms. Cox again for sex. After the two had sex, Mr. Sidharta shot Ms. Cox twice in the back with a .38 caliber handgun. Ms. Cox tried to escape, but Mr. Sidharta shot her four more times in the torso. She was able to run to the elevator and press the button down, but died shortly thereafter.

GOVERNING LAW

The question I must answer is whether Mr. Sidharta will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Sidharta suitable for parole based on his length of incarceration, lack of a criminal and disciplinary history, remorse, acceptance of responsibility, current age, self-help programming, and risk assessment.

I acknowledge Mr. Sidharta has made efforts to improve himself while incarcerated. During his 28-year incarceration, he has only been disciplined for serious misconduct once in 1989. He completed vocational training and received positive work ratings from staff. He has attended self-help programs, including Mood Management, Domestic Violence, Anger Management, and Life Skills. I commend Mr. Sidharta for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Sidharta committed an extremely disturbing crime. He planned to kill a prostitute for six weeks, and on the day of the crime he hired Ms. Cox to come to his hotel room, had sex with her, and then shot her twice in her back without any warning. As she tried to escape, he shot her four


more times, killing her. It is especially unsettling that Mr. Sidharta was a bright college graduate with no history of prior violence when he committed such a heinous murder. It is hard to imagine how devastating the murder was on Ms. Cox's friends and family.

Mr. Sidharta's explanations for murdering Ms. Cox are inadequate. He told the Board in 2015 that he was a "nerd," never had a girlfriend, and felt "incompetent, inadequate." He explained that while growing up in Indonesia he viewed women as objects "to be owned" and did not value them as humans. When Ms. Cox initially said she did not want to be in a relationship with Mr. Sidharta, he said he started forming the idea in his head to murder a prostitute. He stated all the anger and resentment from being rejected in the past was "boiling" and he "wanted to discharge my anger against all these women that I had in the past." He claimed he picked Ms. Cox "because she was the last one who rejected me" and because of her "lifestyle." These explanations do not account for the six weeks Mr. Sidharta spent ruminating over killing a prostitute or why he decided to kill Ms. Cox over a month after she allegedly rejected him. Feelings of inadequacy and rejection are common in the lives of many people, yet it is rare that any would turn to such violence. At the time of this murder, Mr. Sidharta was no longer a teenager struggling with rejection from girls in Indonesia – he was a 25-year-old college graduate working and living independently. I encourage Mr. Sidharta to continue exploring the underlying reasons for his extreme level of violence and why he murdered Ms. Cox. Until he does so, I am not confident that he will avoid similar unexpected violent behavior once returned to the community.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Sidharta is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Sidharta.

Decision Date: March 25, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JEFFREY SPARKS, D-61227
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On March 14, 1987, Jeffrey Sparks was driving erratically on the freeway traveling 80 miles per hour. He exited the freeway, turned left, crossed the center line, and collided head-on with a car containing 21-year-old Danelle Aleman, 20-year-old Lisa Ortiz, 19-year-old Tony Gonzales, and 18-year-olds, Richard Valencia and Ernie Villareal. Ms. Ortiz and Ms. Aleman died at the scene. Mr. Valencia, Mr. Gonzales, and Mr. Villareal were seriously injured, but survived. Mr. Sparks' blood alcohol content was .16%.

GOVERNING LAW

The question I must answer is whether Mr. Sparks will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Sparks suitable for parole based on his health condition, lack of disciplinary misconduct since 2004, lack of violent behavior in prison, acceptance of responsibility, and low risk rating.

I acknowledge that Mr. Sparks has been incarcerated for 29 years and had a brain aneurism nearly 20 years ago which left him with tunnel vision in his right eye, blindness in his left eye, poor motor coordination in his right hand, and occasional seizures. He has not been disciplined for serious misconduct since 2004 and he has never been disciplined for violence. He has also recently started to attend Alcoholics and Narcotics Anonymous. I commend Mr. Sparks for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Sparks' crime was senseless and tragic. After drinking "two to three six packs" of beer, Mr. Sparks slammed head-on into a car full of five people. His blood alcohol level was twice the legal limit. This was not the first time he had driven while intoxicated. In the five years

preceding this crime, he was convicted three times for driving under the influence. Despite these multiple convictions and court-ordered alcohol programs, Mr. Sparks refused to follow the law and he continued to endanger the lives of others by driving intoxicated, ultimately killing two young women.

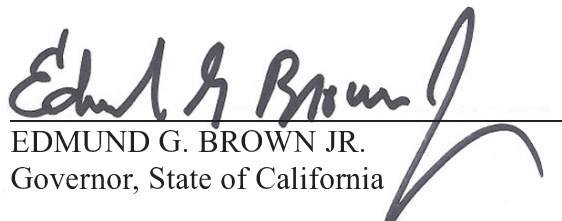
I am concerned that Mr. Sparks will not remain sober if released given his long history of severe alcoholism. Mr. Sparks began drinking alcohol at 14. At the height of his consumption he drank “four six-packs a day.” He reported experiencing numerous physical problems secondary to his alcohol consumption such as vomiting, loss of consciousness, blacking out, and severe hangovers, yet he continued to consume greater amounts of alcohol. Despite his three prior DUI convictions and his fourth DUI resulting in the death of two people, Mr. Sparks continued to drink in prison. He was disciplined for possession of alcohol in 1988 and 2000. Although he told the psychologist in 2015 that he last drank in 2000, he told the Board at his most recent hearing that he last drank “six, seven years ago, eight years ago,” and then settled on the year 2007 after further questioning from the panel. He claimed at some point after 2007, he realized he had a problem with alcohol and things “clicked.” Since 2007, Mr. Sparks has only taken a few years of Alcoholics and Narcotics Anonymous beginning in 2013. Despite his participation in these classes, he did not know what a relapse prevention plan was and only knew one of the 12 steps at his hearing. Given Mr. Sparks’ history of alcohol abuse which continued for the majority of his incarceration, his mere assertion that he “ain’t going to drink no more because it makes me be stupid” is not convincing. He must do more to demonstrate that he is willing and able to remain sober if released.

Mr. Sparks also expresses little remorse for his thoughtless actions. When asked by the psychologist in 2015 if the victims were in any way responsible for his crime, Mr. Sparks had the audacity to say, “Yes. They had beer in their car. They had open beer. The passenger was drunk. The two in the back seat were drunk, too. The driver was a junkie. She was a speed freak. Them broads were known to drink.” He retracted his statement at his hearing just two months later, but when asked by the Board why he said those things his only response was, “I don’t know.” Given his lengthy history of substance abuse and his responses to the psychologist and the Board, I cannot conclude that Mr. Sparks understands the severity of his actions and is ready to remain sober. I encourage Mr. Sparks to reflect on his actions and continue to dedicate himself to substance abuse programming.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Sparks is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Sparks.

Decision Date: March 25, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

RICHARD FOSTER, C-64813

First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

On November 20, 1984, John Whiteside told his girlfriend, Anita Williams, who was a prostitute, to lure a client to an alley where Mr. Whiteside and Richard Foster would rob him. Ms. Williams picked up Robert Bailey and they drove to the alley in Mr. Bailey's car. Mr. Foster approached the car and grabbed the steering wheel, while Mr. Whiteside forced his way into the car. Mr. Foster demanded Mr. Bailey's money, and hit Mr. Bailey with his fist on the back of the head when Mr. Bailey protested that he only had \$12. Mr. Whiteside drove the group to another alley and ordered Mr. Bailey out of the car. Mr. Bailey was taken to the rear of the car, where he was forced to kneel. Mr. Whiteside then struck Mr. Bailey's head with a 12-inch pipe while Mr. Foster robbed Mr. Bailey of his money and jewelry. Mr. Bailey was placed in the trunk of his car and the group drove to buy cocaine with the robbery proceeds. Ms. Williams, Mr. Whiteside, and Mr. Foster used the cocaine and then picked up Mr. Foster's girlfriend. After purchasing more cocaine, they abandoned the car with Mr. Bailey in the trunk, where he died.

GOVERNING LAW

The question I must answer is whether Mr. Foster will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Foster suitable for parole based on his limited history of violence, his remorse, age, self-help programming, and realistic parole plans.

I acknowledge that Mr. Foster has made some efforts to improve himself in prison. He has not been disciplined for serious misconduct since 2003. He earned his GED and several vocational certifications. Mr. Foster routinely received satisfactory to exceptional work ratings. He has participated in self-help programs including Narcotics Anonymous, Promoting Manhood, and

Victim Awareness. However, these efforts are outweighed by negative factors that demonstrate Mr. Foster remains unsuitable for parole.

I reversed the Board's 2014 parole grant because of the callous nature of the crime, multiple psychologists' concerns about Mr. Foster's risk of future violence, and Mr. Foster's minimization of this crime. While the Board found Mr. Foster suitable for parole again in 2015, little has changed since my last decision.

Mr. Foster's crime was horrifying. He and his crime partners attacked an elderly man, shoved him in the trunk of a car, and left him there to die. Mr. Foster displayed an appalling disregard for human life in committing this crime.

I remain troubled by the consistent psychological assessments that Mr. Foster would pose an elevated risk of violence and general recidivism if released. He garnered these heightened risk ratings in 2003, 2008, and 2011. More recently in 2013 and 2015, psychologists who conducted subsequent risk assessments concluded that Mr. Foster "appear[ed] to be making some progress" and that his "improvements" mitigated the risk ratings he received in 2011. Neither of these subsequent evaluations provided updated ratings of his risk of violence in the community. While I am encouraged that Mr. Foster is making progress, it is difficult to conclude from these two abbreviated reports that his risk has decreased enough that he can be safely released. I do not think Mr. Foster should be released without a full evaluation of his current risk of future violence. I direct the Board to conduct a new comprehensive psychological report to provide such an assessment.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Foster is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Foster.

Decision Date: March 29, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

STEVEN KUTYLO, C-21139
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On October 11, 1979, Steven Kutylko and two unidentified men went to Michael Ladd's apartment, where he lived with his girlfriend Deborah Lopez. Mr. Kutylko brandished a pistol while the two other men brandished knives. Mr. Kutylko demanded pills from Mr. Ladd and when Mr. Ladd said he did not have any, Mr. Kutylko shot Mr. Ladd in the head, killing him. Ms. Lopez tried to hide in the bathroom, but Mr. Kutylko followed her and shot her in the head. Mr. Kutylko and the other two men fled. Several days later, the apartment manager called the police because there was a strong odor emanating from Mr. Ladd's apartment. Officers found Ms. Lopez lying on a couch in the room with Mr. Ladd's body. She sustained large injuries to her forehead and temple but survived.

GOVERNING LAW

The question I must answer is whether Mr. Kutylko will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Kutylko suitable for parole based on his education, vocational training, acceptance of responsibility, internalization of the 12 steps, age, medical issues, self-help programming, and lengthy incarceration.

I acknowledge that Mr. Kutylko has made some efforts to improve himself in prison. He has been incarcerated for more than 36 years and is now 67. He has not been disciplined for serious misconduct since 2008. Mr. Kutylko earned his associate and bachelor's degrees, and routinely received satisfactory to above average work ratings. He has participated in some self-help programs, including Narcotics Anonymous, Anger Management, and individual therapy. However, these efforts are outweighed by negative factors that demonstrate Mr. Kutylko remains unsuitable for parole.

Mr. Kutylko's crime was horrifying. He ambushed Mr. Ladd in his home and shot him in the head without provocation. Mr. Kutylko then turned on Ms. Lopez, who was cowering in the bathroom, and shot her in the head. I note that both Mr. Ladd and Ms. Lopez' family members have written letters over the years describing the ongoing sense of loss they experience as a result Mr. Kutylko's attack.


I am troubled by Mr. Kutylko's very serious history of drug abuse. He abused marijuana, amphetamines, and heroin for years before committing this crime. After coming to prison, Mr. Kutylko was disciplined for being intoxicated, possessing heroin, refusing to take a drug test, testing positive for heroin, and possessing a morphine tablet as recently as 2008. Despite his history of addiction and relapse, he told the 2015 psychologist and the Board that his drug use was only "moderate." The psychologist noted that even though his lengthy incarceration "has provided him with various opportunities to improve" his understanding of himself and his substance use, "it seemed that for quite a long time his participation in self-improvement groups was minimal and his investment questionable." Mr. Kutylko should have been released from prison long ago—he has been eligible for parole for nearly three decades. But in recent years, he returned to heroin use and was not committed to rehabilitation. Mr. Kutylko must show a serious, sustained commitment to remaining sober before he can be released.

Mr. Kutylko also continues to exhibit troubling signs of anger and aggression. At his 2014 hearing, the commissioners noted that Mr. Kutylko appeared "arrogant, cavalier, proud, defensive, argumentative" and "scary." Both members of the 2014 panel concluded that despite his advanced age, they believed his failure to address his anger issues may lead him to act violently if released. The psychologist who evaluated Mr. Kutylko in 2015 noted that while he was not "argumentative or resistant to feedback" during their interview, it was "unlikely to think that in the span of one year these behaviors have been all but eradicated." The psychologist rated him a moderate risk for future violence, in part due to concerns over his behavior at the 2014 hearing. Given these troubling observations, he must do more to demonstrate that he is capable of and committed to living without violence in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Kutylko is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Kutylko.

Decision Date: March 29, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

CHRISTOPHER DUNAWAY, J-60249

Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On April 14, 1994, Christopher Dunaway called Dusan Lalich's auto repair shop and arranged to stop by the shop after it closed to talk with Mr. Lalich about repairs to Mr. Dunaway's car. Once at the shop, Mr. Dunaway and Mr. Lalich discussed the repair cost, and Mr. Dunaway stabbed Mr. Lalich in his throat, chest, and abdomen 23 times, exposing his intestines and puncturing his heart and lungs, killing him. The autopsy indicated that Mr. Dunaway twisted the knife when stabbing Mr. Lalich and reporting officers found Mr. Lalich's office covered in blood.

GOVERNING LAW

The question I must answer is whether Mr. Dunaway will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Dunaway suitable for parole based on his remorse, acceptance of responsibility, insight, lack of prison misconduct, educational and vocational achievements, positive work reports, self-help programming, parole plans, and risk assessment.

I recognize that Mr. Dunaway's culpability is somewhat diminished because he was 17 years old when he committed this crime. I acknowledge that Mr. Dunaway had some instability in his life following his parents' divorce when he was 13. He reported that he had limited contact with his mother, and felt isolated because his sister had moved out, his brother was not around, and his father was depressed. He said that his father struggled financially, his family lived in a dangerous neighborhood, and each family member had been a victim of violent crime, including armed robberies. The psychologist who evaluated Mr. Dunaway in 2014 observed that he did

not have “a family or peer support system to help him resolve conflicts or solve problems” and “was overtaxed by the car repair, leading to the life crime.” The 2015 psychological evaluation also noted that at the time of the crime, Mr. Dunaway “lacked wisdom and maturity” and “[i]n a typical teenager fashion...he became overwhelmed [and]...engaged in (common to teenagers) magical thinking, believing that by hurting Mr. Lalich his problems would immediately disappear.” Clearly, Mr. Dunaway has made some progress during his 22-year incarceration. He has never been disciplined for prison misconduct, has earned his high school diploma and two associate’s degrees, and has completed vocational training. Mr. Dunaway has received positive work ratings and been commended by correctional staff for his good behavior and strong work ethic. He has attended self-help programs, including Anger Management, Victim Impact, and Denial Management. I commend Mr. Dunaway for these efforts. I carefully examined the record and gave great weight to his age at the time of the crime, the difficulties he faced, and his increased maturity and rehabilitative efforts. However, I believe he remains unsuitable for parole.

Mr. Dunaway committed a truly vicious and disturbing crime. After agreeing to let Mr. Lalich perform car repairs that he knew he could not afford, Mr. Dunaway planned to murder him. He called Mr. Lalich to ask him to keep his shop open past its regular hours, armed himself with a knife, parked his bicycle some distance away from the shop, and ultimately stabbed Mr. Lalich 23 times, in the abdomen, chest, throat, and heart. It must have been a shocking sight for the first responders as well as Mr. Lalich’s brother to see the bloody office and Mr. Lalich’s mutilated body. I note that Mr. Lalich’s loved ones have attended several of Mr. Dunaway’s hearings and have written numerous letters to oppose his parole. They have spoken and written at length about the devastating and long-lasting impact this crime has had on them over 20 years later.

When the Board of Parole Hearings granted Mr. Dunaway parole in 2014, I reversed the decision because I was concerned that Mr. Dunaway had not offered an adequate explanation for planning and executing the extremely violent murder of a stranger. Mr. Dunaway claimed at that time he committed the crimes because of his anger which stemmed from family problems, being the victim of violent crimes, being bullied at school, and feeling isolated. He also said that he had no outlets for his anger which led him to reach a “breaking point” and project his anger onto Mr. Lalich. Mr. Dunaway’s statements to the Board in 2015 regarding his understanding of why he attacked his victims remain troubling.

Mr. Dunaway repeated many of the same explanations, stating that he was angry due to his ongoing family problems, the isolation he felt, and the violence his family was subjected to in their dangerous neighborhood. He said that he targeted Mr. Lalich because of the “built-up anger that [he] felt towards life” and because he “wanted somebody else to hurt.” He added that he did not understand how the stressors in his life at the time of the crime made him feel powerless, and that the cumulative effect of these life stressors led to his extremely violent attack on Mr. Lalich. Mr. Dunaway explained that his paranoia and distorted thinking made him believe that Mr. Lalich was manipulating or cheating him, and that he did not know how to address his concerns. He reported, “I built up [my negative feelings] and I targeted him. I pictured him as all the people in my life who were -- who had hurt me and my family. That's where this rage came from...And it built up in me and it was eating me from inside of me.”

Mr. Dunaway has still not provided a convincing explanation for the extraordinary brutality in this murder. While I do not overlook the fact that Mr. Dunaway was clearly feeling frustrated with the financial situation he put himself in and the other challenges he faced, he has yet to credibly explain how he came to try to solve his problems in such a callous, cold-blooded manner. The viciousness of the crime is wholly disproportionate to the trivial motive for the crime or the issues Mr. Dunaway was experiencing. Because his understanding of what enabled him to unleash all of his anger and frustration remains deficient, I am not confident that he will not again react violently against an unsuspecting stranger.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Dunaway is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Dunaway.

Decision Date: April 8, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JAMES HEGLER, D-23036
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On September 30, 1984, Kerry James bought what he thought was rock cocaine from James Hegler. Upon discovering that the substance he bought was not cocaine, Mr. James drove back to demand his money back. The men began arguing and Mr. Hegler fired a .38 caliber handgun twice at Mr. James. Mr. James was able to drive away, but died in his car a few blocks away.

GOVERNING LAW

The question I must answer is whether Mr. Hegler will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Hegler suitable for parole based on his age at the time of the crime, sobriety in prison, and participation in self-help programming.

I acknowledge that Mr. Hegler's crime was committed when he was 21 years old and that he has since been incarcerated for 31 years. He reported that he grew up in a somewhat unstable household in a neighborhood where gang activity was prevalent. Mr. Hegler told the psychologist that he began using drugs and breaking the law because he knew so many people who had died young that he believed he would meet the same fate and opted to "party" as a result. I also acknowledge that Mr. Hegler has made some efforts to improve himself in prison. He has participated in self-help programs including Alcoholics Anonymous, Celebrate Recovery, and Criminals and Gangmembers Anonymous. He earned multiple vocational certifications and routinely receives above average to exceptional work ratings. Since 2013, multiple staff members have commended Mr. Hegler for his positive attitude and behavior. I carefully

examined the record for evidence demonstrating Mr. Hegler's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole.

Mr. Hegler's crime was senseless. During a dispute over a drug transaction, he shot and killed the Mr. James. Prior to this crime, Mr. Hegler had an extensive criminal history. He has been convicted of robbery, having a firearm on school grounds, malicious mischief transporting drugs, and assault with a deadly weapon. He also told the Board that he sold drugs for years but was not convicted of it.

Mr. Hegler's conduct in prison demonstrates an inability to refrain from criminal activity. He has been disciplined 19 times for serious misconduct, including mutual combat, inciting other inmates, possession of alcohol, and possession of dangerous contraband. Multiple confidential reports that prison officials found were reliable indicate that Mr. Hegler was a member of the Crips for more than a decade, and that he was involved in drug trafficking, recruiting new members, ordering assaults, and blackmailing others. Contrary to these reports, Mr. Hegler told the Board that he dropped out of the Crips when he was 17, well before he was convicted of this crime. Confidential reports also suggest that Mr. Hegler may have continued to participate in violent, illegal activity as recently as 2014. Given his lengthy history of committing crimes, breaking the rules, and acting violently, I cannot be assured that Mr. Hegler is willing or able to live without gangs, drugs, and violence in the future.

Mr. Hegler's 2014 risk assessment supports my concerns. The psychologist determined that he was a moderate overall risk of future violence, in part because he needed a "more meaningful understanding of his past criminal lifestyle, gang involvement, and violent conduct." She concluded that Mr. Hegler "demonstrates a lack of insight into a variety of aspects regarding his personality and behavior." Mr. Hegler must show that he understands how he became so entrenched in gang and criminal activity, and that he is prepared to live differently in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Hegler is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Hegler.

Decision Date: April 15, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

MARVIN NOOR, C-13932

First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

On January 13, 1979, Marvin Noor, Dani Shope, and James McCarter decided they would all go deer hunting with a rifle. When they failed to find any deer, they looked for cows to hunt instead. When they failed to find any cows, Mr. Noor and Mr. McCarter decided they should “[get] some dark meat,” which they all understood to mean shooting black people. Mr. Noor drove them to the outskirts of Chico, where they passed Jimmy Campbell, a deaf black man, walking along the street. Mr. Noor made two U-turns to approach Mr. Campbell again, handed the rifle to Mr. McCarter, and urged Mr. McCarter to shoot Mr. Campbell. Mr. McCarter fired a single shot, killing Mr. Campbell. Mr. Noor said, “What now?” and Ms. Shope replied, “Get more niggers.” Mr. Noor kept driving and saw three black men standing next to a pickup truck. Mr. Noor drove up to the men and hailed them. He took the rifle, aimed, and tried to pull the trigger twice, but he had his finger around the trigger guard. The three men hid behind their truck then fled. Mr. Noor drove off and continued searching for another victim. They spotted Michelle King, a black girl, walking along the street. Mr. Noor pulled within five feet of her, pointed the rifle at her, and said, “Hey, look at this.” As Ms. King turned toward him, he fired in her direction. She fell to the ground and Mr. Noor drove off. Ms. King was not struck by the bullet, but her face was burned by the gunpowder. Thinking that Mr. Noor had shot Ms. King, Mr. McCarter objected to shooting a woman. Mr. Noor replied, “What’s the difference, a critter is a critter.”

GOVERNING LAW

The question I must answer is whether Mr. Noor will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate’s pre- or post-incarceration history, or the inmate’s current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give “great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner” when determining a youthful offender’s suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Noor suitable for parole based on his current lack of racial animosity, age, maturity, lack of recent rules violations, and risk rating.

I acknowledge that Mr. Noor's crime was committed when he was 18 years old and that he has since been incarcerated for 37 years. He reported that he was raised in a racist environment and was physically abused by a stepfather. He began using alcohol, marijuana, methamphetamine, and heroin by the age of 12, and was drinking and abusing drugs daily at the time of the crime. The psychologist who evaluated Mr. Noor in 2015 noted that his "youth at the time of the crime was central not only to his general recklessness, but to a lessened ability to appreciate the consequences of his actions as well as susceptibility to influences in his home and community that endorsed racist attitudes and behaviors."

I also acknowledge that Mr. Noor has made some efforts to improve himself in prison. He has not been disciplined for serious misconduct since 2006. He earned his associate's degree, vocational certification, and exceptional work ratings. Several correctional officers and a correctional sergeant commended Mr. Noor in 2015 for his positive behavior and attitude. I carefully examined the record for evidence demonstrating Mr. Noor's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole.

In 2014, I reversed Mr. Noor's parole grant based on the horrific nature of the crime and Mr. Noor's inadequate explanations for his participation in it. Although the Board found him suitable for parole again in 2015, my concerns have not been alleviated.

Mr. Noor's crime shocks the conscience. He and his friends spent hours hunting down black people with a rifle, killing one and injuring another. They cheered each other on as they took turns shooting at innocent, vulnerable victims on the street for no other reason than the color of their skin. It is hard to imagine the terror that these victims and the rest of the community felt as a result of this crime. I note that Mr. Campbell's mother attended Mr. Noor's 2015 hearing and expressed the anguish and hardship her family has experienced due to his death.

I remain unsatisfied with Mr. Noor's explanations for why he participated in this chilling crime. He told the Board that previous fights with black youths and memories of black people rioting in Detroit after the murder of Martin Luther King, Jr. contributed to his racial animus, in addition to being raised in a racist environment. He told the psychologist who evaluated him in 2015 that he "chose African American victims because I was afraid of them, because they were different than me... They hurt me in the past, they scared me in the past." He said, "All it took was the combination of inhibitions being gone through intoxication and the suggestion by a friend. I had thought about doing it before." These explanations and Mr. Noor's age at the time may shed some light on his actions, but they do not sufficiently explain why he was so eager to execute multiple black victims on the street. I acknowledge that Mr. Noor was young and had little time and opportunity to reject his family's racist views, but his manifestation of those views was

extremely violent. It is not clear to me why Mr. Noor suddenly escalated his behavior to the point that he encouraged his friend to gun down Mr. Campbell and repeatedly tried to do the same. I encourage Mr. Noor to continue to engage in self-help classes or independent study to address, in a comprehensive way, the violent nature of his actions.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Noor is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Noor.

Decision Date: April 15, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

PETER BROWN, B-97054
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On August 18, 1977, Peter Brown went to the law office of 64-year-old Eva Ringwald and said that he was there to deliver rent money. Mrs. Ringwald's husband, Siegfried Ringwald, opened the door to let Mr. Brown in. Once inside, Mr. Brown asked to see a property, and Mr. Ringwald turned to get the keys. When he turned back to face Mr. Brown, Mr. Brown had pulled a sawed-off shotgun from his jacket sleeve. Mr. Brown then ordered Mr. and Mrs. Siegfried to get down on the floor. Before they moved, Mr. Brown shot Mrs. Ringwald in the chest, killing her.

GOVERNING LAW

The question I must answer is whether Mr. Brown will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Brown suitable for parole based on his age at the time of the crime, his current age, self-help programming, staff support, work ratings, risk assessment, and parole plans.

I acknowledge that Mr. Brown's crime was committed when he was 16 years old and that he has since been incarcerated for 38 years. He reported that his older brother was a significant influence on him and encouraged him to commit crimes and use drugs at an early age. The psychologist who evaluated Mr. Brown in 2014 noted that his "willingness to blindly follow his older brother, despite that brother's lack of success in the community and escalating criminal behavior, is also reflective of the reckless, risk-taking and criminogenic lifestyle that Mr. Brown possessed as a youth."

Peter Brown, B-97054
First Degree Murder

I also acknowledge that Mr. Brown has made some efforts to improve himself in prison. The 2014 psychologist noted that Mr. Brown has “grown and matured” during his incarceration. He has not been disciplined for serious misconduct since 2001. Mr. Brown has participated in self-help programming including Alcoholics Anonymous, Victim Impact, and Anger Management. He routinely received satisfactory to above average work ratings and was commended by several staff members for his positive behavior and attitude in 2014 and 2015. He earned his GED and several vocational certifications. I carefully examined the record for evidence demonstrating Mr. Brown’s increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole.

I reversed Mr. Brown’s 2014 grant of parole based on the senseless nature of his crime, his minimization of his actions, and his history of violence while incarcerated. Although the Board found him suitable for parole again in 2015, my concerns remain.


Mr. Brown’s crime was callous and entirely unprovoked. He coldly shot Mrs. Ringwald in front of her husband and left her to die. Mr. Brown displayed a shocking disregard for human life in committing this crime. I note that Mr. Ringwald and several other family members wrote to me to convey the tremendous effect that Mrs. Ringwald’s death has had on them.

Mr. Brown continues to downplay his role in the crime. He told the Board that the gun slipped out of his sleeve because his palms were sweaty. He said that he was startled by a loud noise, he panicked and thought “maybe they were going to get up to come get me,” so he shot Mrs. Ringwald. However, the record and Mr. Ringwald’s testimony consistently indicate that Mr. Brown pulled the shotgun out of his jacket and that there was no loud noise that prompted him to shoot. I am not persuaded by Mr. Brown’s continued insistence that this situation escalated merely due to his sweaty palms. He entered the office armed and intending to rob it. His explanation that he shot an elderly, unarmed woman because he was afraid that she might attack him is ridiculous. While I am encouraged that Mr. Brown no longer characterizes this murder as purely accidental, he must do more to explain how he came to commit this violent crime without provocation.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Brown is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Brown.

Decision Date: April 20, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

RAYMOND MAYNER, C-52139

First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On August 13, 1981, Raymond Mayner was climbing up the fire escape of his apartment building and saw the apartment manager, Terry Farrens, lying on her bed. Knowing that she carried large amounts of money, Mr. Mayner entered her apartment through the window. As he entered the room, Ms. Farrens awoke and began screaming. Mr. Mayner grabbed her by the throat and choked her “until she was quiet,” killing her. He took \$474 from her pants pocket, a ring from her finger, and a watch from her wrist. He returned to his apartment, showered, put the jewelry in a drawer at his friend’s house, and spent the money at the county fair.

GOVERNING LAW

The question I must answer is whether Mr. Mayner will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate’s pre- or post-incarceration history, or the inmate’s current demeanor and mental state, indicates that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give “great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner” when determining a youthful offender’s suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Mayner suitable for parole based on his age at the time of the offense and subsequent maturity, lack of violence in prison, positive work reports, laudatory chronos, acceptance of responsibility for the crime, remorse, parole plans, vocational skills, participation in self-help programs, and lack of serious disciplinary history since 1996.

I acknowledge that Mr. Mayner’s committed this crime when he was 19 years old and that he had a difficult upbringing. His parents, both alcoholics, separated when he was 5 years old, and he had only intermittent contact with his father through most of his childhood. His mother’s subsequent marriage was characterized by routine violence, and Mr. Mayner left her home at age 15. He dropped out of school after ninth grade, began using and selling drugs, fought frequently,

and was referred four times to the juvenile probation department for being out of control. I also acknowledge that Mr. Mayner has now been incarcerated for 34 years and has made some efforts to improve himself in prison. He completed a few vocational training programs and earned his GED. He routinely received positive work ratings and has been commended for being a “model inmate and hard worker.” He has attended a few self-help programs, including Addiction Recovery Counseling, Denial Management, and Narcotics Anonymous. He has not been disciplined for serious misconduct since 2008. I carefully examined the record for evidence demonstrating Mr. Mayner’s increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole.

Mr. Mayner’s crime was cruel and showed great disregard for human life. He snuck into Ms. Farrens’ apartment and attacked her while she was sleeping. When she understandably began screaming, his response was to strangle her to death. After he murdered her, he took her money and jewelry, showered, and went to the county fair.

Mr. Mayner’s inconsistent accounts of this brutal murder show that he is seriously downplaying his conduct and has not yet confronted how he came to act so callously. He has given shifting stories and explanations for the murder of Ms. Farrens. He told the Board at his 2015 hearing, “I was going up the fire escape, seen Terri in an empty vacant apartment. And I seen Terri’s pants laying next to the window. I knew there was – she had always had money because she was collecting the rent from the apartments in there.” He continued, “Terri started to scream and I struck Terri, which ended up causing her to strangulate because when I struck Terri it crushed all the windpipe and everything in the throat.” Mr. Mayner later reported that he did not know “for sure,” but “had found out later” it was Ms. Farrens who was laying on the bed. He claimed at one point during the hearing that he only “entered” the room by reaching his hand through the open window from the fire escape, but had earlier noted that he was in the room and left via the front door. He told the psychologist who evaluated him in 2014 that he was angry with Ms. Farrens because she had reported him to the police for cultivating marijuana several days before the murder. He also explained that he did not choke her, but struck her with the side of his hand. He insisted that “she was still breathing/alive when he left so he did not know she had died until the following day when he was approached by police officers.”

Mr. Mayner’s varying depictions of the murder of Ms. Farrens are utterly unbelievable and show that he minimizes his responsibility for this crime. His claims that he did not even know Ms. Farrens was in the room are inconsistent with his claims that he committed the crime to retaliate against her for reporting his drug activity to the police as well as his statements, both recently and to the detectives in 1982, that he had “seen Terri in an empty vacant apartment” as he climbed the fire escape and had entered the apartment because he knew she would have money in her pants from collecting rent money. He remains unclear on whether he actually entered the apartment during this violent crime. Yet, a witness saw him climbing out of the apartment and going up the fire escape back to his own apartment. Similarly, his assertions that he struck Ms. Farrens with the side of his hand are directly contradicted by his confession that he “grabbed the victim by the throat and began choking her.” It is clear that Mr. Mayner is underreporting his brutal actions. The 2014 psychologist noted concerns that he “described the life crime as

essentially a robbery that escalated into murder; occurring within the context of his efforts to retrieve what he believed was his in the first place,” and opined that “it does seem clinically reasonable to suggest that he could further reduce his potential for future violence by working to better view circumstances from a framework outside of his own.” I urge Mr. Mayner to be honest with the Board about his actions and motivations and to demonstrate that he has dealt with the issues that led him to coldly murder Ms. Farrens.

Mr. Mayner’s recent psychological evaluations support my concerns. In 2011, he was assessed as a high risk of violent recidivism, a high risk of general recidivism, a high degree of psychopathology, and a high overall risk if released. The 2013 psychologist found that his risk of involvement in future violence was “somewhat mitigated” by Mr. Mayner’s “advancing age” and increased awareness of the consequences of his behavior, but that his risk remained aggravated. He concluded that “Mr. Mayner remains vulnerable to once again drifting into lifestyle patters similar to those which characterized his day-to-day actions at the time of the instant offense” and that his “amenability to follow or abide by rehabilitation efforts in the free community remains unclear.” I note that Mr. Mayner’s participation in self-help programming has been minimal throughout his nearly 35 years of incarceration. I encourage him to devote more time and effort into understanding these issues to show he is ready to be released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Mayner is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Mayner.

Decision Date: April 20, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

SAMUEL MEDWAY, B-88218

First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On May 27, 1977, Samuel Medway had a party at the apartment where he lived with his girlfriend and her two young children. In attendance were Conrad Rey, Joey Pasillas, Michael Bettencourt, and Joe Tamayo. They were drinking and sniffing spray paint. At about 3 o'clock in the afternoon, 33-year-old Dallas Foster knocked on the door and asked for a drink of water. The group invited him in and gave him beer and wine. About an hour after Mr. Foster arrived, Mr. Medway incited an assault on Mr. Foster which began when Mr. Rey punched Mr. Foster in the mouth. The others then joined in the beating and kicking of Mr. Foster.

Over the next seven to ten hours, Mr. Medway, Mr. Tamayo, Mr. Rey, and Mr. Pasillas sporadically hit, kicked, stomped, and beat Mr. Foster, including with a belt and a two-by-four piece of lumber. The beatings were not continual. Mr. Medway and his co-defendants stopped from time to time to drink more alcohol and sniff more paint. Mr. Foster was beaten on perhaps seven or eight separate occasions.

At some point, Mr. Foster's body was so bloody that Mr. Medway and another individual took him to a bathroom and stripped him of his clothes. He was then paraded naked in front of the two women and two small children who were at the party. Mr. Foster was on the floor, naked and crying, asking to be left alone. Mr. Foster was again taken to the bathroom, where someone tried to hang him with his belt. Later, while Mr. Foster was unconscious on the floor, one of the males urinated on his face and into his open mouth. On one occasion, Mr. Tamayo tried to smother Mr. Foster with a towel. Twice, Mr. Medway forced Mr. Foster to drink urine from a cup. At least three times, Mr. Tamayo held an unloaded .22 caliber automatic rifle within inches of Mr. Foster's face and pulled the trigger while Mr. Foster begged not to be killed.

After Mr. Medway expressed fear that Mr. Foster would go to the police, Mr. Tamayo responded, "let's kill him." At midnight, Mr. Foster was carried from the apartment and taken to a nearby vacant lot where Mr. Tamayo shot him first in the head, then in the neck and in the stomach. Mr. Medway was "right there" when Mr. Foster was shot. Mr. Foster's body was found a few days later. He had extensive abrasions, lacerations, and bruises over his entire body. Eight of his ribs and his skull had been fractured, both cheekbones, his nose, and his jaw had been broken. It was also found that Mr. Foster's blood alcohol level was .41%.

GOVERNING LAW

The question I must answer is whether Mr. Medway will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Medway suitable for parole because he did not have a history of violence before or during incarceration, his expressions of remorse, acceptance of responsibility, age, physical condition, self-help programming, parole plans, insight, and low risk rating.

Mr. Medway has been incarcerated for nearly 39 years and is now 62 years old with significantly impaired vision. I acknowledge he has made efforts to improve himself while incarcerated. He has routinely received exceptional work ratings and has worked to complete vocational training. He has not been disciplined for serious misconduct since 1987, and has never been disciplined for violence. Mr. Medway has earned positive work evaluations and the trust and respect of his work supervisors. I commend Mr. Medway for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

For at least seven hours, Mr. Medway and his friends callously tortured Mr. Foster. They forced him alcohol until his blood alcohol level was high enough to result in death. They crushed bones in his face, skull, and torso, and tried to smother and then hang him. Ultimately, Mr. Foster was taken out and shot like an animal.

When Mr. Medway was granted parole in 2012, I reversed the Board's decision because Mr. Medway actively participated in this horrific crime, was minimizing his culpability for the murder, had not offered a credible explanation for torturing Mr. Foster, and had only sporadically participated in substance abuse programming. In 2014, I again reversed Mr. Medway's grant of parole because he had yet to offer an explanation for the crime that showed that he understood how he came to fully participate in the denigration, torture, and murder of Mr. Foster. Although three years have passed since my first reversal, little has changed.

Mr. Medway has yet to satisfactorily articulate how, at age 23, he could lead a group of young men in an unprovoked marathon assault on an innocent victim. The Board encouraged Mr. Medway to "speak from the heart" about how he allowed this to happen in his own home. Mr. Medway explained, "I received a lot of abuse from my stepfather. I witnessed a lot of violence. Witnessed, you know, situations -- you know, that happened with my mother. And it just -- and --I just didn't have no outlet. I let it all build up." He went on, "and Foster had nothing to do with it, the way I felt. You're right. You know, when I was doing what I did with

him, you know, my -- you know I had this image of my stepfather, you know. It just came back, and I just let go.” Mr. Medway’s letter of remorse addressed to Mr. Foster also identifies his addiction to alcohol and drugs as contributing factors as well as his susceptibility to peer pressure. I do not doubt that Mr. Medway harbored anger, abused intoxicants, and succumbed to peer pressure, but these typical life occurrences simply do not explain the depravity and viciousness he displayed.

I am also troubled that Mr. Medway continues to minimize his culpability. Mr. Medway told the Board that Mr. Rey assaulted Mr. Foster without any instigation on Mr. Medway’s part. Regarding the grueling beating the group inflicted on Mr. Foster, he said, “I was watching; carelessly watching.” Contrary to the record, he said “I didn’t force him to drink the urine. I know he was forced to drink urine.” Despite evidence that Mr. Medway helped carry Mr. Foster out of the apartment, he claimed, “It was Michael and Joey [Pasillas].” Similarly, Mr. Medway claimed it was Michael and Joey Tamayo who discussed “getting rid” of Mr. Foster. Mr. Medway’s self-serving version of events is just not credible. As I explained in 2013, and again in 2014, Mr. Medway was a leader and willing participant in the torture of Mr. Foster, yet he continues to avoid taking responsibility for his death. His continued refusal to focus on and accept responsibility for his own behavior leaves me concerned that Mr. Medway is still willing to engage in criminal and violent conduct and is therefore not suitable for parole.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Medway is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Medway.

Decision Date: April 20, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

MORGAN TYSON, C-81713
Second Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ **X** _____

STATEMENT OF FACTS

On June 21, 1982, Morgan Tyson approached Karen Kline as she walked to her car. Mr. Tyson stabbed her in the head and chest with a scissor-type weapon. He told her, "Don't scream or I'll kill you," and attempted to pull her up the street. She resisted, so Mr. Tyson threw her to the ground again, grabbed her purse, and fled.

On July 1, 1982, Mr. Tyson approached Tina Boston and her 7-year-old niece, Titania Williams, as they walked home from a bus stop. Mr. Tyson jumped out from some bushes and pushed Titania down. He hit Ms. Boston in the jaw and said, "Shut up or I'll kill you," took Ms. Boston's purse, and fled.

On July 4, 1982, Mr. Tyson approached Janet Charles as she walked home from a bus stop. He stabbed her in the head and chest, knocked her to the ground, and attempted to steal her purse. She fought back and he fled.

On July 10, 1982, Mr. Tyson approached Gail Williams at the bottom of a stairway entry to her apartment complex, stabbed her 3 times, and fled. Ms. Williams later died in the hospital.

GOVERNING LAW

The question I must answer is whether Mr. Tyson will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Tyson suitable for parole based on his age, lack of violence in prison, self-help programming, acceptance of responsibility, parole plans, the positive comments of his work supervisors, and because he obtained his GED and developed marketable skills.

Mr. Tyson is now 64 years old and has been in prison for nearly 34 years. I acknowledge Mr. Tyson has made efforts to improve himself while incarcerated. He has not received a serious rules violation since 1993. He has completed several vocational training programs and has routinely received above average to exceptional work ratings. He has been commended by staff for being dedicated and hardworking, performing work with high standards, being a role model to other inmates, and conducting himself in a productive manner. He has participated in self-help programs including Narcotics Anonymous, Addiction Recovery Counseling, Breaking Barriers, and Anger Management. He has a number of family members supporting him in the community. I commend Mr. Tyson for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.


Mr. Tyson's crimes were callous and cruel. He attacked four different unsuspecting women in robbery attempts over the course of less than one month. Rather than attempt to persuade them using less lethal methods, Mr. Tyson attacked them with weapons, stabbing Ms. Kline and Ms. Charles before killing Ms. Williams by stabbing her three times. This must have been terrifying to the three women who were just trying to get home, and for the family and friends of Ms. Williams, a tragedy. This was not the first time Mr. Tyson was convicted of attacking a woman. When he started this crime spree, Mr. Tyson had been discharged just over a month earlier for raping a woman in Georgia at gunpoint.

I am troubled that Mr. Tyson cannot better account for these vicious attacks. He told the psychologist who evaluated him in 2015 that "it seemed like there was a lot of frustration built up in me because [I] couldn't get a job" and because "his family was telling him 'to do this and that.'" He said that he felt lonely and tried to talk to Ms. Williams, who dismissed him abruptly. When he discussed the rape with the psychologist, he claimed that his motivation was "because she just made me mad arguing with me" and that he "just had to do something." He reported similar motives during his hearing. He explained that he did not hate women, but could not explain why his anger resulted in violence on these occasions. The psychologist observed that he was "only able to provide superficial explanations for his behavior and cannot explain how his frustration and stress led to violent actions toward four different women." I urge Mr. Tyson to spend some time seriously examining his reasons for taking his frustrations out on innocent strangers. At this point, however, I am not convinced he is prepared to refrain from violence when faced with stressful situations or financial strain in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Tyson is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Tyson.

Decision Date: April 20, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

RAYMOND GADDIS, C-92297
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On March 31, 1984, Raymond Gaddis, an officer in the Navy, lured 21-year-old Tina Lispi, a prostitute, to his parents' vacant trailer by promising to give her a ring. Mr. Gaddis had several encounters with Ms. Lispi since his girlfriend Lori had broken up with him several weeks earlier. After Mr. Gaddis and Ms. Lispi had sex, Mr. Gaddis grabbed a knife he had previously hidden under the bed and stabbed Ms. Lispi at least 23 times in the back, chest, and abdomen, killing her. Her bowel was protruding through her skin and it could not be determined if the bowel was pulled out or merely protruding because of the size of the wound. Mr. Gaddis's father returned home to find Ms. Lispi's naked body on the floor and blood throughout the trailer. Mr. Gaddis had painted the words "we have him" on a mirror in the hall bathroom and "we have your son" on the master bathroom mirror in white paint to make it appear as if he had been kidnapped. Police arrested Mr. Gaddis on April 5, 1984, after he was found banging on the back door of a building of an IBM facility, partially dressed and covered in lacerations and scratches.

GOVERNING LAW

The question I must answer is whether Mr. Gaddis will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Gaddis suitable for parole based on his age at the time of the crime, lack of a criminal history, low risk rating, lack of disciplinary misconduct, self-help programming, and parole plans.

I acknowledge that Mr. Gaddis committed this crime when he was 20 years old and that he has since been incarcerated for over 32 years. Mr. Gaddis reported that his father was emotionally abusive and often called him “a failure” for not being masculine enough. He also claimed that he was bullied by his peers and as a result was a “loner.” He related that these experiences led to his “development of a negative self-concept, a desire to prove himself to his father, and impelled him to seek escape and acceptance in a fantasy role-playing world.” The psychologist who evaluated Mr. Gaddis in 2015 opined that he “clearly demonstrated immaturity, impulsiveness, excessive emotionality, and underdeveloped sense of responsibility in his adolescence and early adulthood” both prior to and during the life crime. She further wrote, “there appears to be a decrease in these types of behaviors as he has aged and matured.”

I acknowledge that Mr. Gaddis has made efforts to improve himself in prison. He has not been disciplined for serious misconduct since 1985. He received exceptional ratings from his work supervisors. He has participated in some self-help programming, including Alcoholics and Narcotics Anonymous, Restorative Justice Roundtable, and Alternatives to Violence. I carefully examined the record for evidence demonstrating Mr. Gaddis’s increased maturity and rehabilitation, and gave great weight to all the factors relevant to diminished culpability as a juvenile, his hallmark features of youth, and his subsequent growth in prison during my consideration of his suitability for parole. However, they are outweighed by negative factors that demonstrate Mr. Gaddis remains unsuitable for parole.

Mr. Gaddis’s crime was extremely violent and disturbing. He lured Ms. Lispi to his house by promising her a ring, they had sex, and then he started stabbing her without warning. Ms. Lispi attempted to escape from Mr. Gaddis, but he chased her down and stabbed over 23 times, killing her. The scene was an absolute bloodbath and her body was so mutilated it could not be determined whether Mr. Gaddis had disemboweled her or her bowel was merely protruding because of the size of her wound.

Mr. Gaddis does not have an adequate explanation for the reasons he killed Ms. Lispi. When asked by the psychologist in 2015 his motivation to commit the crime he said, “Fear. Fear was my number one motivation. Once I had started planning the robbery, I had just gotten more fearful of what was going to happen.” He explained after they had sex, Ms. Lispi said “I love you” and he “snapped” because his ex-girlfriend had told him the same thing. He said he didn’t know how to deal with situations “in the right way” because he was afraid of his dad and instead played “Dungeons & Dragons.” He claimed if he hadn’t been afraid of his father and hadn’t been into this game he “wouldn’t have been sitting here” today. He told the Board in 2016 that he was an “emotional time bomb” after his girlfriend broke up with him. He cited other issues such as fear of being kicked out of the Navy if he didn’t pass a test, trying to win his ex-girlfriend back, and trying to win his father’s approval as issues that contributed to his emotional state at the time of the crime. He further explained, “The reason I stabbed her so many times was because of Lori [his ex-girlfriend]. And Lori didn’t make me do it. That was all me. But I was releasing my anger out because Lori left me, my dad upset with me because I couldn’t keep a girl around, a wife around, so his comments all the time, I’d been living with that.”

None of these reasons account for the sudden escalation of extreme violence directed at Ms. Lispi. Mr. Gaddis gives varying, and sometimes conflicting, reasons for committing the crime from planning to rob her and feeling fearful of her reaction, to an impulsive act of rage after she said, "I love you," to displacing his anger towards his ex-girlfriend and dad on Ms. Lispi. The fact that he would attribute his fascination with a role-playing game as a reason he is now in prison is nonsensical. After 32 years, I would expect him to have a more concrete understanding of what drove him to act so violently; however, none of these reasons explain the level of violence he perpetrated against Ms. Lispi and the subsequent cover up of the crime by painting the mirrors of his parents' bathroom. I encourage Mr. Gaddis to continue exploring why he murdered Ms. Lispi. His current explanations do not assure me that he will avoid similar unforeseen violent behavior once returned to the community.

Additionally, Mr. Gaddis has only participated in a handful of self-help programs during his more than three decades in prison, the majority of them over ten years ago. I encourage Mr. Gaddis to dedicate himself to rehabilitative efforts in order to sincerely reflect upon his gory crime and why his violence escalated so quickly.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Gaddis is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Gaddis.

Decision Date: April 29, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JAMES GUINN, B-53127
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On July 13, 1973, James Guinn broke into the house of his 73-year-old grandmother, Marie Huffman, and waited for her to arrive so he could kill her. When she returned, Mr. Guinn attacked her, choked her, and strangled her to death with a bathrobe sash. After Ms. Huffman was dead, he hit her in the head several times, removed her underwear, and pulled her skirt around her navel. After his arrest, Mr. Guinn told police, "I started to rape her. I started to tear her clothes off and everything, you know, I was getting so excited, gee I was gonna tear her apart." He said that after his grandmother died, "Well I started laughing. I thought it was kind of funny, Friday the 13th... Well that's great, that's the day it's supposed to happen I guess."

GOVERNING LAW

The question I must answer is whether Mr. Guinn will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Guinn suitable for parole based on his limited history of violence, acceptance of responsibility, maturity, lack of recent rules violations, and current mental stability.

I acknowledge that Mr. Guinn has made some efforts to improve himself in prison. He has served almost 43 years in prison and is now 65 years old. Mr. Guinn has not been disciplined for serious misconduct since 1993. He routinely received satisfactory work ratings and participated in a few self-help programs. I commend Mr. Guinn for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Guinn's crime is horrifying. He laid in wait for his 73-year-old grandmother – apparently the only member of his family still willing to provide him with food and shelter – and strangled

her to death. He then undressed her body and contemplated rape. Mr. Guinn displayed an unspeakable disregard for his grandmother's life in committing this crime.

Mr. Guinn's explanations for committing this crime are incomprehensible. He reported that his grandmother had attacked him several times in the past and that on the day of the crime, his anger grew because she turned away a Salvation Army volunteer who was supposed to bring him money. He told the Board, "I would say this is a true case of manipulated homicide. If I was to give a term to it, she manipulated me. I manipulated her. She tried to kill me first many -- multiple times, and then I tried to kill her once. And I did." The 2015 psychologist determined that Mr. Guinn "continues to shift blame to the victim, suggesting that his actions were somewhat justified considering her multiple attempts to kill him. He also seemed to suggest that the situation could have been avoided if she'd simply filed a restraining order, again placing responsibility on the victim." His insistence that his grandmother somehow "manipulated" him into killing her is ridiculous. The record indicates that Ms. Huffman and other family members were scared of Mr. Guinn at the time of the crime, and that she was afraid to go home when he was there. There is nothing in the record that indicates that Ms. Huffman was aggressive toward him. Mr. Guinn must do more to explain how he came to act so violently toward his own grandmother with so little provocation.

Additionally, Mr. Guinn's has yet to adequately account for why he considered raping his grandmother's corpse after strangling her. He told the Board that he removed her clothes to take money from a belt she wore around her waist, and that when she was undressed, the thought of raping her "came to mind. And I said no. No. No way." When he was interviewed by police after his arrest, however, he reported undressing his grandmother's body because he was "so excited" to "tear her apart." Mr. Guinn has yet to offer a coherent explanation for this disturbing sexual impulse and his excitement about the prospect of raping his grandmother's corpse. Mr. Guinn's statements indicate that he has devoted insufficient time and effort into understanding how he came to act so violently against his grandmother.

I am also troubled by Mr. Guinn's ongoing mental health issues. According to the 2015 psychologist, his psychological evaluations have consistently "reflected his history of psychotic symptoms, substance abuse, cognitive issues likely secondary to inhalant abuse, and personality disorder." He has reported experiencing auditory hallucinations throughout his incarceration despite his medication and mental health treatment. He told the Board, "I think it's truly a demonic situation, because I actually believe there is such a thing as demons, and I think they're in the people that brought these evil spirits with them. And I think that's the only reason I'm hearing it, because of incarceration of people that are possessed by these evil spirits." Mr. Guinn has consistently reported hearing a voice tell him to kill his grandmother before deciding to strangle her. He told the Board in 2015 that "a voice kind of came to me...I think it was my own opinion, you know, more than a voice." Mr. Guinn's dismissal of his mental health symptoms as a product of his incarceration is deeply disturbing in light of the role his auditory hallucinations apparently played in committing this crime. His assumption that his hallucinations will simply disappear when he is released makes me question whether he is stable enough to be released.

Mr. Guinn's risk assessment supports my concerns. The 2015 psychologist rated him a moderate risk of future violence if released, and concluded that despite his lengthy incarceration and advanced age, "Mr. Guinn's understanding of his crime, and himself, remains so concerning as to negate any ameliorating effect his mellowing might suggest." She noted that while he is now able to function in a highly-structured prison environment, "he could be easily be overwhelmed by the complexity and ambiguity he would inevitably face if he tried to function independently in the community." He told the Board that he no longer has "any desire of violence towards anybody," but later admitted that "you could make me be violent" in response to stress. Mr. Guinn must demonstrate that he has a comprehensive, specific plan for managing his mental illness, refraining from substance abuse, and functioning without violence in the community before he should be released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Guinn is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Guinn.

Decision Date: April 29, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ANTHONY TAYLOR, K-01532
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Anthony and Latarsha Taylor were high school sweethearts and married in 1993. The couple moved from Georgia to California and their relationship began to deteriorate after Anthony fathered a child with another woman. On September 3, 1995, the couple got into several heated arguments and, while Anthony was at work, he decided to kill Latarsha. Anthony's friends, Julian Booker and Charles Sheppard, drove Anthony to the Taylors' townhouse, equipped with a pair of bolt cutters, dark clothing, and gloves. When the three men arrived at the townhouse, Anthony strangled Latarsha to death with a telephone cord. A neighbor heard "blood-curdling" and "shrill" screams and called the police. Anthony was arrested on scene and placed in a patrol car. About 10 minutes later, Anthony asked if he could lie down and go to sleep. His demeanor was calm. He went to sleep.

GOVERNING LAW

The question I must answer is whether Mr. Taylor will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Taylor suitable for parole based on his acceptance of responsibility, lack of minimization, self-help programming, vocational achievement, lack of criminal history and rules violations, and risk assessment.

I acknowledge that Mr. Taylor has made some efforts to improve himself in prison. He has never been disciplined for serious misconduct during his 20 years of incarceration. Mr. Taylor earned several vocational certifications and routinely received above average to exceptional work ratings. He has participated in self-help programming including Alternatives to Domestic Aggression and Violence, Anger Management, and Victim Awareness. I commend Mr. Taylor

for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Taylor's crime is appalling. He spent several hours planning to kill his wife, then coldly strangled her as she lay sleeping on the couch. He displayed a shocking disregard for a woman who he purportedly loved for years.

Mr. Taylor articulates a shallow understanding of how he came to commit such a violent crime. He told the Board that his relationship with his wife was "perfect" until they moved to California several years before this crime. He said that they started fighting because they were planning a large wedding together. Mr. Taylor reported that about five times their verbal arguments became physical when she would hit him and he would hit her back. Mr. Taylor explained that on the day of the crime he became "enraged" because Ms. Taylor came to his workplace twice and they argued and hit each other. The second time she arrived at his workplace, he suspected she had been drinking, and he became angry and decided to kill her. He told the Board, "I wasn't going to allow that to ever happen again...I talked to her about her coming to my job and hitting me, disrespecting me, disrespecting me at my workplace...And me keep explaining it over and over to her, that night I just – I wasn't going to do it anymore." Mr. Taylor said that he felt "so angry that I couldn't even calm myself down." He thought about not killing Ms. Taylor but explained that his anger overwhelmed his "positive side" so he went home and strangled her. Mr. Taylor told the Board that while he strangled Ms. Taylor, she was likely thinking that "she could've did more. She could've communicated more. She could've sat me down and explained to me what she did and why..."

Mr. Taylor's suggestion that his wife spent her dying moments thinking about how she was at fault for their problems is preposterous and indicates that he has not yet honestly examined his use of violence in their relationship. Mr. Taylor maintains that he killed his wife because he felt angry and disrespected because they had previously agreed she shouldn't fight with him at his place of work and she did it anyway. This account places an inordinate amount of blame on the victim and does little to explain Mr. Taylor's extremely violent reaction to relatively minor provocation. While he characterizes himself as out of control and enraged, the record indicates that Mr. Taylor had many opportunities to calm himself or take another course of action. He started recruiting his friends to help him kill Ms. Taylor several hours before the murder. At trial, a friend testified that Mr. Taylor had previously said he wanted to leave Ms. Taylor but could not because "she knew something that would send him away a long time." I am also skeptical of Mr. Taylor's assessment of his relationship as "perfect" before coming to California given that he fathered a child with another woman in Georgia shortly before they moved. Many people experience difficulties in romantic relationships, but few resort to killing their spouse with such deliberation. Mr. Taylor must do more to demonstrate that he has a comprehensive understanding of how he came to act so violently and that he is prepared to act differently in future relationships.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Taylor is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Taylor.

Decision Date: April 29, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

VALENTINO BROWN, C-79592
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On September 22, 1982, Valentino Brown used pantyhose and speaker wires to tie up his wife, Rosey Brown. He then turned on a tape recorder and beat Rosey with a plastic bat for more than 45 minutes while she pleaded with him to stop. According to the transcript of the tape, Valentino told Rosey, "I'm gonna go get that baseball bat and I'm going to work on your feet, who knows how many times...I beat your ass blue already today, and uh, I'll beat your motherfucking feet to a pulp...don't flinch, don't flinch..." Rosey started counting the number of times Valentino was hitting her, and he said, "You don't have to count, the tape recording is counting...And I'm gonna take as long as it takes." On the second side of the tape, Valentino continued, "See you're gonna get [whack! whack!] fucked up." As he repeatedly struck Rosey with the bat, Valentino said,

[D]on't ask me not to hit you...if you don't want it to hit you, tell me the motherfucking truth about everything... You knew what you were doing, when you did it, knew what you were facing a beating the minute you accepted your fate, accept it now. ... I'll kill you. ... Killing you would be letting you off the easy way, you stupid motherfucker, that's too good for you, why do you think I told you, I can beat your ass openly and [unintelligible] I won't shed a tear for you... I'm not going to beat you to death, I'll beat you until your whole body look like your butt, you'll be a black ass blue motherfucker, sore and stiff all over, you'll be marked just like you always have been, only this time, everybody's going to see...I can beat your ass couple of times for a little while, long, long, long, long time. [Heavy breathing] You know I see this is gonna require all kinds of drastic measures...

The next morning, Valentino called 911. The firefighters who responded found Rosey dead in the bedroom and noted that Valentino appeared angry. Valentino was arrested after admitting he had punched her in the stomach, adding that he had "hit her much harder before." The autopsy determined that Rosey's body had sustained at least 85 points of trauma, some of which were one to two weeks old. The cause of death was massive internal hemorrhaging caused by blunt force trauma to the abdomen inflicted thirty minutes before her death.

GOVERNING LAW

The question I must answer is whether Mr. Brown will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness.

DECISION

The Board of Parole Hearings found Mr. Brown suitable for parole based on his stable social history, remorse, acceptance of responsibility, age, maturity, positive behavior in prison, and risk assessment.

I also acknowledge that Mr. Brown has made some efforts to improve himself in prison. He has participated in a few self-help programs including Domestic Violence Awareness and Prevention, Anger Management, and Pre-Release Basics. Mr. Brown routinely received satisfactory to above average work ratings, and earned several vocational certifications. He has not been disciplined for serious misconduct since 1991. I commend Mr. Brown for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

This crime was incredibly cruel. Over the course of two days, Mr. Brown beat his wife to death and recorded the beating while she begged for mercy. According to the appellate record, Ms. Brown's fatal injuries were so severe that she could not have survived without immediate medical attention. The doctor who performed the autopsy compared Ms. Brown's injuries to being run over by a car. Mr. Brown inflicted an astonishing amount of violence on his wife, and the transcript of his recording reflects his remarkably callous indifference to her suffering.

Mr. Brown's account of this crime downplays the extreme nature his actions. He told the Board he recorded himself beating his wife because he was trying to elicit proof that she was mentally ill and needed treatment. He said that he started using the bat because his efforts to talk with her had failed, and "I started getting more and more frustrated [that] it's not working. And that's when I decided that, well, maybe I could get her to cooperate a little bit more by cruelty." He told the psychologist, "I tried to stimulate the conversation and ended up looking like a real ass on the tape." He said that after beating Ms. Brown for an hour, the tape ran out so they "freshened up," ate together, and watched television. Mr. Brown reported that the next morning, he tried to take Ms. Brown to the hospital but she refused, so he "wrestled her to the ground and tried to calm her down" by tying her up so she couldn't jump out of the car on the way to the hospital. He claims that he then "struck her in the stomach twice, to try to knock the wind out of her, to get her to calm down." Mr. Brown told the Board that he believed those two punches caused her fatal injuries because "her back was supported by the floor...And that's how the damage came to be, the hard surface she was [lying] on, in conjunction with the force [of] my blows."

Mr. Brown's explanations severely minimize the brutality he inflicted on Ms. Brown. He didn't "end up" looking bad on his recording – the transcript shows that he deliberately taunted, threatened, and blamed Ms. Brown as he beat her. She pleaded with Mr. Brown to stop because he was hurting her and told him she was "frightened... because you're beating me for nothing." His account – that after an hour of this, they cleaned up and enjoyed an evening together – is absurd and demonstrates that he has not yet come to grips with the extent of his violence. Further, Mr. Brown's insistence that he was merely trying to calm down his wife when he inflicted the fatal blows downplays the extreme nature of the injuries he inflicted on her. The record clearly demonstrates that Ms. Brown suffered immense physical pain at his hands over the course of several weeks, culminating in her death. The psychologist expressed concern that Mr. Brown "appeared to minimize his history of violence in his relationship with the victim not only at the time of the life crime but also in the past." By continuing to whitewash his actions, Mr. Brown minimizes his own culpability and demonstrates that he has not yet accepted full responsibility for this crime.

I am also troubled that Mr. Brown cannot better articulate the reasons for his repeated violence towards his wife. At the hearing, he said that despite being raised to believe that men should not hit women, "what was happening between my wife and myself was causing me to abuse her, strike her, slap her, punch her..." He told the psychologist that his wife "would say or do something wrong and out of reflex, I would slap her and of course be sorry about it." When the psychologist asked Mr. Brown why he continued to hit Ms. Brown despite being sorry about it, he said it was "usually just a reflex. Sometimes my anger flared up." The suggestion that Mr. Brown repeatedly hit his wife as a reflexive response to her wrongdoing is ridiculous. His shallow understanding of his prior abuse confirms that he has yet to explore or come to grips with his history of domestic violence. When asked at the hearing, he was not able to discuss the cycle of domestic violence despite participating in self-help programming on the subject. I encourage him to work to better understand how he came to inflict this remarkable violence in his relationship, and demonstrate that he is prepared to live without such violence in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Brown is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Brown.

Decision Date: May 6, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JAMES MACKEY, E-76532
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

In the spring of 1988, James Mackey attempted to purchase a condominium from Michael Blatt. Mr. Blatt told Mr. Mackey he could not purchase the property because real estate agent Lawrence Carnegie had filed a lawsuit against Mr. Blatt. In January of 1989, Mr. Mackey offered to “take care” of Mr. Carnegie and recruited his friend Carl Hancock to help him. Mr. Mackey received \$2,500 from Mr. Blatt and purchased a crossbow, a sleeping bag, and a 50-pound weight. The plan was to shoot Carnegie and sink his body in Lake Tahoe. Mr. Mackey told Mr. Blatt that he found someone to “do the job,” but Mr. Blatt informed him that he also had another man he wanted dead – John Farley. Mr. Farley was a football player who had also sued Mr. Blatt’s firm for “mismanaging his financial assets.” After deciding to ask for \$20,000 to carry out the two murders, Mr. Hancock and Mr. Mackey began to stalk Mr. Foley, studying his habits, and then Mr. Mackey reported their progress to Mr. Blatt. At that point, Mr. Blatt decided he wanted Mr. Carnegie killed before Mr. Foley.

On February 28, 1989, Mr. Hancock posed as a potential home buyer and lured Mr. Carnegie out to an available property. Mr. Mackey hid in the garage and shot Mr. Carnegie with the crossbow in the back when he arrived. Mr. Mackey and Mr. Hancock attempted to suffocate the injured Mr. Carnegie with the sleeping bag, but they were interrupted by a passing car. Mr. Mackey beat Mr. Carnegie until he was unconscious, put him into a sleeping bag and then into the trunk of the car. They drove to Sonoma County with Mr. Carnegie in the trunk. Mr. Hancock opened the trunk, fastened a noose with rope, tied it around Mr. Carnegie’s neck, and told Mr. Mackey to pull on the other end until they were sure he was dead. They threw Mr. Carnegie’s body down an embankment. Mr. Mackey collected an additional \$3,000 from Mr. Blatt and left town for a week.

GOVERNING LAW

The question I must answer is whether Mr. Mackey will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate’s pre- or post-incarceration history, or the inmate’s current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Mackey suitable for parole based on his lack of criminal history, good conduct in prison, age, remorse, educational and vocational accomplishments, work performance, psychological assessment, and participation in self-help programs.

I acknowledge that Mr. Mackey has made substantial efforts to improve himself while incarcerated. His educational accomplishments—a paralegal certificate as well as a Master's Degree in Humanities—are remarkable. Staff have commended him for having a positive attitude on a daily basis, motivating other inmates, being a "role model," dealing with others professionally, and striving to live a life of integrity. He has participated in walk-a-thons, donated to charity, volunteered as a literacy tutor, and facilitated self-help classes. Mr. Mackey has been disciplined only once for misconduct, in 1996. I commend Mr. Mackey for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

I have reversed two previous grants of parole to Mr. Mackey due to the nature of his crime and his inadequate explanations for his willingness to commit murder for Mr. Blatt.

This crime was callous and cruel. Mr. Mackey had no issue with Mr. Carnegie, but he dedicated months to plotting his murder. Mr. Carnegie's family spoke at length during Mr. Mackey's recent parole hearing of the horror of the crime, their frustration that Mr. Mackey did not do enough to ensure that Mr. Blatt was convicted, the impact Mr. Carnegie's death had on the community, and their continuing grief and pain.

It remains baffling how Mr. Mackey could go from an intelligent college graduate with a job as a realtor to a contract killer, plotting two different murders and carrying out one without a qualm. This year, Mr. Mackey told the Board that he didn't perceive that his life was going well. He explained that he was selfish, greedy, impatient, and dishonest. He wanted to buy a condominium from Mr. Blatt. He said, "I just wanted Mr. Blatt to know that I would do things for him. That I would do – you know, I just wanted to be a part – just remain part of his circle, remain in good standing, in good standing with him and I was – I was willing to do anything." He saw Mr. Carnegie "as an obstacle" and thought that Mr. Blatt "was everything I wanted to be." Mr. Mackey added that "the money that was involved...lent pressure to me – to the situation too." Ultimately, Mr. Mackey explained, "It was just about doing -- being there with Mr. Blatt. It wasn't about killing somebody. It was doing whatever I had to to get his acceptance."


These reasons still don't add up. Although he had no personal problem with Mr. Carnegie, Mr. Mackey spent months planning to kill him. It seems from his description that he believed his only value to Mr. Blatt was as a contract killer. But at no point did Mr. Mackey back away from the grisly task. When he couldn't find others to commit the murder, he stepped in to perform the job himself. I am dubious of the claim that Mr. Mackey felt so financially desperate that he would be willing to turn to murder – he was selling homes as a realtor at the time, had a college

degree, and he and his wife had money from an inheritance. Why turn to murder rather than pick up a second job or use his education in some way? While Mr. Mackey insists that he was motivated by a need to be in Mr. Blatt's circle, it remains unclear why he would be willing to carry out murders for such a friendship.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Mackey is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Mackey.

Decision Date: May 6, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

RAMIRO RODRIGUEZ, K-56235

Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On September 26, 1995, Ramiro Rodriguez began drinking beer while at work and continued drinking for three hours after work. Several co-workers warned him “three or four times” not to drink and drive. Around 8:00 p.m., Mr. Rodriguez said he needed to go home, but a co-worker repeatedly told him not to drive because he “was in no condition to drive.” The co-worker invited him to stay at his house overnight and offered to call Mr. Rodriguez’s wife. Mr. Rodriguez refused and took off in his car. Another car had to take evasive action to avoid being hit by Mr. Rodriguez. Then, while driving 70 to 75 miles per hour, Mr. Rodriguez made a sharp turn onto the freeway from a ramp, lost control of his car, and veered across two or three lanes of traffic. His car hit the raised portion of the freeway divider and rose two or three feet in the air before crashing into a disabled vehicle pulled over onto the shoulder. California Highway Patrol Officer Bruce Hinman was on duty and had been helping Erlinda Alvarez, Aristotle Alvarez, and Joanalee Baluyot with the disabled vehicle at the time of the collision. The disabled vehicle hit and came to rest on top of Officer Hinman, who began convulsing. A witness testified that Mr. Rodriguez “looked up and smiled, then reached over towards the dash like he was trying to find a key to turn, and turned his hand two or three times.” A fire truck arrived, and firefighters had to use a mechanical device to lift the car off of the officer. Mr. Rodriguez also had to be mechanically extracted from his car.

Mr. Rodriguez was arrested on scene with a blood alcohol level between .18 and .16. Mr. and Ms. Alvarez and Ms. Baluyot sustained minor injuries. Officer Hinman was on life support for several days before dying on October 3, 1995.

GOVERNING LAW

The question I must answer is whether Mr. Rodriguez will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate’s pre- or post-incarceration history, or the inmate’s current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Rodriguez suitable for parole based on his lack of a criminal history, genuine remorse, acceptance of responsibility, insight into his sobriety, knowledge of the 12 steps, educational and vocational upgrades, maturity, self-help programming, risk assessment, and parole plans.

I acknowledge Mr. Rodriguez has made efforts to improve himself while incarcerated. He has never been disciplined for serious misconduct during his 20 years of incarceration. He participated in self-help programming, including Alcoholics Anonymous, Narcotics Anonymous, Celebrate Recovery, Cycle of Violence, and Victim Awareness. He passed the General Educational Development exam after years of taking classes. I commend Mr. Rodriguez for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

This was a horrific and reckless crime. Mr. Rodriguez showed no regard for the lives of others and ended up killing an on-duty officer who was attempting to help stranded motorists. Mr. Rodriguez knew that he had a serious alcohol problem, as he had attended AA meetings in the past. Many people had previously warned Mr. Rodriguez about the dangers of drunk driving. In fact, a few weeks prior to the murder, Mr. Rodriguez had blacked out, drove drunk, and told his co-workers "he knew he could have caused an accident and hurt somebody or himself." He acknowledged that he needed to quit drinking. None of this affected his future behavior, however. On the night of the murder, his co-worker repeatedly told him not to drive and even invited him to stay the night at his house. Yet, Mr. Rodriguez made the deadly decision to get behind the wheel, which ultimately cost the life of Officer Hinman, a man dedicated to serving and protecting the public. I acknowledge that Mr. Rodriguez's trial court judge wrote in 2010 to support parole based on Mr. Rodriguez's remorse, but I am not persuaded based on the record that Mr. Rodriguez has now overcome his severe alcohol problem.

I am concerned that Mr. Rodriguez has only recently begun to sincerely address his substance abuse problem. He began using alcohol at age 8 and first got drunk at age 17. By age 36, he was drinking "almost every day" and reported driving while intoxicated "on many occasions" and blacking out "for many years." Once in prison, Mr. Rodriguez enrolled in Alcoholics Anonymous; however, as recently as 2010 he was not able to list the 12 Steps when the psychologist asked him to do so on the first day of the evaluation. On the second day of the evaluation, Mr. Rodriguez asked if he could have another opportunity to recite the 12 Steps. The 2010 psychologist noted, "Not surprisingly, he was able to recall all 12 Steps. Further inquiry revealed that he spent two hours the evening before the second interview memorizing those principles." Although he was attending meetings, he was clearly missing the point. I note that he has made some progress since then, but the application of the 12 Steps to his own situation still evades Mr. Rodriguez. In December 2015, the psychologist voiced concerns about Mr. Rodriguez's written relapse prevention plan, observing that it was "very generalized and used 'canned' statements that did not provide a clear understanding of Mr. Rodriguez's specific concerns." The psychologist noted that Mr. Rodriguez's insight into his alcoholism had improved since 2010, which reduced his risk, but pointed out these revelations were "still rather

new.” I would have expected that after killing Officer Hinman, Mr. Rodriguez would have been deeply committed to learning about how to maintain his sobriety. Because he has only recently started to do so, his risk for relapse remains unacceptable. I urge the Board at the next hearing to more thoroughly examine Mr. Rodriguez’s understanding of how each of the steps will inform his decisions when he paroles and, once again, alcohol and automobiles are easily accessible.

While I commend Mr. Rodriguez for his good behavior in prison, his real problem is driving under the influence of alcohol. It is clear that Mr. Rodriguez was aware of the possible consequences of driving drunk, yet he chose to disregard the risk, ultimately resulting in Officer Hinman’s death. Given Mr. Rodriguez’s history of drinking and driving despite knowing that it can lead to tragedy, his prolonged failure to seek help for the drinking problem he knew he had, and his only recent engagement in substance abuse programming, I believe he needs more time to dig deeper into the root causes of his alcohol abuse, fully flesh out an individualized relapse prevention plan, and demonstrate that he has developed sufficient understanding and an approach that will enable him to maintain his sobriety when faced with the stressors he will confront upon his release.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Rodriguez is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Rodriguez.

Decision Date: May 6, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JUAN BRIZUELA, K-10051

Second degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On March 29, 1996, 9-year-old Eulalio Padilla came to 15-year-old Juan Brizuela's house and asked to play with Mr. Brizuela's younger brother, who was not home. Mr. Brizuela invited Eulalio inside to wait and the two watched television together. Mr. Brizuela then received a call from his uncle that his brother would be spending the night at his grandparents' house. When Mr. Brizuela told Eulalio, Eulalio did not believe him and would not leave. Mr. Brizuela became angry, and strangled Eulalio with a Nintendo cord for several minutes until Eulalio lost consciousness. Mr. Brizuela then covered Eulalio's face with duct tape from his eyebrows to his chin, bound his hands behind his back with duct tape and a cable wire, and placed him in the bedroom closet. Eulalio suffocated and died. Mr. Brizuela dug a shallow grave in his backyard, pushed Eulalio's body out of the bedroom window into the backyard, and partially buried him. Later that night, Mr. Brizuela confessed to his mother and his uncle what he had done, and his uncle called the police.

GOVERNING LAW

The question I must answer is whether Mr. Brizuela will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Brizuela suitable for parole based on his age at the time of the crime, insight, self-help programming, acceptance of responsibility, educational and vocational achievements, lack of recent institutional misconduct, current age, parole plans, and risk assessments.

I recognize that Mr. Brizuela was only 15 years old when he committed this crime. He had an unstable childhood; he described his stepfather as severely physically and sexually abusive, and his mother as “acutely physically abusive.” He claimed he felt abandoned and acted out by running away from home, beating his siblings, fighting at school, associating with gang members, and abusing drugs and alcohol. Mr. Brizuela was eventually expelled for assaulting another student in 1995, and then enrolled in a continuation school that he never attended. The psychologist who evaluated Mr. Brizuela in 2014 noted that a number of factors related to his youth “conceivably contributed to the controlling offense,” including his “immaturity, impulsivity... susceptibility to negative familial and peer influences, and lessened capacity to extricate himself from a dysfunctional home environment or crime-producing settings.”

Mr. Brizuela is now 35 and has made efforts to improve himself while incarcerated. He has participated in self-help programming for more than 10 years. In the last year, he participated in Peace Education Program, Love Lifted Me Recovery, Getting Out by Going In, Men of Honor, and more, as well as serving as vice chairman of Criminals and Gangmembers Anonymous. He earned an associate of arts degree, completed studies to be a drug and alcohol specialist, earned a certificate in cosmetology, and completed some vocational training in office services, masonry, refrigeration and air, and electronics. He has not received any serious disciplinary actions since 2008, and he has been praised by correctional staff. I commend Mr. Brizuela for taking these positive steps. I carefully examined the record for evidence demonstrating Mr. Brizuela’s increased maturity and rehabilitation, and gave great weight to all the factors relevant to diminished culpability as a juvenile, his hallmark features of youth, and his subsequent growth in prison during my consideration of his suitability for parole. However, they are outweighed by negative factors that demonstrate Mr. Brizuela remains unsuitable for parole.

Mr. Brizuela’s crime was particularly reprehensible because his 9-year-old victim was vulnerable and unsuspecting. Eulalio just wanted to wait for his friend who was not home, and for that trivial act, Mr. Brizuela coldly strangled him, bound him, and buried the body. This wanton and unprovoked act is far from typical for a teenage boy.

I reversed the Board’s 2014 grant of parole due to Mr. Brizuela’s horrific crime and his inadequate explanation for the murder. He told the Board then that he was frustrated and angry because of his history of abuse and that he took out his built-up hatred on Eulalio because he seemed happier than Mr. Brizuela had been in his life. He reported wanting to “take that [happiness] away from him.” My concern was that Mr. Brizuela had yet to understand and address how he came to commit such an offense and that he remained at risk of reacting with violence again.

I remain concerned by Mr. Brizuela’s shallow understanding of why he committed this crime. He explained he engaged in a pattern of abusing his younger siblings, and when this occurred, his mother had his siblings stay with other family members. As a result, he felt left out and abandoned. The night before Mr. Brizuela killed Eulalio, he and his sister “had gotten in a big fight and we were throwing dishes at each other and we were breaking things.” When his uncle called to tell him that his siblings would not be coming home, he felt rejected. He stated that Eulalio began laughing while refusing to leave the house and reported feeling that “he was trying

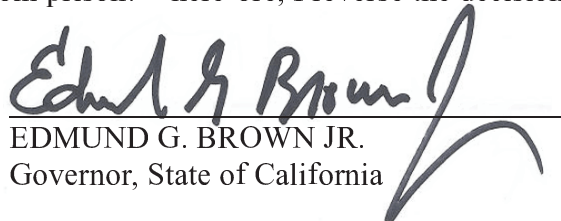
to make fun of me and laugh at me because I was by myself and there was... nobody there to be with me. And that kind of, I wouldn't say instigated, but got me a little bit more upset that he was laughing. And that's when I started. Picked up the Nintendo cord and I strangled him." He explained that his intent in wrapping the cord around Eulalio's neck was to "scare him," but that he "kept strangling him" until "his feet kind of went from under him" at which point he "panicked" and put him in his closet.

Mr. Brizuela's explanations of how he came to strangle Eulalio just don't add up. There was virtually no basis for Mr. Brizuela's anger, much less a reason that might lead someone to commit murder under these circumstances. That gives me real pause. That Mr. Brizuela was feeling left out of his family and that a 9-year-old boy laughed leaves unexplained why he would strangle the boy for over four minutes until he lost consciousness. While I recognize that Mr. Brizuela's upbringing was particularly difficult, I do not believe that his statements about this callous and unprovoked crime are sufficient. There's more going on in the mind of Mr. Brizuela. He needs to be able to provide a more convincing explanation of how he got himself in the state of mind that made this murder something he was willing to do. Without showing he has a better understanding for his actions, I am concerned that these profoundly destructive emotions could make Mr. Brizuela lash out again. At the next hearing, the Board should probe more deeply into how Mr. Brizuela's mental and emotional attitudes have changed such that a trivial provocation will not again result in a murderous rage.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Brizuela is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Brizuela.

Decision Date: May 13, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

PATRICK FOGARTY, C-50369
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Patrick Fogarty married Andrea Berry in 1978; however their marriage began to dissolve in July 1980 and she wanted to get a divorce. Around September 1980, they separated and Ms. Berry began dating other men. One man found two of his cars vandalized and received threatening phone calls regarding his association with Ms. Berry. Ms. Berry also received threatening phone calls and blackmail letters. The man ceased his relationship with Ms. Berry and the damage to his vehicle and phone calls stopped.

In November 1980, Ms. Berry met 25-year-old Donald Cook at a party. On November 22, 1980, Mr. Cook spent the night at Ms. Berry's house and when he left he found a substance similar to white glue in his fuel tank. Ms. Berry and Mr. Cook went out again on January 17, 1981. Three days later, Mr. Cook's residence was burglarized, his waterbed was slashed, and his stereo equipment and watch was stolen. A few days later, Mr. Cook's tires were slashed. On January 31, 1981, Ms. Berry and Mr. Cook went out again. Mr. Cook left her house around 11:00 a.m. on February 1, 1981. That evening, Mr. Fogarty went to Mr. Cook's residence, fired a .45 caliber bullet through the door, and entered. He struck Mr. Cook on the back of the head with a blunt instrument. While Mr. Cook was in a semi-conscious state, Mr. Fogarty "systematically tortured him in a slow, deliberate and brutal manner" while Mr. Cook attempted to defend himself. During the process, Mr. Cook bled to death. Mr. Cook had stab wounds on his back, armpit, and ear, and his throat was slashed in three places. Mr. Fogarty was arrested on February 19, 1981.

During the investigation, Mr. Cook's stereo was found in Mr. Fogarty's home, and Mr. Fogarty's friend had Mr. Cook's watch, which he had traded for a knife. Another friend reported that Mr. Fogarty had a list of 15 names, including Mr. Cook's, on a piece of paper and had asked him to help Mr. Fogarty "take care of 'these assholes.'" The friend told investigators he had previously gone to Mr. Cook's residence with Mr. Fogarty to act as "back-up," but Mr. Fogarty abandoned the plan because there "were too many people present." A different friend of Mr. Fogarty's, who testified against him, reported receiving 50 harassing telephone calls and stated a shot was fired through the window of his home. A second witness also reported being harassed the night before she testified.

GOVERNING LAW

The question I must answer is whether Mr. Fogarty will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Fogarty suitable for parole based on the length of his incarceration, stable social history, lack of a significant criminal history, remorse, acceptance of responsibility, current age, self-help programming, grasp of domestic violence, and lack of misconduct in prison.

I acknowledge that Mr. Fogarty has been incarcerated for more than 35 years, is now 68 years old, and has made efforts to improve himself while incarcerated. He has only been disciplined for serious misconduct once, in 2003. He has earned his bachelor's degree. He has participated in self-help groups including the Long Term Offender Pilot Program, Substance Abuse, Veterans in Prison, Victim Impact, and Family Relationships. I commend Mr. Fogarty for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Fogarty brutally murdered Mr. Cook after several weeks of stalking and harassing him. Despite the fact that Mr. Fogarty and Ms. Berry were separated and Mr. Cook had only gone out with Ms. Berry on three occasions over a three-month period, Mr. Fogarty terrorized Mr. Cook in the weeks leading to his death by burglarizing his house, slashing his tires, and putting a white substance in his gas tank. Mr. Fogarty even solicited a friend to help him kill Mr. Cook five days prior to the murder. On the day of the murder, Mr. Fogarty did not just shoot and kill Mr. Cook, he slit his throat and "systematically tortured" him over a prolonged period of time while Mr. Cook unsuccessfully tried to defend himself. Ms. Berry also reported that Mr. Fogarty harassed her during this time period, became physically abusive on several occasions by striking her in the head with a telephone and his hand, stomping on her feet, and, on one occasion, raping her in front of their daughter.

Mr. Fogarty severely minimizes his history of violence, including the prolonged stalking and harassing of Mr. Cook, and this crime. At his 2016 hearing, Mr. Fogarty purported to take responsibility for "everything directly and collaterally involved with the murder of Donald Cook." Yet, he denies ever physically abusing his wife. He denies ever slashing Mr. Cook's tires. He denies even knowing Mr. Cook prior to the murder. For years Mr. Fogarty claimed that he killed Mr. Cook, who he claimed was a drug dealer, in self-defense after Mr. Cook approached him with a knife. Mr. Fogarty recently abandoned that illogical story and, in 2016, claimed that "the night I murdered Donald Cook was the first I knew of his existence that had a name attached to it." He said he learned of Mr. Cook that night through a friend who "gave me

his gun and said take care of business.” The record paints a very different picture that includes weeks of threatening and violent behavior towards Mr. Cook, Ms. Berry, his friends, and witnesses. Because Mr. Fogarty has yet to acknowledge or address the extent of his violence, I am not convinced that he understands what he did was wrong or that he would be able to refrain from violence in romantic relationships if released. I urge Mr. Fogarty to attend self-help programming focused on domestic violence and anger management, and to honestly reflect on the facts of the crime and his obsessive behavior.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Fogarty is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Fogarty.

Decision Date: May 20, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

GREGORY SUTTON, E-26396
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On April 10, 1989, Gregory Sutton got into an argument with his mother, Ada Sutton, after she reportedly confronted him about continuing a relationship with an ex-girlfriend she did not like. Ms. Sutton allegedly told him to leave the house. He went to his room, got his .22-caliber pistol, and fatally shot her three times in the head and once in the arm. He then dumped the gun in a nearby creek.

GOVERNING LAW

The question I must answer is whether Mr. Sutton will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Sutton suitable for parole based on his length of incarceration, limited disciplinary history, remorse, acceptance of responsibility, current age, self-help programming, and performance at work.

I acknowledge Mr. Sutton has made efforts to improve himself while incarcerated. During his 27-year incarceration, he has only been disciplined for serious misconduct three times, most recently in 1992. He completed vocational training and received positive work ratings from staff. He has attended self-help programs including Anger Management, Relapse Prevention, Family Relationships, Domestic Matters, Victim Impact Awareness, Insight, and Self-Reflection. I commend Mr. Sutton for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Sutton's crime was extremely cruel. He killed his own mother, a person he described as "the greatest woman you could ever know." She stood by his side, even while he was making poor choices and allowed him to live with her rent-free even though he was a 26-year-old drug user.

When she apparently challenged his decision to date someone who was cheating on him, Mr. Sutton retaliated by retrieving his gun and shooting her in the head multiple times, killing her. It is hard to imagine the horror and devastation Mr. Sutton's actions must have brought to the rest of the family, especially Ms. Sutton's other children. They continue to be concerned for their safety and oppose Mr. Sutton's parole.

Mr. Sutton's explanations for murdering his mother are not convincing. He told the psychologist in 2013 that he "felt triggered because his mother questioned his integrity" when she asked him if he was still seeing his ex-girlfriend. He acknowledged, "My mental state at that time was inappropriate. I became aroused I became angry instead of leaving the house. I knew I had failed." He claimed his anger stemmed from his frustration with himself for failing to move out of his mother's home after two years. At his 2016 hearing, he made similar statements and said he became angry when she told him to leave the house so he made the decision to kill her "because [he] was hurt." He said he believed he was "still hurt" from the first time she had kicked him out of the house years before and "that was one of the triggers."

These responses do not account for his extreme, violent reaction. His extreme overreaction to a minor argument is not explained by his frustration with his mother. Nothing about his own failure to move out on his own or find a new relationship makes his drastic decision understandable. His mother had done nothing but support him throughout his life. The callousness of the crime is wholly disproportionate to the trivial motive for the crime or the issues Mr. Sutton was experiencing. He needs a lot better explanation to assure me he understands the factors that drove him to kill his mother. The 2013 psychologist also noted that he struggled to demonstrate "true insight" into his crime. Based on his deficient understanding of how he came to kill his own mother in such a cruel manner, I am not confident that he will avoid similar unexpected violent behavior once returned to the community. I encourage Mr. Sutton to continue exploring the reasons for his unprovoked violence.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Sutton is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Sutton.

Decision Date: May 20, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JAMMAL WALLACE, C-75814
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On October 15, 1982, witnesses heard 20-year-old Shelitha Bogan scream for help and saw Jammal Wallace repeatedly striking her as she tried to shield herself with her arms and escape. Mr. Wallace stabbed Ms. Bogan more than 35 times, many in her upper torso and neck. She eventually collapsed and died. Mr. Wallace removed all her clothing, put it in her car, and drove away.

GOVERNING LAW

The question I must answer is whether Mr. Wallace will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Wallace suitable for parole based on his acceptance of responsibility, educational and vocational achievements in prison, participation in self-help programs, parole plans, and age.

I acknowledge that Mr. Wallace has been incarcerated for more than 33 years, is now 58 years old, and has made efforts to improve himself while incarcerated. He has not been disciplined for serious misconduct since 2001. He has participated in some self-help programs including Substance Abuse Treatment, Alternatives to Violence, and Advanced Restorative Justice. He has volunteered as a tutor for other inmates. Mr. Wallace earned an associate's degree and received several vocational certifications. He routinely received satisfactory to above average work ratings, and was commended by a supervisor in 2015 for his leadership skills. I commend Mr. Wallace for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

This crime is exceptionally brutal. Mr. Wallace stabbed a woman he barely knew dozens of times, undressed her body, and left her to die naked on the side of the road. There is no question that he displayed an utter disregard for human life in committing this crime.

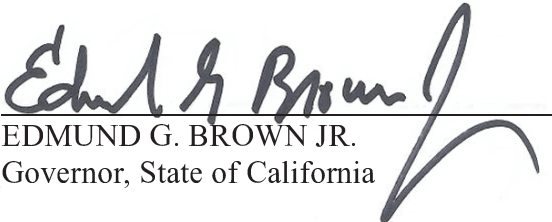
Mr. Wallace has yet to demonstrate that he understands how he came to commit this very violent crime. He told the Board at his 2016 hearing that Ms. Bogan asked him to have sex with her, but he could not maintain an erection and got embarrassed. He said they argued and Ms. Bogan was “goading” him, which made him angry. He claimed that Ms. Bogan then took out a knife and tried to rob him, and that he “responded” by attacking her. Mr. Wallace said that “she was swinging at first, and then I started, she started to run and I chased” her, and then he took the knife and stabbed her until she was unresponsive. He explained, “I think that because of her attack on me, I had to attack her.” He then took off all her clothes because he thought she had more weapons, which was “kind of delusional on my part.” Mr. Wallace said that his embarrassment, inability to maintain a “macho” image, and low self-esteem also contributed to his actions.

Mr. Wallace’s explanations simply do not account for his extreme actions, and place a disproportionate amount of blame on the victim. Even if Ms. Bogan really pulled a knife on him, he had ample opportunity to end the altercation. Instead, when she began running away from him and screaming for help, he chased her down and stabbed her numerous times. His assertion that he “had” to attack her because she instigated the fight is not credible and downplays his responsibility for his own extremely violent actions. The psychologist who evaluated Mr. Wallace in 2015 wrote, “As was consistent with information during his last board hearing, at times he appeared to blame the victim while accepting superficial responsibility for the crime.” The psychologist concluded that Mr. Wallace’s “overall explanation of the crime appeared limited and lacking in insight” which raised “significant concerns.” Mr. Wallace must better explain how he came to act so violently in response to relatively little provocation. I encourage him to engage in self-help classes or independent study so that he can better understand the nature of his actions and demonstrate that he is prepared to act differently in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Wallace is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Wallace.

Decision Date: May 20, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ALONZO WARREN, P-57405
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On June 8, 1993, Alonzo Warren drove up to William Shaw and Mr. Shaw's nine-year-old son, William Jr. Mr. Warren called the elder Mr. Shaw over to his car. Mr. Warren shot Mr. Shaw once in the chest with a shotgun, killing him. A friend reported to police that Mr. Warren had told him he "wanted to kill the guy that hit his girlfriend in the head."

GOVERNING LAW

The question I must answer is whether Mr. Warren will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Warren suitable for parole based on his acceptance of responsibility, remorse, current age, commitment to sobriety, lack of misconduct in prison, self-help programming, sincerity and honesty, compliance with his mental health treatment, and his efforts towards rehabilitation.

I acknowledge that Mr. Warren has made efforts to improve himself in prison. He has never been disciplined for serious misconduct during his nearly 23-year incarceration. He has been enrolled in Adult Basic Education classes and has participated in a tutoring program. He has willingly taken the psychiatric medication that his doctors have recommended. He has participated in self-help programs including Alcoholics and Narcotics Anonymous, Mental Health Group, Lifer's Group, and Houses of Healing. I commend Mr. Warren for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Warren's crime was senseless and callous. He shot and killed Mr. Shaw in front of his young son merely because he heard Mr. Shaw may have beaten his girlfriend with a stick. His

reaction was extremely impulsive and disproportionate to the situation at hand. This was not Mr. Warren's first violent offense. In 1986, he was arrested for rape by force, false imprisonment, and oral copulation. He was ultimately convicted of rape by force and sentenced to five years in prison. Five years later, he was arrested for oral copulation with a person under 16 and sexual penetration with a foreign object by force after his girlfriend's children accused him of sexually assaulting them. He was returned to custody for this parole violation.

Mr. Warren has a long and serious history of mental illness coupled with substance abuse. He has received treatment for schizophrenia since childhood, was hospitalized at age 12 or 13 for psychotic symptoms, and has often reported paranoid delusions and auditory hallucinations. He began using alcohol and marijuana at age 12 and PCP and cocaine at age 17 "every other day" until he committed the life crime. From age 20 to the life crime, he reported smoking marijuana and consuming a gallon of brandy daily. At the time of this crime, Mr. Warren was "significantly intoxicated" and had been off his psychiatric medication for less than two weeks because he had forgotten to get the prescription refilled. In prison, he has been treated at the Correctional Clinical Case Management System level of care, but in 2013 he requested to transfer to the more structured Enhanced Outpatient Program to receive additional treatment and support to manage his symptoms. The 2015 psychologist noted that Mr. Warren "appears to do well in the highly structured prison system" and that his psychiatric symptoms appear "managed," but at his 2016 hearing Mr. Warren reported that he continues to hear voices despite being on medication. He described the voices as "mumble-like," but denied that they commanded him to do anything. The Board also noted that he has been compliant with treatment and believed he had "sufficient" skills to return to the community.

I am not convinced that Mr. Warren possesses the skills needed to live a violence-free, stable life in the community. The 2015 psychologist opined that Mr. Warren's insight into the crime and his psychiatric issues was "limited" and noted he had "virtually no insight" into his substance abuse in the community. The psychologist rated him an overall moderate risk of future violence due to his lack of insight and the uncertainty of his behavior in the community based on the fact that he "never lived successfully in the community for an extended period of time without returning to substance abuse which exacerbates his psychiatric symptoms." The psychologist noted, "While [his lack of insight] may be due to cognitive limitations and concrete thinking, it is prudent that he determine how to manage his free time and how to avoid substances if he has any hopes of succeeding on parole." The psychologist observed that Mr. Warren's parole plans did not provide the structure and support he would need in order to adjust to the community. The psychologist ultimately opined that his substance abuse and psychiatric symptoms, "coupled with already limited cognitive abilities, place him at risk to misunderstand situations and react impulsively." While I commend Mr. Warren's disciplinary-free behavior in prison, I am not willing to set aside the psychologist's concerns given Mr. Warren's very serious criminal history and the impulsiveness and violence of his crime.

I would also like the Board to consider a Static-99R prepared by the Division of Adult Parole Operations after Mr. Warren's parole hearing, which rated Mr. Warren a "high" risk of reoffending sexually in the future based on his 1986 rape conviction and his 1991 probation violation. The psychologist who evaluated Mr. Warren in 2015 also completed a Static-99R

assessment, but found he posed a “moderate-high” risk. Both of these scores, based on Mr. Warren’s history of violent and sexual conduct, reflect an elevated statistical likelihood that he will commit another sex crime. Paired with his limited insight and struggles with mental health and substance abuse, I do not think he can safely be released at this time.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Warren is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Warren.

Decision Date: May 20, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

MICHAEL ROTHWELL, C-10513
Second Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ **X**

STATEMENT OF FACTS

Michael Rothwell and Melissa Allen married in 1978, but lived separately at times due to Mr. Rothwell’s intermittent incarceration. Around December 1980, Mr. Rothwell was released from prison and they tried to repair their marriage. After his release, Mr. Rothwell periodically stayed beneath Ms. Allen’s duplex without her knowledge “covertly monitoring her activities.” On January 26, 1981, Ms. Allen’s friends, Charles Gregg and Michael Pierce, went to her duplex to take her to a substance abuse clinic. They knocked on the door, but she did not answer. A short time later, Mr. Pierce used a key to unlock her door. They were confronted by Mr. Rothwell who was pointing a cocked shotgun at them. Mr. Rothwell asked what they were doing and ordered the two men to the floor. Mr. Rothwell gave Mr. Pierce an electrical cord and ordered him to tie Mr. Gregg up. About 30 seconds later, Mr. Rothwell shot Mr. Pierce in the neck, killing him. Mr. Rothwell told Mr. Gregg he was tired of Mr. Pierce “messing with my wife.” In an attempt to spare his own life, Mr. Gregg told Mr. Rothwell where his car was parked and the location of the keys. Mr. Rothwell left, telling Mr. Gregg that if he tried to flee, he would shoot him. Mr. Rothwell fled and was arrested in Texas on August 19, 1982 after appearing on an FBI wanted list.

GOVERNING LAW

The question I must answer is whether Mr. Rothwell will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate’s pre- or post-incarceration history, or the inmate’s current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Rothwell suitable for parole based on his length of incarceration, lack of violence as a juvenile, current age, acceptance of responsibility, marketable skills, relapse prevention plan, and risk assessment.

I acknowledge Mr. Rothwell has been incarcerated for over 33 years, is 62 years old, and has made efforts to improve himself while incarcerated. He has participated in self-help programming including Alcoholics and Narcotics Anonymous, Domestic Violence Awareness, Victim Impact, Anger Management, and Criminals and Gangmembers Anonymous. He has recently completed a truck driving course and received positive work ratings. I commend Mr. Rothwell for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Rothwell's crime was vicious and cruel. After hiding out underneath Ms. Allen's duplex for at least two days, Mr. Rothwell bought a gun in order to kill Mr. Pierce because he assumed that Mr. Pierce was in a relationship with his wife. When Mr. Pierce arrived to take Ms. Allen to a substance abuse clinic, Mr. Rothwell callously shot him in the neck from close range, killing him. I note that Mr. Rothwell's crime had a devastating and long-lasting impact on Mr. Pierce's family.

Mr. Rothwell has an alarming history of violence. Prior to killing Mr. Pierce, he attempted to rape his former employer in 1973. Mr. Rothwell had completed yardwork for the victim and was invited into her home. Once inside, he pulled out a gun, forcibly removed her clothing, and when she refused his advances he "beat her severely about the head and face" causing her to lose consciousness. She "partially regained consciousness" and Mr. Rothwell told her to orally copulate him, but when she refused he "pulled a quantity of hair from her head and climaxed on her bare stomach." He was committed to Patton State Hospital as a mentally disordered sex offender, but eventually escaped. In his most recent psychological evaluation, Mr. Rothwell told the psychologist he "thought he removed the victim's shirt and believed he might have hit her a couple of times but did not believe he had removed any of his clothes." In 1978, Mr. Rothwell was convicted of assault with a deadly weapon after he got into an argument with his wife and hit her "with a crowbar several times." Additionally, his wife reported that he "frequently abused her, and had persuaded her into prostitution at some point in order to gain money for drugs." During his incarceration, Mr. Rothwell received several rules violation reports for violence including mutual combat in 1984, possession of an inmate manufactured stabbing weapon in 1985 for which he received an additional sixteen-month prison term to be served consecutive to his life term, threatening to "make a knife and slit the throat" of a correctional officer in 1986, mutual combat in 1990, and throwing a punch at an inmate in 2008.

I also do not believe Mr. Rothwell will be able to remain sober if released. Mr. Rothwell has a history of substance abuse that "had a significant negative effect on his life." He began drinking alcohol and using marijuana at 14 and injecting heroin in his early twenties for one and a half years on a daily basis. He has a previous conviction for driving under the influence and admits he drove intoxicated on other occasions, but did not get caught. Once in prison, Mr. Rothwell claims that he began snorting methamphetamine on a daily basis in the mid-1990s for approximately one year. He received rules violations reports for a positive urinalysis for cannabinoids in 1990, methamphetamine twice in 1994, and possession of alcohol in 1994. Mr. Rothwell has taken substance abuse programming for several years and told the psychologist in 2015 he had been sober since 1994. However, he tested positive for

methamphetamine in February 2016. This was after he was granted parole by the Board based, in part, on the steps he had taken to remain sober if released from prison. This very recent use of a serious drug alone demonstrates that Mr. Rothwell is not suitable for parole.

Mr. Rothwell needs to address his drug problem much more seriously if he wants to be released from prison. I direct him to stop using drugs, to fully engage in available substance abuse programming, and to further explore his extensive history of violence. Until he is committed and ready to live a life free of drugs and violence, he remains a risk to society. I urge the Board to fully consider this issue at his next hearing.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Rothwell is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Rothwell.

Decision Date: May 27, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

RUBEN DAVIS, C-23494
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

On December 10, 1979, Ruben Davis decided to rob an elderly man waiting at a bus stop. His plan failed when the intended victim got on the bus before Mr. Davis could approach him. Mr. Davis then attempted to rob an elderly woman, but she had no money. Mr. Davis next approached Paul Knight jogging down the street. He pointed his gun at Mr. Knight and demanded money, but Mr. Knight did not have any. Mr. Davis made Mr. Knight get on his knees and ordered Mr. Knight to perform oral sex. Mr. Knight refused and stood up. Mr. Davis tried to shoot Mr. Knight, but the gun misfired. Mr. Davis began to run away and Mr. Knight chased after and hit him. They began to fight. Mr. Davis shot Mr. Knight in the chest, and once more in the back as Mr. Knight tried to get away. Mr. Knight died at the hospital of cardiac arrest.

GOVERNING LAW

The question I must answer is whether Mr. Davis will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Davis suitable for parole based on his youth at the time of the crime, current remorse, marketable skills, positive self-help programming, and realistic plans for release.

I acknowledge that Mr. Davis' crime was committed when he was 16 years old, and that he has since been incarcerated for 36 years. Mr. Davis has described growing up in a dysfunctional family, and as a result, being pushed to join a neighborhood gang at 14. The psychologist who

evaluated him in 2015 wrote that Mr. Davis' "cognitive and emotional immaturity was likely a noteworthy factor" in his behavior at the time of his life crime. I also acknowledge that Mr. Davis has made some efforts to improve himself in prison. He has received vocational training, earned his GED, and has received satisfactory to exceptional work ratings while incarcerated. He has participated in some self-help programs, including Alcoholics Anonymous, Criminals and Gangmembers Anonymous, Stress Management, and Victim's Awareness. Staff members have commended Mr. Davis in the past few years for his positive programming and behavior. The 2015 psychologist concluded that Mr. Davis has made "good progress over the years in terms of personal growth, maturation, and insight." I carefully examined the record for evidence demonstrating Mr. Davis' increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole.

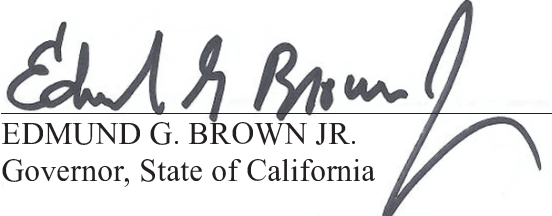
Mr. Davis' displayed a serious disregard for human life in committing this crime. He tried to rob two elderly victims at gunpoint, then shot and killed a stranger who was unable to evade him. I note that Mr. Knight's sisters attended his 2016 hearing and spoke movingly of the ongoing loss they experience as a result of Mr. Knight's death.

In 2012, I reversed Mr. Davis' parole grant based on the callous nature of his crime, his history of violence, gang participation, and criminal activity while incarcerated, and recent evidence of his continued involvement in trafficking narcotics. Although the parole board found him suitable for parole again in 2016, my concerns about releasing Mr. Davis have not been alleviated. The record indicates that he has a long history of violence, gang activity, and drug trafficking in prison. Reliable confidential reports indicate that Mr. Davis continued participating in drug sales even after he dropped out of the gang and was living in protective custody. Since my reversal, he was disciplined for possession of contraband in 2013, when staff searched his work desk and found a book with a hidden compartment carved into it. In light of Mr. Davis' many relatively recent years dealing drugs in prison, I am not inclined to believe his explanation that the altered book in his desk drawer next to his own personal property actually belonged to another inmate. The psychologist who evaluated him in 2015 concluded that his 2013 misconduct demonstrated some risk regarding his ability to follow the rules if released. Mr. Davis must show a more prolonged commitment to staying out of trouble before I am prepared to release him.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Davis is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Davis.

Decision Date: June 10, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JOE GONZALES, B-00288

1st Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On July 30, 1965, Joe Gonzales and his three crime partners attacked and robbed Jess Ontiveros, Juan Lujano, and Felix Cervin. Mr. Cervin fled to safety. Mr. Lujano was stabbed eight times, but survived. Mr. Ontiveros was stabbed several times and died the following day.

While serving a 7-to-life term for Mr. Ontiveros' murder, Mr. Gonzales joined the Nuestra Familia prison gang. By 1973, Mr. Gonzales had reorganized the gang and made himself First Captain, the gang's second in command. In 1978, he was convicted in Monterey County of three counts of murder and conspiracy to commit murder after he ordered the killing of inmates Richard Hernandez and Alejandro Moreno, and the murder of trial witness Gloria Rice. In 1982, he pled guilty to three counts of first degree murder in San Joaquin County following the murders of Jerry Blanco, and inmates Daniel Melendez and James Rodney Hollingsworth. He also pled guilty to conspiracy to commit murder following the homicides of Michael Rodriguez, Eddie Guinn, Randy Roff, Robert Consol, and Morrison Needham. Mr. Gonzales is currently serving seven concurrent 7-years-to-life sentences for murder and conspiracy to commit murder.

GOVERNING LAW

The question I must answer is whether Mr. Gonzales will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Gonzales suitable for parole based on his age, and because he has been discipline-free since 2002, claimed responsibility for his criminal conduct, expressed remorse, participated in self-help programming, has been in prison over 50 years, and has solid parole plans.

I acknowledge Mr. Gonzales has been incarcerated for nearly 51 years, is 75 years old, and has made efforts to improve himself while incarcerated. He has recently participated in self-help programming including Narcotics Anonymous, Dialectical Behavior Therapy, Breaking the Cycle, and Rage, Recidivism, and Recovery. He earned a GED in 1982 and consistently received positive work ratings. I commend Mr. Gonzales for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Gonzales' crimes were vicious. He came to prison in 1966 for robbing and brutally stabbing two men, leaving one of the men dead. Once inside, he increased the intensity and scope of his criminal behavior. He joined the Nuestra Familia, and in an effort to win a bloody "war" with the Mexican Mafia, he reorganized the gang into a paramilitary group. He also rewrote the constitution, naming himself the First Captain of the gang. Under the new constitution, the First Captain could order hits without the approval of the gang's leader. Mr. Gonzales exercised this authority and over the next 12 years, he contributed to escalating gang rivalry and violence inside and outside of the prisons.

Under the leadership of Mr. Gonzales, the Nuestra Familia warred with the Mexican Mafia as well as the Aryan Brotherhood. Between 1973 and 1978, Mr. Gonzales had 11 people killed solely to further the gang's criminal objectives. Michael Rodriguez was stabbed to death on August 25, 1973. Eddie Guinn was murdered on December 8, 1974. Randy Roff was stabbed to death on June 8, 1975. Robert Consol was killed at Duel Vocational Institute in October 1975 because he was the son of a rival gang member. Jerry Blanco was killed on December 18, 1976. On December 22, 1976, Alejandro Moreno, an alleged member of the Mexican Mafia, died after being stabbed 33 times. On New Year's Eve 1976, Gloria Rice, an innocent citizen, was stabbed 94 times for exercising her right to testify during the prosecution of her husband's murderer. Daniel Melendez was stabbed to death on April 28, 1977. On October 8, 1977, Morrison Needham was killed. James Hollingsworth was stabbed 37 times and died on June 2, 1978. Mr. Gonzales' actions showed no regard for the lives of others. His leadership decisions resulted in untold scores of victims.

Mr. Gonzales has never adequately explained why he engaged in such atrocious behavior for the benefit of the gang. He claimed he only joined the gang because he feared the Mexican Mafia and needed protection. He admits, "I put a lot of effort in the Nuestra Familia. . . you know, I ran it with—you know, I wasn't a nice person, but I did put a lot of effort into that." He purports to take responsibility for the savage violence he caused throughout the state of California, stating, "Indirectly, I am responsible for everything the NF did, the other, the other murders, the other robberies, because of my leadership position." He then minimized his culpability by stating, "Well, the captains in the streets had their own thing. They do hit orders, because of policy at the, at the NF."

But, Mr. Gonzales did not use the Nuestra Familia purely as a shield against rival gang members. As the gang's First Captain, he ordered the deaths of innocent victims like Gloria Rice. He also ordered the murders of young men like Richard Hernandez, an inmate and member of the Nuestra Familia, not the Mexican Mafia, who was stabbed 14 times before his murderers were found trying to slide his body under a cell bed. Daniel Melendez was also a fellow gang member

who was stabbed in prison after Mr. Gonzales learned that he was attempting to form his own gang. Further, Mr. Gonzales' statements neglect the fact that he personally drafted the policy that permitted the street captains to order their own hits.

Mr. Gonzales eventually dissociated from the gang in 1978. Thereafter, he cooperated with law enforcement officials, and he acknowledged his own culpability, even to the point that his statements were used to convict him, resulting in a 20-year federal racketeering term. I recognize and commend Mr. Gonzales for his "candid and forthright" cooperation and note the strong support he receives from the federal government. However, I cannot overlook his relatively recent misconduct and statements. Even after dropping out of the gang in 1978, he was disciplined three times for serious misconduct—twice for mutual combat. As recently as 2002, at age 60 and after 37 years of incarceration, Mr. Gonzales physically retaliated against an inmate who poured soap powder on plants in a prison garden. In 2016, he told the Board that he quit the Nuestra Familia because "People was being hurt, *some* needlessly, and I started to see that." This statement seems to show that he continues to believe that under some circumstances, violence is acceptable. Mr. Gonzales is responsible for an enormous level of violence that reached way beyond the prisons into many communities in California. His burden is to convincingly show that he no longer subscribes to such a criminal belief system and will never act violently again.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Gonzales is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Gonzales.

Decision Date: June 10, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

WOOD MATTHEWS, E-18117
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On September 11, 1991, Wood Matthews, John Horton, and Rashied Sims robbed Gary Gibson in the parking lot of a motel. When Mr. Matthews pointed his gun at Mr. Gibson's friend, Robin Steiner, Mr. Gibson tried to intervene. In the ensuing struggle, Mr. Gibson was shot 3 times in the chest and killed. One of the men also assaulted Ms. Steiner during the incident. The men fled in a vehicle.

GOVERNING LAW

The question I must answer is whether Mr. Matthews will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Matthews suitable for parole based on his current age, participation in self-help programming, and marketable skills.

I acknowledge that Mr. Matthews has been incarcerated for over 24 years, is 50 years old, and has made some efforts to improve himself in prison. He has participated in self-help programs including Alcoholics Anonymous, Domestic Violence Awareness and Prevention, Anger Management, and Criminals and Gangmembers Anonymous. Mr. Matthews routinely received satisfactory to above average work ratings, and earned vocational certification in upholstery. I commend Mr. Matthews for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Matthew's crime was senseless, and part of a string of violent acts. He robbed two strangers at gunpoint, ultimately leading to Mr. Gibson's unnecessary death. While he was still at large after the murder, Mr. Matthews walked into to the home of a female acquaintance in the early-morning hours. He told her that he had fantasized about having sex and asked if he could orally

copulate her. She repeatedly refused, yet he jumped on top of her, pinned her down on the couch, ripped her pants and underwear off, and orally copulated her. He tore a gold chain from her neck and attempted to rape her before leaving in a car that was waiting for him outside. Prior to these crimes, Mr. Matthews already had an extensive criminal history as a juvenile and as an adult. He has been convicted of robbery, burglary, resisting arrest, battery, cocaine sales, and multiple thefts.

Mr. Matthews' violent conduct has continued in prison. He has been disciplined 13 times for serious misconduct. In 1995, Mr. Matthews got in a fight with another inmate. In 1998, he was disciplined for being under the influence of alcohol. In 2006, Mr. Matthews fought with another inmate in the prison chapel. In 2008, Mr. Matthews fought with two other inmates, refused to follow orders to stop and get down to the ground, and corrections officers had to deploy pepper spray to subdue him. In 2009, he became agitated during a random search, would not calm down, spun around toward the officer searching him, refused to follow orders to get down, and again had to be sprayed multiple times with pepper spray before officers were able to restrain him. Most recently in 2011, Mr. Matthews admitted fighting with three other inmates. Given his lengthy history of crimes and violent acts both in and out of prison, I cannot be assured that Mr. Matthews will be able to abstain from violence if he is released. Mr. Matthews must do more to show that he can avoid committing violent acts for a prolonged period.

Mr. Matthews' 2014 psychological assessment supports my concerns. The psychologist determined that he was an overall moderate risk for future violence, and a moderate-high risk for sexual recidivism. Noting violence while in prison, the psychologist concluded that the "the lack of stabilizing factors," and "unresolved pro-criminal attitudes" are all risk factors for violence for Mr. Matthews. I would like to see a longer period of stable behavior from Mr. Matthews before he is released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Matthews is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Matthews.

Decision Date: June 10, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JOSHUA WORSTELL, K-74436
Second Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ **X**

STATEMENT OF FACTS

Joshua Worstell lived with his 44-year-old girlfriend Christina Kemp. On June 29, 1997, Mr. Worstell and Ms. Kemp got into an argument. The fight escalated, and Mr. Worstell grabbed a telephone cord and strangled Ms. Kemp until she was unconscious. He then slit her throat with a razor. After Ms. Kemp regained consciousness, Mr. Worstell went to the garage and got a two-foot long saw to finish killing her. Mr. Worstell returned with the saw and cut her throat twice until the saw hit bone, killing her. The cut to Ms. Kemp's throat was so severe that her head was "partially detached" from her body. Police responded to reports that Mr. Worstell was inside his house threatening to kill himself and saying he had cut his girlfriend's head off. Mr. Worstell refused to surrender. After a lengthy negotiation, a SWAT team introduced a chemical gas inside the residence and Mr. Worstell was arrested.

GOVERNING LAW

The question I must answer is whether Mr. Worstell will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Worstell suitable for parole based on his lack of a violent criminal history, lack of violence in prison, remorse, acceptance of responsibility, self-help programming, vocational and educational achievements, relapse prevention plan, grasp of his mental health and need for treatment, and parole plans.

I acknowledge Mr. Worstell has made efforts to improve himself while incarcerated. He has only been disciplined once for serious misconduct in 2003. He has participated in self-help groups, including Alcoholics and Narcotics Anonymous, Anger Management, Managing Mental Illness, and Alternatives to Violence. Since my reversal in 2015, he has also participated in the Long Term Offender Pilot Program, Victim Impact, Denial Management, and Domestic

Violence Awareness. He has received positive work ratings, completed vocational training, and received commendations from staff. I commend Mr. Worstell for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Worstell's crime was absolutely horrific. Following a trivial argument, he brutally slaughtered his girlfriend by strangling her and slitting her throat with a razor, and then partially decapitated her with a two-foot long saw. Mr. Worstell disturbingly claims that he used the saw to finish killing Ms. Kemp so she would not suffer. This level of violence is exceedingly rare and extremely hard to comprehend.

I reversed the Board's 2014 parole grant because of the vicious nature of the crime, Mr. Worstell's unstable mental state, and his need for additional sustained compliance with his treatment plan and medication regimen. I also commended Mr. Worstell for his recent efforts to gain a better understanding of his mental disorders and how to manage them. Although the Board found Mr. Worstell suitable for parole again, my concerns have not been alleviated.

Mr. Worstell has a long, serious history of mental instability. He was first placed on an involuntary psychiatric hold at age 22 after experiencing auditory hallucinations and delusional thoughts. At the time of this crime a year later, Mr. Worstell reported that he was "having cognitive distortions and delusions" and was hearing the voices of Ms. Kemp and another man planning their relationship, which led him to nearly cut his girlfriend's head off. Since his arrival in prison, Mr. Worstell has consistently received mental health treatment. He has been placed in a Mental Health Crisis Bed on more than one occasion during his incarceration, and his "fluctuating and deteriorating psychiatric condition" has also required three administrative transfers to the Department of State Hospitals for more intensive inpatient treatment. He was hospitalized from 2002 to 2003, again in 2005, and most recently from 2011 to October 2012. In 2014, Mr. Worstell reported hearing voices, and suffering from paranoia, delusional thinking, mania, and depression. Most recently, at his 2016 hearing when asked how often he hears voices and has paranoia and delusional thinking he responded, "usually on a regular basis." However, he assured the panel that it was something he was used to and could manage with medication.

While Mr. Worstell has made progress understanding his mental illness and how to manage his symptoms, I believe there is more work to be done. I am encouraged to see that Mr. Worstell has not been hospitalized for intensive inpatient treatment since 2012, has enrolled in additional self-help programming, and is currently complying with his medication regimen. I also acknowledge that the 2016 panel believed Mr. Worstell understood his mental illness and would comply with treatment if released. However, Mr. Worstell admittedly only fully began to grasp his mental illness and how to treat it in 2012. Additionally, the 2014 psychologist noted that Mr. Worstell did not "articulate an optimal level of insight into the underlying causes of his controlling offense or a wide-ranging understanding of his diagnosed mental illness." The psychologist also had concerns about future non-compliance with medication given his "historically intermittent lack of compliance," and concluded that non-compliance "would put him at high risk for violence." Given the psychologist's concerns, Mr. Worstell's extended mental health history, and its connection to this the extraordinarily violent crime, I believe he needs more time to show he has a deep understanding of his mental health and will comply with his treatment plan.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Worstell is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Worstell.

Decision Date: June 17, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

RENE ENRIQUEZ, H-69471
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

Rene Enriquez joined the Mexican Mafia in 1985 while serving prison terms for armed robbery and forcible rape. Over the years, he became a leader in the organization. While on parole in 1989, Mr. Enriquez suspected that one of his subordinate drug dealers, Cynthia Galvador, was shorting buyers by keeping drugs for herself. To set an example, Mr. Enriquez gave an associate a gun and ordered him to kill Ms. Galvador. On December 23, 1989, Ms. Galvador was driven to a secluded area and executed. She was shot once in the head and once in the chest.

On December 30, 1989, Mr. Enriquez carried out a contract hit on David "Pelon" Gallegos, a disfavored Mexican Mafia member. Mr. Enriquez injected Mr. Gallegos with heroin several times, attempting to kill him with an overdose. After Mr. Gallegos lost consciousness, Mr. Enriquez and other gang associates put Mr. Gallegos in a car and drove him to the home of other Mexican Mafia members to show them that Mr. Enriquez was carrying out the hit for the gang. They then drove to a deserted area. Mr. Enriquez dumped Mr. Gallegos in an alley and shot him in the back of the head five times with a .38 caliber pistol.

Mr. Enriquez was arrested in 1990 for 15 counts of robbery. On July 16, 1991, Mr. Enriquez, Benjamin Peters, and Salvador Buenrostro were handcuffed in an attorney room at the Los Angeles County Men's Central Jail. Mr. Enriquez and Mr. Peters used makeshift keys to remove their handcuffs. They attacked Mr. Buenrostro with inmate-manufactured weapons. When officers responded to the scene, Mr. Enriquez turned toward the officers with his weapon in his hand and said, "This has nothing to do with you. Stay away." They continued to stab Mr. Buenrostro until officers were able to incapacitate them. Mr. Buenrostro sustained 26 stab wounds but survived.

Mr. Enriquez is currently serving three concurrent life terms for two counts of second degree murder and one count of assault with a deadly weapon.

GOVERNING LAW

The question I must answer is whether Mr. Enriquez will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-

incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Enriquez suitable for parole based on his insight, cooperation with law enforcement agencies, risk assessment, and participation in self-help programs.

I acknowledge that Mr. Enriquez has made efforts to improve himself. He dropped out of the Mexican Mafia and has testified about the structure and organization of the gang many times. He earned the appreciation of many prosecutors and law enforcement entities for his willingness to provide information and testify despite risk to his personal safety. He maintains some support in the community. He has not been disciplined for misconduct since 2004. Since I reversed his grant of parole last year, Mr. Enriquez has participated in a few self-help programs: Criminal and Addictive Thinking, Cage Your Rage, Anger Management, and Restorative Justice. I commend Mr. Enriquez for taking these positive steps, but they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Enriquez ordered the murder of Ms. Galvador, shot Mr. Gallegos in the head, and stabbed Mr. Buenrostro nearly 30 times. These crimes are examples of how Mr. Enriquez enhanced his personal status in the gang, but they are far from the only examples in Mr. Enriquez's record. Mr. Enriquez has been convicted of burglary, forcible rape, and more than 20 counts of armed robbery. He has been disciplined many times for serious misconduct in prison, including for trafficking drugs, fighting, physical and sexual assault on an inmate, and stabbing an inmate. Mr. Enriquez trafficked large amounts of narcotics into prison and pioneered a way to use and control a vast network of violent drug dealers and gang members outside the prison walls. Although he has not been convicted of additional murders, attempted murders, or criminal conspiracies, there is no doubt he is personally responsible for much more devastation. Ms. Galvador's family members spoke movingly at Mr. Enriquez's recent hearing about their enduring loss and pain.

It is clear that Mr. Enriquez is knowledgeable about of the nature of the gang and the use of violence to achieve its goals. But he has not yet articulated an adequate understanding of what made him so eager to adopt such a violent lifestyle. He purported to take full responsibility for "promoting the philosophies of the organization" and "embracing the violence." But when pressed to discuss the reasons behind his own actions, he explained, primarily in generalities, "That's the nature of the Mexican Mafia. The Mexican Mafia, it's a violent entity. It feeds on violence. It necessitates violence in order to bolster its reputation. And as a member you participate in that violence." He told the Board that he "gravitated towards the lifestyle" because he had low self-esteem, "liked being a rebel," "enjoyed" the feeling of drugs, had a sense of entitlement, and a desire for control. He claimed that he wanted to be "cool" like his brother and was seeking acceptance. Once in prison for the first time, he said he was "flattered" by the invitation to join the "very elite group" of the Mexican Mafia and that he wanted the "mythic"

level of respect the members received from other inmates. He admitted that he “readily joined,” “embraced the abyss of violence,” and “enjoyed the sense of power,” yet he professed that he knew “from early on” that he was going to leave the gang, but that he “just didn’t know how to do it.”

Mr. Enriquez blames the gang for his own choices and for his many years of extremely violent gang leadership. But his explanation—gang members are violent because gangs are violent—is a truism. Mr. Enriquez did not participate in the violence just because it was expected of him. He personally molded and shaped the Mexican Mafia’s expectations of its members and expanded the gang’s reach outside the prison. Over and over again, he made independent decisions to turn away from his “normal,” “upper-middle-class” upbringing to become a leader of one of the most dangerous gangs in America. His claim that he knew “early on” that he would leave the gang is absurd—he continued participating in violent gang activity for years and carried out these murders a decade into his membership. Mr. Enriquez made a career of sophisticated gang warfare. His claims about having low self-esteem, a sense of entitlement, and a desire for control are not enough to explain why he sought to champion such violence and to do so in a leadership capacity.

I remain concerned about the dearth of adequate housing plans for Mr. Enriquez. Because of his conviction for forcible rape, Mr. Enriquez’s address will be posted on the internet. He remains an active target for the Mexican Mafia and there are many who would go to great lengths to attack Mr. Enriquez because of his high-profile status as a gang dropout. This would pose significant danger to any who live nearby. While the various plans articulated by Mr. Enriquez attempt to address these concerns, no plan has materialized to date. There is absolutely no evidence that Mr. Enriquez has actually been accepted into any federal or state witness protection program, that he will be transferred to another state that does not require the public posting of his address, or that other steps have been taken to conceal Mr. Enriquez’s location in a way that effectively mitigates this danger.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Enriquez is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Enriquez.

Decision Date: June 30, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JENNIFER MAYER, W-83797

Second degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Jennifer Mayer and her boyfriend lived with their three-year-old son, Zechariah. On January 20, 1998, Ms. Mayer called 911 because Zechariah was not breathing. When the responding officers arrived, they found the toddler lying in bed; he was pale, cold, and not breathing. Officers observed that Zechariah appeared dirty, extremely thin, had a diaper full of blood, several deep scratches on both cheeks in various stages of healing, an open wound on his chest that had not healed properly, abnormally long and dirty finger and toe nails, a large bald spot on the back of his head, sunken eyes, and visible ribs. Paramedics did not attempt to resuscitate Zechariah, concluding it would be futile. The cause of Zechariah's death was determined to be severe chronic malnutrition and neglect. The autopsy revealed that at the time of his death, Zechariah weighed 19 and one-half pounds, was 31 and one-half inches tall, and had a head size equal to that of an average 12-month-old child. His weight-to-height ratio placed him below the fifth percentile, indicating severe malnourishment. Zechariah also had severe chronic diaper rash, muscular atrophy, and minimal body fat. No food or other solid products were found in his stomach. A doctor testified that she did not believe that Zechariah could walk or crawl due to the lack of muscle mass, and his hair loss suggested that he had spent the last days of his life in one position. The investigation revealed that Ms. Mayer had callously made comments to her co-workers that she hated Zechariah and wished he had never been born.

GOVERNING LAW

The question I must answer is whether Ms. Mayer will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Ms. Mayer suitable for parole based on her acceptance of responsibility, remorse, lack of serious prison misconduct, lack of a criminal history, self-help participation, vocational achievements, sustained mental stability, family support, insight, and increased maturity.

I recognize that Ms. Mayer committed this crime when she was 21 years old and that she has since been incarcerated for over 18 years. I acknowledge that Ms. Mayer had some instability in her life while growing up. She reported that she began experiencing symptoms of a serious mental illness when she was 8 years old, suffered low self-esteem and social anxiety as a result, and began using substances to self-medicate. Ms. Mayer said that she was hospitalized twice as a teenager following suicide attempts, and discontinued therapy and medication after the second hospital discharge. She stated that she had two abusive relationships as a teenager, one of which was with her much older crime partner who was emotionally and sexually abusive. The psychologist who evaluated Ms. Mayer in 2016 opined that “[i]t appears possible that her susceptibility to David’s influence and inability to extricate herself from the relationship may have contributed in some ways to the life crime.” I also acknowledge that Ms. Mayer has made some efforts to improve herself in prison. She has not been disciplined for serious prison misconduct, has received positive work ratings, and has completed vocational programs. She has participated in some self-help programming, including Alcoholics and Narcotics Anonymous, Victim Impact, and Self-Esteem. I carefully examined the record for evidence demonstrating Ms. Mayer’s increased maturity and rehabilitation, and gave great weight to her diminished culpability as a young person, the factors related to her youthfulness at the time of this crime, and her subsequent growth in prison during my consideration of her suitability for parole.

Ms. Mayer’s crime was heartbreaking. She allowed her child to suffer a slow and tortured death over his three-year life. Although her mother and the child’s doctor expressed concerns about Zechariah’s weight, Ms. Mayer failed to properly feed and care for him. At the time of his death, Zechariah was dirty, severely malnourished, and had muscular atrophy. Doctors did not think that Zechariah could walk or crawl because he was so weak. Several neighbors testified that they did not even know that Ms. Mayer had a child before his death. Zechariah’s senseless death occurred because Ms. Mayer utterly failed in her duty as a mother to care for him.

Ms. Mayer has not accepted full responsibility for her role in Zechariah’s death. Her explanation for her neglect and failure to notice her son’s shocking physical condition is not credible. Ms. Mayer told the psychologist who evaluated her in 2016 that her boyfriend cared for Zechariah while she worked, and she was not aware that her son was being neglected or that he was underweight or malnourished. She explained that at the time of her son’s death, she was very sick due to her pregnancy with her second child, “very mentally ill,” “delusional,” and “counting on David to take care of Zechariah.” She stated, “I didn’t see how bad it was, I really didn’t. I don’t have another explanation.” At her hearing, Ms. Mayer reported, “In my mind I believed I was a good mother...I was extremely delusional. I have no other excuse.” She explained that she “was delusional in thinking that God would take care of [Zechariah],” and she “was hearing voices” that would tell her that Zechariah had already eaten. Ms. Mayer also claimed that she

did feed Zechariah and went so far as to say, “[H]e began thriving while I was caring for him and he went—he deteriorated after I went [back] to work.”

These explanations do not add up. First, Ms. Mayer’s claim that her son thrived for the first year of his life is simply not true. It was only after Zechariah’s doctor and a public health nurse intervened early in his life—when the baby was not growing because he was “grossly malnourished”—that his development improved until he was approximately 15 months old. And Ms. Mayer’s claim that she did not notice that Zechariah was malnourished or neglected is hard to believe. Although Zechariah’s father was his primary caretaker, Ms. Mayer said that she actively cared for him when she was not working. She must have noticed and understood how thin, immobile, and weak he was.

The psychologist opined that Ms. Mayer’s mental illness “does little to explain the months of neglect which ultimately resulted in his death.” Ms. Mayer was rated a “moderate” overall risk of future violence, in part because “[h]er insight into the causal factors of the life crime, and her role in particular is not well developed...It seems likely that she is in denial of her own role in neglecting Zechariah which resulted in his death.”

It is clear that for an extended period of time, neither Ms. Mayer nor her boyfriend provided even a minimally adequate level of care for their child. Before I could conclude that Ms. Mayer is ready to be released, she must explain far better what role she took in feeding, bathing, and caring for Zechariah. Ms. Mayer should reflect deeply on what it was that led her to treat Zechariah in the way she did.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Ms. Mayer is currently dangerous. When considered as a whole, I find the evidence shows that she currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Ms. Mayer.

Decision Date: June 23, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

GARY WESLEY, C-23599
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On July 12, 1980, Gary Wesley met Ralph Savoie at a bar where they drank and ingested LSD. Mr. Wesley agreed to leave the bar and to go to Mr. Savoie's apartment. While at the apartment, Mr. Wesley stabbed Mr. Savoie 56 times with a large kitchen knife. Afterwards, Mr. Wesley inserted a broom handle into Mr. Savoie's rectum, and kicked the broom until the 3-foot-long handle went through Mr. Savoie's abdomen and hit the interior of his chest. Mr. Wesley then orally copulated Mr. Savoie's corpse, washed himself, and went to a bath house. Mr. Savoie's naked and bloody body was discovered by the apartment building's manager several hours later and was covered with stab wounds, many as deep as 5 inches.

GOVERNING LAW

The question I must answer is whether Mr. Wesley will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Wesley suitable for parole based on his remorse, acceptance of responsibility, insight, positive work reports, age, participation in self-help programming, and his use of mental health services when appropriate.

I acknowledge that Mr. Wesley is 63 years old and has been incarcerated for over 35 years. He has not been disciplined for serious misconduct since 1984. He has completed vocational training and routinely received positive work ratings. He has participated in self-help programs, including Alcoholics and Narcotics Anonymous, Thinking Errors, and Victim Awareness. I commend Mr. Wesley for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

It is difficult to overstate the level of violence Mr. Wesley unleashed when he viciously stabbed Mr. Savoie over 50 times, impaled him with a broom handle, and orally copulate his corpse. Whatever the motive for this heinous attack, these shocking actions show a particularly disturbing and callous lack of respect for human life.

In 2014, I reversed Mr. Wesley's parole grant based on the horrific nature of the crime, his inadequate explanation for brutally stabbing a stranger to death and defiling his corpse, and his elevated risk ratings. The Board found him suitable for parole again in 2016, but my concerns remain.


Mr. Wesley has yet to adequately explain what led him to murder Mr. Savoie. At his 2016 hearing, Mr. Wesley said that he "exploded" on the night of the crime and had "[y]ears of repressed anger," "shame," and "guilt." He stated that he was an angry person because his mother failed to protect him from being sexually abused as a child and because she rejected his "gay lifestyle" as an adult. He suggested that it was entirely possible that he had a hallucination that his mother was berating him for being gay just before the murder. Mr. Wesley explained that he had a pattern of getting drunk and hallucinating "seeing my mother and having drunken conversations with her," but believes that he was violent on this single occasion because "it was the drugs that released this." These statements do not account for the extreme level of violence exhibited in this horrendous crime. Too many people experience trauma and abuse as children, and many do not feel accepted by their parents. However, even under the influence of alcohol and drugs, they could never bring themselves to stab someone over 50 times, brutally impale anyone, or sexually defile a corpse.

The psychologist who evaluated Mr. Wesley in 2015 observed, "His insight into the Life crime is poor. Additionally, his failure to explain or discuss his sexually deviant behavior during the Life crime is concerning." He rated Mr. Wesley a "moderate-high" risk of sexual recidivism and an overall "moderate" risk of violent recidivism. Mr. Wesley must demonstrate a better understanding of what led him to commit this brutal and abhorrent murder before I can be assured that he will refrain from violence in the future. I encourage Mr. Wesley to dedicate significant effort to addressing this issue to show that he is ready to be released from prison.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Wesley is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Wesley.

Decision Date: June 30, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

WILLIAM HITE, H-92183
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

On August 22, 1992, William Hite climbed over the backyard fence of the home of his ex-girlfriend, Fredrica Haymaker. Ms. Haymaker called her neighbor, off-duty LAPD Detective Edward Kislo, and asked him for help because she thought someone was in her backyard. Mr. Kislo and his friend armed themselves and rushed over to Ms. Haymaker's home. Detective Kislo entered the backyard, approached the bushes, extended his gun outward, and announced, "This is the police. Show yourself." Mr. Hite was hiding in the bushes and shot Detective Kislo once in the neck with a .9 mm handgun, killing him. In the weeks prior to Detective Kislo's murder, Mr. Hite had stated that he was going to kill "that cop across the street" and that he would "blow away" anyone he found in Ms. Haymaker's backyard.

GOVERNING LAW

The question I must answer is whether Mr. Hite will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Hite suitable for parole based on his age, his medical issues, and his positive programming in prison.

I acknowledge that Mr. Hite was recently diagnosed with Parkinson's Disease and is now 75 years old. He has been incarcerated for over 23 years. I also acknowledge that he has made some efforts, especially in recent years, to rehabilitate himself while in prison. Mr. Hite has routinely received above average work ratings, and has been frequently commended by staff for his work performance, and model behavior. Mr. Hite has participated in substance abuse treatment, and has taken self-help classes, including Anger Management, and Victim's Awareness. I commend Mr. Hite for taking these positive steps, but they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

The murder of Detective Kislo was senseless and cruel. Detective Kislo was trying to be a good neighbor and protect Ms. Haymaker, who had already been violently abused by Mr. Hite, when he was shot in the neck without reason or warning by Mr. Hite. Mr. Hite had stated in the past his intention to kill Detective Kislo, and deliberately entered Ms. Haymaker's backyard without permission and waited in the bushes, where he ambushed Detective Kislo.

Mr. Hite severely downplays his violence against his romantic partners. The appellate decision notes that Mr. Hite's relationship with Ms. Haymaker "had been a troubled one, marked by [Mr. Hite's] extreme jealousy and suspicion." She reported that he forced her to play Russian roulette. He had threatened her with a gun on several occasions and accused her of being "interested in other men." He had confronted another neighbor he suspected was having a relationship with Ms. Haymaker and he shot Detective Kislo because of his "jealousy turned irrational fear." This was not the first relationship in which he abused his partner. The investigating officer spoke to Mr. Hite's first wife, who reported that Mr. Hite knocked out her teeth and refused to let her go to the dentist. She described him as a "sociopathic liar." She testified in the murder trial that Mr. Hite was "extremely volatile and violent throughout the course of their ten-year relationship" and that he frequently hit, kicked, and beat her because he suspected she was unfaithful. She reported that Mr. Hite once threw a knife at her because his dinner was not ready and pressed a pillow over her face until she nearly lost consciousness on several occasions. He timed her trips to the supermarket and, if he felt she took too long, would force her to undress and would physically examine her for the presence of semen. He isolated her from her family and friends and caused permanent hearing loss and the loss of two of her teeth.

Despite the evidence in the record, Mr. Hite told the Board at his recent hearing that he had slapped his first wife only on one occasion and that he also slapped Ms. Haymaker once, after she slapped him first. Only when the commissioner asked him directly did he acknowledge his first wife's teeth were knocked out when she "fell" or that he examined her for sexual activity. He denied ever threatening Ms. Haymaker with a gun and explained that he was simply unloading it in front of her, but not pointing it at her. Later in the hearing, Mr. Hite acknowledged, "I'm a very jealous and controlling person. ... I've always been that way. It's a bad character defect that I have." His plan to avoid such violence in the future is simply not to be in a relationship. "It will never work," he said.

I am not at all convinced that Mr. Hite has addressed his pervasive pattern of domestic violence or that his plan of not getting into any future relationships is a realistic one. He must do more to show that he understands the gravity of his conduct and has a reasonable plan in place to address his habit of abusing the women in his life.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Hite is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Hite.

Decision Date: July 22, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ARTHUR HULSE, B-33433
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Arthur Hulse was a 16-year-old prospect to join the Sons of Satan motorcycle gang. On June 1, 1970, Mr. Hulse, Steven Hurd, and five others were using Seconal, and decided to commit a robbery. Mr. Hulse armed himself with a hatchet and the group found a gas station to rob. Mr. Hulse and Mr. Hurd entered the gas station and told the attendant, Jerry Carlin, that he was being robbed. Mr. Carlin gave them \$40 and then Mr. Hurd and Mr. Hulse forced him into the bathroom. Mr. Carlin begged, "Don't hurt me. I've been robbed twice before." Mr. Hulse then repeatedly struck Mr. Carlin with the hatchet in the upper portion of his chest and head until he felt Mr. Carlin's skull cave in, killing him. Blood and pieces of Mr. Carlin's scalp were splattered all over the walls inside the restroom. Mr. Carlin's skull was crushed and there were cuts across his throat.

On June 3, 1970, Mr. Hurd and Christopher Gibboney set out to find a car to steal. They returned with the car of Florence Brown, a school teacher and mother of young children. Mrs. Brown's dead body was inside the car. She had been stabbed 21 times in the back by Mr. Hurd and Mr. Gibboney. The men then drove the car to an orange grove where Mr. Hulse, Mr. Gibboney, and two other men dug a shallow grave and buried Mrs. Brown's body. An autopsy revealed that her heart, both lungs, right arm, and right breast had been removed after her death in a surgical-like manner.

GOVERNING LAW

The question I must answer is whether Mr. Hulse will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Hulse suitable for parole based on the length of his incarceration, his age at the time of the crime, and his parole plans.

I acknowledge that Mr. Hulse committed his crime when he was 16 years old, and that he has been incarcerated for over 46 years. Mr. Hulse had a very unstable home life. His mother was a paranoid schizophrenic who experienced “catatonic and erratic behaviors,” forcing him to physically and emotionally care for himself and his younger brother. He began having problems in school and associating with a negative peer group. As a result, he began using drugs and alcohol, became addicted to barbiturates, and had an overdose. He was admitted to a psychiatric hospital and eventually expelled from school. Two weeks before Mr. Hulse committed these crimes, he began associating with the Sons of Satan. The psychologist who evaluated Mr. Hulse in 2014 found that “his poor coping skills, chronic substance addictions, immaturity (young age), and highly impressionable personality led to particularly shocking crimes.” Mr. Hulse is now 63 years old, has serious health issues that prevent him from walking independently, and has been classified as totally medically disabled since 1998. Mr. Hulse has not been disciplined for any serious misconduct since 1998, and has participated in self-help programming, including Alcoholics Anonymous, Critical Thinking, Victim Offender Education, and Long Term Commitment. I commend him for continuing to take these positive steps, and gave great weight Mr. Hulse’s youth at the time of the crime, unstable childhood, and his increased maturity and rehabilitative efforts. I also took into account Mr. Hulse’s length of incarceration, current age, and medical issues. However, despite these considerations, I believe he continues to be unsuitable for parole.

Mr. Hulse’s crimes are gruesome and horrifying. He and members of the Sons of Satan robbed a gas station and Mr. Hulse viciously beat the gas station attendant with the blunt end of a rusty hatchet until his skull caved in. Less than 48 hours later, Mr. Hulse helped bury the body of Mrs. Brown, who had also been brutally slaughtered by Sons of Satan members. The actions of Mr. Hulse and the Sons of Satan had a devastating and long-lasting impact on the families of Mr. Carlin and Mrs. Brown.

Last year, I reversed the decision to parole Mr. Hulse because of his inability to explain his particularly gruesome crimes, and his minimization of his own responsibility for them. Nothing that Mr. Hulse has said or done in the intervening year has reduced these concerns, or convinced me he is ready to be paroled. Multiple times during his most recent hearing Mr. Hulse tried to downplay his role in the murder of Mr. Carlin. When first asked by the panel if he intended to kill Mr. Carlin, Mr. Hulse said, “At first I tried not to.” He said he was “trying to knock him out.” He also denied that he “pulverize[d]” Mr. Carlin’s head. Only after repeated questions by the panel did Mr. Hulse admit that he did, in fact, intend to kill Mr. Carlin. Even then, he claimed he killed Mr. Carlin because he “just didn’t know how to say no to [Mr. Hurd].” Mr. Hulse then said he “didn’t want to hurt anybody,” but felt like he did not have another “way out.” Mr. Hulse’s deliberate and extremely violent actions contradict these statements. Mr. Hulse still is unable to sufficiently explain why he so readily committed murder at Mr. Hurd’s request, and

why he was so desperate for the approval of the Sons of Satan. Mr. Hulse's continued minimization of these crimes makes him a risk for future violence.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Hulse is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Hulse.

Decision Date: July 22, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

PAUL THOMAS, C-35852
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Early on December 25, 1980, George Fredericks was to meet up with his cocaine supplier, Lon Roper, to repay a \$1,500 drug debt. Mr. Fredericks asked Paul Thomas to accompany him to his meeting with Mr. Roper, and they discussed robbing or killing him. Mr. Fredericks promised to pay Mr. Thomas \$100 for his help and asked him to bring a gun to the meeting. Mr. Fredericks and Mr. Thomas met Mr. Roper at a convenience store at the agreed-upon time and drove him to an isolated area. After the three men got out of the truck, a shootout occurred. Mr. Roper was hit 8 times and died. Mr. Fredericks and Mr. Thomas then stole Mr. Roper's wallet, picked up and disposed of the bullet casings, and dumped the body in a nearby ditch. Mr. Thomas later threw his gun into a lagoon and a box of ammunition into the ocean.

GOVERNING LAW

The question I must answer is whether Mr. Thomas will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Thomas suitable for parole based on his current age, expression of remorse and accountability, participation in self-help programming, and marketable skills.

I acknowledge that Mr. Thomas has been incarcerated for more than 35 years, is 58 years old, and has made some efforts to improve himself in prison. He has participated in self-help programs including Alcoholics Anonymous, Narcotics Anonymous, Native American 12-step programs, Nonviolent Communication, Alternatives to Violence, and Veterans in Prison. Mr. Thomas routinely received average to exceptional work ratings, earned vocational certifications in graphic arts and silk screening, and earned his paralegal certificate. I commend Mr. Thomas

for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole


Mr. Thomas' motivation for his crime was remarkably petty. He agreed to accompany Mr. Fredericks, a man he had just met about one month before, for the promise of \$100. Mr. Thomas had never even met Mr. Roper before. Mr. Thomas and Mr. Fredericks had discussed robbing Mr. Roper a few days before, but they decided to murder him instead. Mr. Thomas agreed to undertake the murder as the "enforcer," bringing his gun because Mr. Fredericks would not be carrying one.

I am also deeply concerned that Mr. Thomas' pattern of violent, controlling, and threatening behavior has continued in prison. He disobeyed orders, was hostile to officers, and even attempted to escape from San Quentin in 1985. In 1990, he was disciplined for continually harassing his then-wife and family. Confidential records, including documents dated February 11, 1991, and December 10, 1990, make clear that Mr. Thomas' unwanted communications were much more than mere harassment and were in fact serious threats. In 1999, he conspired with three others outside the prison to extort the state by refusing to disclose the whereabouts of ammunition in the prison unless Mr. Thomas was released. In 2004, he was disciplined for mutual combat. In 2006, other inmates reported to staff that they were afraid of Mr. Thomas. In 2007, he was disciplined for blocking sweat lodge access to inmates due to their crimes or sexual orientation. Finally, in 2015, Mr. Thomas' brother wrote the prison's Investigative Services Unit to request that Mr. Thomas not be permitted to call or write him, as Mr. Thomas had been threatening him by phone and mail regarding a possible inheritance. This recent conduct makes it clear that Mr. Thomas has not reformed. He must do more to show that he is willing to abide by the rules and cease his violent and threatening behavior.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Thomas is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Thomas.

Decision Date: July 22, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

LESLIE VAN HOUTEN, W-13378

First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

In the late summer of 1968, 19-year-old Leslie Van Houten met Charles Manson and began living at Spahn Ranch. She was one of the youngest members of his cult, known as “the Family.” Manson believed that a civilization-ending war between the races—Helter Skelter—was imminent, and that the Family would emerge from hiding in the desert at the end of the war to take control of the world. By 1969, the Family’s members, including Van Houten, ardently embraced Manson’s apocalyptic and warped worldview. According to former Family member Barbara Hoyt, “preparing for Helter Skelter physically, mentally, financially was the all-pervasive fabric of Manson Family daily life.” They went “creepy crawling” at night, committing auto thefts and residential burglaries, in preparation for Helter Skelter and the Family’s relocation to the desert. Manson eventually came to believe that the Family would have to trigger the race war by committing atrocious, high-profile murders of white victims to incite retaliatory violence against black people. *See People v. Manson* (1976) 61 Cal.App.3d 102, 127-30. At some point, Manson approached Van Houten and asked her “if she was crazy enough to believe in him and what he was doing.” She responded, “Yes.”

On August 9, 1969, several Family members carried out the gruesome murders of Abigail Folger, Wojciech Frykowski, Jay Sebring, Steven Parent, and the eight-month pregnant Sharon Tate. Van Houten did not participate in the Tate murders, but she heard about them the next day from the news and Family members and reported that she felt “left out.”

On August 10, 1969, Manson instructed Van Houten and other Family members that the murders the previous night had been “too messy.” Manson told them they were going out again that night and he would show them how it should be done. As instructed by Manson, Van Houten took a change of clothes with her in case her clothes got bloody. At Manson’s direction, Linda Kasabian drove Manson, Van Houten, Charles “Tex” Watson, Patricia Krenwinkel, Susan Atkins, and Steve Grogan around for hours, making stops to allow Manson to locate potential murder victims. The group eventually stopped at the home of Rosemary and Leno LaBianca.

Manson entered the LaBianca home, tied up the couple, and returned to the car with Mrs. LaBianca’s wallet. His plan was to plant the wallet in an area with a large African-American population so they would be blamed for the murders, which in turn would initiate the race war. Manson told Van Houten, Krenwinkel, and Watson to go into the house.

Once inside the LaBianca home, Watson told Van Houten and Krenwinkel to take Mrs. LaBianca into her bedroom and kill her. Krenwinkel retrieved knives from the kitchen and gave one to Van Houten. Van Houten put a pillowcase over Mrs. LaBianca's head and wrapped a lamp cord around her neck. Mrs. LaBianca could hear the guttural sounds of her husband being stabbed to death by Watson in the other room. She grabbed the lamp and tried to escape, but Van Houten knocked the lamp out of her hands and wrestled her back to the bed. Van Houten then pinned Mrs. LaBianca down while Krenwinkel stabbed her. Krenwinkel stabbed Mrs. LaBianca with so much force that the knife blade bent on Mrs. LaBianca's collarbone. Van Houten summoned Watson for assistance, and he came in the room with a bayonet. Watson stabbed Mrs. LaBianca several times with the bayonet and then handed a knife to Van Houten and told her to "do something." Van Houten said she "felt" Mrs. LaBianca was dead at that point, but she "didn't know for sure." She continued stabbing Mrs. LaBianca at least 16 times. Mrs. LaBianca was stabbed a total of 41 times according to autopsy reports. Mr. LaBianca had 13 stab wounds, in addition to scratches, and 14 puncture wounds from a carving fork which was left sticking out of his stomach. A knife was also found protruding from his neck. The word "War" was scratched on his stomach.

After the murders, Van Houten thoroughly wiped away fingerprints from the house while Krenwinkel painted "Death to the Pigs" on a wall in the living room, "Rise" over a door, and "Healter (sic) Skelter" on a refrigerator door using Mr. LaBianca's blood. Van Houten changed into Mrs. LaBianca's clothes and drank chocolate milk from the LaBianca's refrigerator before leaving. Back at Spahn Ranch, she burned Mrs. LaBianca's clothes and counted the money taken from the home. According to Family member Dianne Lake, Van Houten told her that "she had stabbed a woman who was already dead, and that the more she did it the more fun it was."

While the residents of Los Angeles and the surrounding areas remained in terror, Van Houten hid out for over two months at a remote location in Death Valley hoping to seek refuge in the "bottomless pit" and fulfill Manson's prophecy. She was not arrested until November 25, 1969.

GOVERNING LAW

The question I must answer is whether Van Houten will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) In rare circumstances, the aggravated nature of the crime alone can provide a valid basis for denying parole even when there is strong evidence of rehabilitation and no other evidence of current dangerousness. (*Id.* at pp. 1211, 1214.)

DECISION

The Board of Parole Hearings found Van Houten suitable for parole based on her age at the time of the crime, length of incarceration, lack of violent crime as an adult, educational and vocational accomplishments, self-help programming, lack of disciplinary history, credibility, detailed

relapse prevention plan, “tremendous” level of insight, acceptance of responsibility, remorse, consistent risk assessments placing her at a minimal risk of violence, and parole plans.

Van Houten was only 19 years old when she perpetrated these heinous murders. Accordingly, I must give great weight to her “diminished culpability...as compared to adults,” “hallmark features of youth,” and “subsequent growth and increased maturity.” (Pen. Code, § 4801, subd. (c).) The record reveals that prior to joining the Manson Family, Van Houten led a “privileged” life. She reported being raised “comfortably” in the middle class by her father, an automobile auctioneer, and her mother, a homemaker. She sang in the choir at her Presbyterian church, went to the youth fellowship, and enjoyed church camp every summer. In high school, several classmates described Van Houten as “popular.” She was homecoming princess twice, class secretary, and a participant in Campfire Girls and Job’s Daughters. She was tested and found to have “a superior I.Q. in the top five percent of the United States.” She also began to experience some instability in her life following her parents’ divorce when she was 14. She reported that her parents’ relationship was “mismatched” and her mother “married down” and was “embarrassed” by her father’s drinking. Following the divorce, Van Houten indicated that she felt abandoned by her father and angry with her mother. She rebelled by using drugs and had a self-induced abortion sometime during the second trimester of her pregnancy at age 17. However, even after this, she was able to graduate from high school. She attended a business college for a year and became a certified legal secretary. Shortly after receiving her certification, Van Houten went to San Francisco where she met fellow Family members, Bobby Beausoleil and Catherine Share. She traveled throughout the state with them before ultimately moving to Spahn Ranch. She lived on the Ranch for nearly a year before the Tate-LaBianca murders.

Van Houten has now been incarcerated for 46 years. She is 66 years old and has made efforts to improve herself. The psychologist who evaluated her in 2016 noted that during Van Houten’s imprisonment, she has “developed greater maturity, independence, and responsibility” and has “led a pro-social lifestyle.” She has never been disciplined for serious misconduct during her incarceration. She earned her bachelor’s and master’s degrees and has received exceptional work ratings as a tutor for the past decade. She also received positive commendations from staff. She has participated in numerous self-help programs including Alcoholics and Narcotics Anonymous, Victim Offender Education Group, and Emotions Anonymous. I carefully examined the record for evidence of her diminished culpability and youthful characteristics at the time of the crime, and her subsequent growth in prison. I gave these considerations great weight when assessing her suitability for parole. However, they are outweighed by negative factors that demonstrate she remains unsuitable for parole.

These exceptionally gruesome murders committed by Van Houten and the Manson Family remain some of the most notorious crimes in American history. As the sentencing judge stated, “[T]his case is a special one. It will burn in the public consciousness for a long period of time.” The crimes abruptly put an end to an era defined by the “Summer of Love” and the hippie movement, replacing ideas of peace and love with widespread fear and panic throughout California that reverberated long after the murders. The shocking nature of the crimes left an indelible mark on society. The motive—to trigger a civilization-ending race war by slaughtering innocent people chosen at random—is equally disturbing. While the murders at the Tate and

LaBianca residences are the most well-known murders committed by the Manson Family, members of the Family are also responsible for other murders including Gary Hinman and Donald “Shorty” Shea. There is no indication that Van Houten was part of these murders; however, she played a central role in the LaBianca murders. She chose to enter the LaBianca home, brutally stabbed Mrs. LaBianca numerous times, and then helped clean up the scene and dispose of evidence. The devastation and loss experienced by the LaBianca family and all the victims’ families continues to affect their lives to this day. As our Supreme Court has acknowledged, in rare circumstances, a crime is so atrocious that it provides evidence of current dangerousness by itself.

But the murders alone are not the only evidence that Van Houten remains unsuitable for parole. Van Houten’s explanations for why she joined the Manson Family and her willingness to engage in violence do not account for the gravity of her crimes. When asked by the psychologist in 2016 about her choice to join the Family and participate in its activities, Van Houten cited her lack of “real consequences” for her misbehavior growing up, feelings of abandonment by her father, anger towards her mother, the trauma of her abortion, her modest coping skills, and her substance abuse. She stated these made her vulnerable to manipulation by the “charismatic and pernicious personality” of Manson. She told the psychologist that when the Family’s focus shifted from drugs to violence, she expressed a desire to leave, but was “unable to” because Manson had taken a dominant role in her life and she felt powerless. She reported that she ultimately “surrendered to him.” At her 2016 hearing, Van Houten supplemented those explanations. She spoke about how life at the Ranch “had become a capsule, like we were isolated” and she did not “see a way out.” She explained that Manson’s established control combined with her drug use prevented her from questioning him. She said, “I wanted to surrender my life to someone. And I believed that he was an extraordinary person. And I didn’t believe I had or I didn’t see that I had alternatives.” With respect to her involvement in the LaBianca murders she told the psychologist, “I really wanted out and there was no way out.” She further told the Board she stabbed Mrs. LaBianca, “Because Tex told me to and I knew I needed to do something.” She stated that while Watson was stabbing Mrs. LaBianca she was “just staring” into the den and she “wasn’t really conscious.” She explained that she was in a state of disarray after the murders and “was pretty much following Tex’s lead” and “making sure that I did what he wanted me to do.”

Van Houten’s statements give the false impression that she was a victim who was forced into participating in the Family without any way out. As former Family member Barbara Hoyt explained at Van Houten’s 2013 hearing, the acceptance of new members into the Family “was a two-way street.” She observed that people “came and went at will” and said that she herself left twice. However, Van Houten never left. Van Houten admitted during cross-examination at trial that she liked being a member of the Family from the time she joined. She lived on the Ranch for nearly a year prior to the murders and participated in the “creepy crawling” outings. She fully subscribed to Manson’s ideas and supported the use of violence to further the Family’s goals. Even after her arrest and physical separation from Manson, she continued to endorse his beliefs by acting out in the courtroom, shaving her head, and placing an “X” on her forehead during trial to symbolize that she had “removed [herself] from society.”


Van Houten also characterizes herself as less culpable for her actions because she was merely following orders from others during the LaBianca murders. But she was far from a passive or unwilling participant. In a 2007 letter, Ms. Hoyt described, "There were several people who lived with the Manson family who despite believing that Charlie was Jesus Christ, that despite fearing the coming of the end of the world in Helter Skelter, despite the cult techniques of indoctrination chose not to harm others even if it meant not surviving Helter Skelter. There was also a group of family members who couldn't wait to kill. Leslie was in the latter group." Van Houten has admitted that she had thought about the possibility of killing someone for "quite a while" and had determined, after weighing the consequences, that she "could" kill another human being. She watched and listened carefully to demonstrations given by Manson about how to kill people. The morning after the Tate killings, she saw news coverage about the murders and talked to the perpetrators. She knew exactly what had happened and still begged to be a part of the murders that night. She entered the LaBianca's home, "cognizant of her surroundings," and made the choice to stab Mrs. LaBianca over and over. Then she covered up the crime scene by wiping away fingerprints, drank chocolate milk from the refrigerator, and changed into Mrs. LaBianca's clothes before leaving. Back at the Ranch, Van Houten bragged about the murders by telling another member that stabbing was "fun." These are not the actions of someone who was in a state of disarray and "wasn't really conscious." They are actions of someone who had trained to kill, weighed the consequences of her actions, and executed them. Even two years after the murders, when interviewed by a psychologist, Van Houten admitted that, although she had no present desire to kill anyone, she would have no difficulty doing it again.

It remains unclear how and why Van Houten drastically transformed from an exceptionally smart, driven young woman, class secretary and homecoming princess, to a member of one of the most notorious cults in history and an eager participant in the cold-blooded and gory murder of innocent victims aiming to provoke an all-out race war. Both her role in these extraordinarily brutal crimes and her inability to explain her willing participation in such horrific violence cannot be overlooked and lead me to believe she remains an unreasonable risk to society if released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Van Houten is currently dangerous. When considered as a whole, I find the evidence shows that she currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Van Houten.

Decision Date: July 22, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

SAMUEL EVANS, D-89387
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Around 3:00 a.m. on March 22, 1986, San Bernardino Sheriff's Office responded to a call initially thought to be a hysterical citizen in distress. The officers arrived and found 8-months-pregnant Jill Evans at the bottom of an embankment lying partly out of the passenger door of her car with her head bloodied, and a hydraulic jack on top of her head. Officers also encountered Deputy Sheriff Samuel Evans, their colleague and Mrs. Evans's husband. Mr. Evans was on the side of the road covered in blood. He told officers that he placed the call because Mrs. Evans had been in an accident. Mrs. Evans was transported to the hospital where she died of massive skull fractures and lacerations to the brain. Doctors performed a caesarean section but were unable to save the twins Mrs. Evans was carrying; the two fetuses were stillborn.

California Highway Patrol officers who responded to the scene determined that Mrs. Evans's car had not actually sustained sufficient damage to cause a fatality or dislodge the hydraulic jack that was found lying on top of her head. During the investigation, defensive wounds were discovered on Mrs. Evans's body. Further, incise wounds caused by a sharp or cutting edge were found on her face. However, there was no glass breakage or interior damage to her vehicle. After failing all polygraph questions related to the discovery of his wife, Mr. Evans reluctantly told officers that he struck Mrs. Evans with his service revolver twice before she fell to the ground whereupon he struck her five or six more times. He explained that Mrs. Evans had confronted him regarding an extramarital affair and tried to strike him with a jack handle. The prosecuting attorney concluded that Mrs. Evans's murder was not a heat of passion crime, but was "clearly premeditated." Mr. Evans was found guilty by jury verdict of three counts of first degree murder.

GOVERNING LAW

The question I must answer is whether Mr. Evans will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Evans suitable for parole based on his age, participation in therapy, positive work reports, lack of prison misconduct, lack of any prior criminal history, acceptance of responsibility, and development of an adequate understanding of his character flaws.

I acknowledge that Mr. Evans has been incarcerated for more than 30 years, is now 61 years old, and has made some efforts to improve himself in prison. He has never been disciplined for misconduct. He earned an associate degree in general studies. He participated in individual and group therapy, and recently participated in Alternatives to Violence. I commend Mr. Evans for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Evans's crime was a callous act of cold-blooded murder. He beat his wife to death with his service revolver because she confronted him about an extramarital affair. Despite his claims that he simply lost control, Mr. Evans had multiple opportunities to abandon the prolonged assault on his 8-months-pregnant wife. After beating her, he attempted to make it appear that she died in a car accident by placing her inside her vehicle, sending it over an embankment, and then beating her again when he realized she was not dead. Although he knew that murdering Mrs. Evans would be fatal to the twins, he made no effort to save the unborn babies. Family, friends, and over 3,000 members of the community have voiced the pain and suffering they continue to feel due to the murder of Mrs. Evans and the twins.

Contrary to his assertions at his recent parole hearing, Mr. Evans's violent attack on his pregnant wife was not an anomaly. In an earlier relationship, he threw his girlfriend's poodle against a wall causing serious bladder issues. During Mr. Evans's service in the United States Marine Corps and as a deputy sheriff, he repeatedly responded to situations with unwarranted violence. He admits kicking a fellow Marine in the chest, rendering him unconscious. He admits that he received at least three or four citizen complaints concerning his use of excessive or unnecessary force. He recounted that he was suspended from the Sheriff's Office for three days after he kicked an inmate in the chest. On another occasion, a captain reported that Mr. Evans went into an inmate's cell to "teach him a lesson" resulting in multiple injuries to the inmate. On another occasion, Mr. Evans used his service baton to hit a minor in the knee after the minor was already in handcuffs. On another occasion, he used his baton to break a detainee's arm and ankle during an arrest. Regarding the beating of another arrestee, he reported, "I had come very close to killing him." The investigation into Mrs. Evans's murder disclosed that his colleagues at the sheriff's department characterized him as a deputy with a "short temper," who was "overly aggressive."

Mr. Evans does not fully understand and has not adequately addressed his tendency to resort to violence. He explained that he became angry with his wife on the night of her murder because she had been following him, had called him a liar, had demanded that he quit his job, and had discussed marital issues with her mother and friends. These common marital problems do little to explain why he repeatedly beat his wife in the head, intending for her and his children to die

on the side of the road, and do not account for his history of violently abusing his privilege and authority. He told the Board that he murdered his wife because he “lost control,” but that he never “similarly lost control” or experienced “similar emotion” prior to murdering his wife. I’m not sure this is true. Either he lost control on the numerous other occasions that he committed serious acts of violence against fellow Marines, animals, inmates, detainees, and others, or he committed these acts in full control of his actions and emotions – indicative of an even more troubling cruel and vindictive character. I note that Mr. Evans has participated in few anger management programs and find that he requires further introspection and relevant programming. Without further reflection and understanding of his violent proclivities, I do not believe that he is prepared to live differently in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Evans is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Evans.

Decision Date: August 12, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

GARY GRAY, D-37440
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On April 20, 1984, Michael Perrin and Gary Gray walked up to a stranger, Raul Lopez, on a footbridge. Mr. Perrin and Mr. Gray cornered Mr. Lopez against the railing and took a grocery bag out of his hands. They grabbed Mr. Lopez by his arm and leg, held him over the edge, then threw him head first off the bridge. Mr. Lopez fell 28-feet to his death.

GOVERNING LAW

The question I must answer is whether Mr. Gray will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Gray suitable for parole based on his length of incarceration, current age, increased maturity, acceptance of responsibility, educational and vocational upgrades, positive work ratings and staff comments, risk assessment, and parole plans.

I acknowledge that Mr. Gray is 66 years old, has been incarcerated for over 32 years, and has made some efforts to improve himself while incarcerated. He received positive remarks about his work ethic and performance. He participated in self-help classes, including Alcoholics Anonymous, Opportunity for Change, and Transformation. He earned a second GED and completed vocational training. I commend Mr. Gray for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Gray's crime was callous and cruel. He didn't think twice about approaching a total stranger, taking his bag of groceries, and throwing him over a bridge to his death without any provocation. Mr. Gray claims that at the time, he "just figured that maybe that the river would

save [Mr. Lopez],” despite the fact that the distance from the bridge to the river below was over two and a half stories. The fact that Mr. Gray could commit such a heartless act is disturbing.

I am concerned that Mr. Gray’s plan for refraining from violence is inadequate. He reports that his decisions are driven by the probability of negative consequences, but his actions suggest otherwise. He said that he threw Mr. Lopez over the bridge “Just to get – we figured I could get away with it, I believe. And I just picked him up and tossed him over the bridge.” But he admits that there was a witness to his crime and that he was immediately arrested. Similarly, in 2009, he committed a battery on another inmate despite the foreseeable penalty. He told the psychologist, “I let the rage get a hold of me. [It was a] spur of the moment thing.” When the Board asked why it was important not to get disciplinary reports, he said, “Because it looks bad on my – when I come to the Board it looks bad when I go for an interview like for a job somewhere.” He claimed that he has now learned “how to not act on my first response” and pause “to realize, wait a minute, this is not worth all this argument, it’s not worth all this get a 115 over me being angry.” I am not convinced. The psychologist observed, “perhaps the goal for individuals like Mr. Gray should be for him to control his psychopathic urges.” Because the fear of consequences has not been enough to prevent him from committing violence in the past, Mr. Gray must show that his fear of negative repercussions will not be the sole guide for his daily conduct. If Mr. Gray is released, there will be far less supervision of his behavior. He must have a more comprehensive plan to control himself without the intervention of others if released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Gray is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Gray.

Decision Date: August 12, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JACKIE SKEELS, W-18458
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Jackie Skeels was in a long-term relationship with Virgil Brown and lived with him. It was widely known that Ms. Skeels disliked Mr. Brown's son, Steven. She told others that she thought he was a "brat" who caused problems for her own two children, often "joked" about "someone going to 'beat the shit out of him' before he got home," and "bragged" about having beaten him with a belt. Ms. Skeels did not like that Steven called her "mom" or "mommy" and she told a girl in the neighborhood that Steven "caused too many fights" between her and Mr. Brown and that every time they fought, it was about Steven. She declared that she would not marry Mr. Brown "if his son was still present."

According to the appellate decision and Probation Officer's Report, a year and a half to two years before this crime, Ms. Skeels first mentioned to Michael Cooper, a teenager in the neighborhood, that she wanted to kill Steven. Mr. Cooper ultimately agreed to help because "she was a friend." Ms. Skeels told Mr. Cooper that she had attempted to kill Steven previously by putting rat poison in his food. On at least two occasions in June and July 1982, Mr. Cooper asked another friend to help drown Steven in a canal. The friend refused to get involved. Ms. Skeels suggested that the San Joaquin River would be a good place to kill Steven and asked Mr. Cooper to solicit his older brother to kill Steven. She offered to pay someone to commit the murder and debated various means of carrying out the killing. Approximately three months before the murder, a mentally ill neighborhood girl, Lupe Gonzalez, also started to participate in "serious discussions of the murder." The three discussed their plans weekly. On one occasion about two or three weeks before the crime, Mr. Cooper and Ms. Gonzalez took Steven to a canal, conspiring to push him in and then jump on top of him. Ms. Gonzalez put sweatpants over Steven's head and then removed his pants. They abandoned their plan because there were joggers nearby and when they returned to the house with Steven, Ms. Skeels was surprised and told them she had already notified Mr. Brown that Steven was missing.

When nine-year-old Steven returned home from school on August 23, 1982, Ms. Skeels, Mr. Cooper, and Ms. Gonzalez took him to the river. Ms. Skeels told Mr. Cooper and Ms. Gonzalez to look for something heavy to use to hit Steven over the head, "If you can knock him out then it will be easier to drown him." Ms. Gonzalez struck him on the head with a large log, but it was waterlogged and did not injure Steven. Ms. Skeels and the others somehow induced Steven to get into the water to go swimming. The three encircled him and sang "Happy Death Day to

You” before jumping on Steven. Ms. Skeels held Steven under water by the hair and under the arms; Ms. Gonzalez grabbed his feet; and Mr. Cooper held his shoulders. Ms. Skeels pinched Steven under his arms to make him gulp water. Steven struggled underwater for five minutes before he became motionless.

Ms. Gonzalez and Mr. Cooper carried Steven’s body to a hiding place and they got into Ms. Skeels’s car. They drove to a nearby store and fabricated a tale of Steven’s disappearance. Ms. Skeels told police that the child had become separated from her at the store. Police, along with Ms. Skeels and Ms. Gonzalez, searched the area for hours. Mr. Brown was summoned from work, and television stations aired the news of Steven’s disappearance. In the subsequent days, the search involved helicopters and diving teams. Detectives contacted all of Steven’s friends and associates and a reward fund was established. For five weeks, the search for the missing child continued. Ms. Skeels eventually concocted a plan to ensure the body would be found. She told Mr. Cooper that she wanted Steven’s body to be found “so that everything, specifically her relationship with Virgil Brown, could return to normal.” On September 30, 1982, Ms. Skeels joined a search party, along with a psychic. She left the group for fifteen minutes, then returned, hysterically crying, saying she psychically heard Steven’s voice calling to her, saying “Daddy, find me. Daddy, I’m here. Find me.” She led the group to the body and said, “He’s somewhere in here. He’s somewhere in here.” They found Steven’s badly decomposed body in the area where Ms. Skeels had waved her arms.

GOVERNING LAW

The question I must answer is whether Ms. Skeels will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate’s pre- or post-incarceration history, or the inmate’s current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give “great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner” when determining a youthful offender’s suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Ms. Skeels suitable for parole based on the length of her incarceration, lack of other violent criminal history, remorse, acceptance of responsibility, age, psychological evaluation, participation in self-help courses, parole plans, and lack of violent misconduct in prison.

I acknowledge that Ms. Skeels was only 22 years old when she killed her boyfriend’s nine-year-old son. She was described at sentencing as very immature and told the Board that she was angry because she was abused as a child and thought the world was “out to get” her. Her father, who she described as her protector, died when she was only eight years old. She began getting into trouble for lying, running away, using drugs and alcohol, cheating, and theft as a young

teenager. She was married for the first time at 17. She had problems in relationships and regularly threw fits to get attention. At the time of the crime, Ms. Skeels was unemployed and living off of her boyfriend's income along with child support. She has now been incarcerated for nearly 34 years and is 56 years old. She earned her GED and completed several vocational training programs. She has participated in self-help groups including Victim Awareness, Anger Management, Family Relationships, and Alternatives to Violence. She has been described as motivated and a role model and has not been disciplined for serious misconduct since 1991. I carefully examined the record for evidence demonstrating Ms. Skeels's increased maturity and rehabilitation, and gave great weight to all the factors relevant to her diminished culpability as a youthful offender, her youthfulness at the time of this crime, and her subsequent growth in prison during my consideration of her suitability for parole. However, they are outweighed by negative factors that demonstrate Ms. Skeels remains unsuitable for parole.

The cruelty Steven had to face over his short life is heartbreaking. He was just a young boy when the person he considered his stepmother plotted to kill him for over a year and then convinced teenagers in the neighborhood to help carry out her murderous plan. It is difficult to imagine the terror this nine-year-old must have faced when Ms. Skeels and the others sang about killing him or his panic while he was struggling for his life while she and the others held him under the water. Even after this terrible crime, Ms. Skeels had the temerity to mislead the police to allow a massive hunt for the dead boy and tried to manipulate everyone to escape prosecution. All this was done so that she could be the center of Mr. Brown's life.

Apart from the heinous nature of her crime, it is troubling that Ms. Skeels has yet to provide an explanation adequate to assure that she has overcome the issues that led her to commit it in the first place. She told the 2012 psychologist that she committed Steven's murder because she was insecure and wanted "to be the sole person in Virgil's life." She told him that she was self-centered and that she had a "constant need for attention" and a "non-caring attitude." She noted, "I knew not protecting him was wrong, [I] didn't allow myself to feel it. She told the Board that she saw Steven as an "obstacle" to getting her "emotional needs met" by way of Mr. Brown's undivided attention. She described that she felt an "extreme need to control" and that she resented being put into the role of a responsible adult and parent.

The psychologist found that Ms. Skeels "demonstrated satisfactory, but not comprehensive insight" and opined that her "level of insight is not a current risk factor." I must disagree. She must do more to show that she has overcome the callousness that led her to plot for an extended period to kill a young child. It is clear that Ms. Skeels was an immature woman, but plenty of young adults feel out of control in their parental roles or would prefer not to assume responsibility for their charges. Her apparently overwhelming desire for her boyfriend's undivided attention also does not explain why she thought to kill the child. Contrary to her statement to the psychologist, nothing about her actions indicate that she simply failed to protect Steven. She was the one he needed to be protected from. The mere presence of the boy and her desire for attention from her boyfriend caused Ms. Skeels to come up with a very deviant plan that she carried out without qualms. Until she can better explain why she turned to such a violent solution, I do not think she should be released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Ms. Skeels is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Ms. Skeels.

Decision Date: August 12, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ROBERT THOMPSON, C-59244
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

A little after midnight on September 9, 1982, Robert Thompson and his girlfriend Jacqueline Meadows walked into the emergency room with three-year-old Rolanda Meadows, Jacqueline's daughter. A doctor determined the child was dead on arrival. Rolanda's body was bruised from her pelvis to her neck, and on her arms there was almost no area that was unbruised. One of her arms had an indentation that looked like a hand had been holding it. There was a water line across her body and she had second degree burns on her feet, ankles, genitalia, buttocks, and back.

Mr. Thompson admitted that he whipped Rolanda with a leather belt two or three dozen times earlier that afternoon, but said that afterward she appeared "normal." He claimed that Rolanda accidentally burned herself some six hours earlier when she climbed into a bathtub of hot water. He reported that after taking Rolanda out of the bathtub, he removed burnt skin from her body by peeling and cutting it off with a razor. He then tied Roland spread eagle to the bed because she was squirming. A medical examiner determined that the cause of death was extensive hemorrhaging due to blunt force trauma, which was augmented by fluid loss from the burns.

GOVERNING LAW

The question I must answer is whether Mr. Thompson will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Thompson suitable for parole based on his current age, length of incarceration, absence of violence since incarceration, lack of significant criminal

history, expressions of remorse, acceptance of responsibility, recent self-help programming, vocational upgrades, risk assessment, and parole plans.

I acknowledge that Mr. Thompson's crime was committed when he was 22 years old and that he has since been incarcerated for nearly 34 years. At the time he beat and burned Rolanda to death, he was a young and inexperienced parent, depressed, frustrated, and dealing with unresolved issues from his own childhood. His mother was 15 years old when he was born, and his father was largely absent and unsupportive of the family. When his father was home, he was intoxicated and would argue regularly with his mother; often these arguments became physical. His mother was also physically abusive towards Mr. Thompson and his siblings. In 2014, the psychologist noted that Mr. Thompson "developed traits of a Narcissistic Personality Disorder and underlying feelings of resentment and anger due to many factors with a genesis in his childhood. These were the largest underlying issues in his commission of the life crime." Mr. Thompson has made some efforts to improve himself in prison. He completed vocational training in customer service and network cabling, and recently participated in Parenting/Family Violence, Anger Management, and Alternatives to Violence. I carefully examined the record for evidence demonstrating Mr. Thompson's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his age at the time of this crime, his diminished culpability as a youthful offender, and his subsequent growth in prison. While he has commenced on a more positive path in recent years, I am still concerned with Mr. Thompson's explanation of what caused this violent and hateful behavior.

Mr. Thompson's crime was unconscionable—he tortured a three-year-old girl to death. He claims that he became angry when Rolanda wandered off while he was teaching her the alphabet. He disrobed and hit her at least two or three dozen times with a leather belt. When the toddler escaped his grasp and tried to hide under a table, he dragged her out and hit her three or four more times. He told the investigating officers that he did not always strike her on the buttocks and may have hit her in the head because she was squirming and running away from him. A short time later, he ran an extremely hot bath and held Rolanda in the water. When he removed her from the tub, he saw that the skin on her feet, buttocks, and genital area was starting to fall off. Instead of taking Rolanda to the hospital, which was just two blocks away, Mr. Thompson and Rolanda's mother proceeded to peel and cut the burned skin with a razor blade. Afterwards, Rolanda was tied to the railings of a bed where she died.

I am concerned by Mr. Thompson's explanation of why he committed this horrible crime. He told the psychologist in 2014 that he was experiencing a lot of stress, including economical, educational, emotional, and moral issues and that he was just not ready to be a father to his own recently born daughter or his girlfriend's three children. He explained, "I didn't see things crumbling around me; I didn't want to see the crisis around me." He told the Board in 2016, "the monster I became, I had monsters always around me beating me and hurting me. The methods I used were methods I learned from my mother, my grandmother." He also said that "all the things that I was internalizing as a child just all came out in a bad way." While I recognize that Mr. Thompson's upbringing was fraught with difficulty, including corporal punishment, I do not believe that these statements account for the cruelty he inflicted on Rolanda. As he noted at the hearing, his upbringing was not "unique." Many experience abuse as children and do not grow

up and beat, burn, cut, and tie down their own children. Further, Mr. Thompson recounted childhood experiences involving unhealthy disciplinary measures, not instances of torture. Mr. Thompson has only recently begun taking relevant self-help programs. He should continue in his efforts to understand himself and his actions so that he is able to provide a more comprehensive explanation of how he came to impose such suffering and anguish on an innocent child.

I am also concerned that Mr. Thompson is minimizing the intentionality of his conduct. He told the Board that Rolanda “leaped over the tub and got her feet into the tub and she said, hot, I said, no, and I grabbed her and I set her down in the tub. She hollered out and screamed and it was at that time that I realized that the hot water was still running. I hadn’t regulated any cold water in the tub. It burned her instantly because . . . [I had previously] turned the temperature way up on the thermostat on the water heater.” He claims, “it was a matter of seconds. It wasn’t even – I set her down, she screamed and I looked over her shoulder to see that she was burnt and I pulled her out.” Mr. Thompson gives the false impression he was acting as a good dad, a conclusion that is not consistent with his actions, common sense, or witness statements. The examining emergency room doctor testified that the burns were obviously not flash burns as there were no areas of flash. Mr. Thompson knew that the hot water in the home was abnormally hot. Rolanda informed him that the water was too hot. Mr. Thompson’s brother, who testified against him at trial, told police officers that he went to the house around 5:00 p.m. – seven hours before they showed up at the hospital – heard Rolanda crying, and saw Mr. Thompson holding her in the tub. He said he heard his brother tell Rolanda to be quiet. A deputy medical examiner testified that the burn areas were consistent with those one would have if placed in water and held in that position. I urge Mr. Thompson to reflect more deeply on his actions and to give a more honest account at his next hearing.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Thompson is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Thompson.

Decision Date: August 12, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JOEVONE ELSTER, E-38375
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

Joevone Elster worked for a gas station for two months before being fired in early March 1988 for double billing customers' credit cards. Later that month, Mr. Elster solicited Patrick Carr, Van Wilson, and Leslie Holget to help him rob the gas station when the owner's brother, Masih Madani, arrived to bring the profits to the bank. They went to a parking lot near the gas station to wait for Mr. Madani multiple times, but Mr. Madani either didn't come or they decided not to proceed. On March 31, Mr. Elster, Mr. Carr, Mr. Wilson, and Mr. Holget met again in the parking lot and waited for Mr. Madani. Mr. Holget was armed with a .44 magnum and Mr. Carr was armed with a .25 caliber handgun. When Mr. Madani left the station they followed Mr. Madani's car and used their cars to box him in. Mr. Wilson and Mr. Holget approached Mr. Madani and demanded money at gunpoint. After taking about \$2,000, Mr. Wilson and Mr. Holget drove off in Mr. Madani's car and Mr. Elster fled in another car. Mr. Madani flagged down off-duty Inglewood Police Sergeant George Aguilar. Sergeant Aguilar pursued Mr. Wilson and Mr. Holget and called for backup. Sergeant Aguilar pulled alongside the stolen car, attempted to cut it off, and shouted several times out the window that he was a police officer. Mr. Holget fired shots through the back windshield, hitting Sergeant Aguilar. Sergeant Aguilar was transported to a hospital, where he died from his gunshot wounds.

GOVERNING LAW

The question I must answer is whether Mr. Elster will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Elster suitable for parole based on his age at the time of the crime, acceptance of responsibility, remorse, current age, and disciplinary record.

I acknowledge that Mr. Elster's crime was committed when he was 22 years old. He told the 2015 psychologist that he experienced a turbulent childhood, including physical and sexual abuse at the hands of his family members. He reported that he felt excluded from his family and ultimately turned to his brothers' gang associates for acceptance. I also acknowledge that Mr. Elster has made some efforts to improve himself in prison. He has never been disciplined for any misconduct during his 28 years of incarceration. Mr. Elster routinely received satisfactory to above average work ratings, and earned his associate's degree and several vocational certifications. He participated in self-help programs including Criminals and Gangmembers Anonymous, Anger Management, and Criminal Thinking and Behavior. I carefully examined the record for evidence demonstrating Mr. Elster's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a youthful offender, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole.

Mr. Elster's crime was very deliberate. He carefully planned the robbery of his former employer, recruited gang members and drug dealers to help him, and set in motion events that led to the shooting and killing of a long-time veteran of the Inglewood Police Department. This was not an impulsive crime; Mr. Elster gathered his crime partners together several times in advance to practice robbing Mr. Madani before they ultimately pulled him out of his car at gunpoint. The subsequent police chase and shooting of Sergeant Aguilar was a foreseeable outcome of Mr. Elster's calculated robbery plan. I note that over the years, Sergeant Aguilar's family, friends, and colleagues have expressed the ongoing anguish they feel as a result of his death.

Mr. Elster must better explain how he came to "mastermind" this robbery which directly led to the killing of a police sergeant. The 2014 psychologist wrote that Mr. Elster "cited, in a rather self-serving manner, that his desire was to feed and care for his family." He told the Board in 2016 that he committed this crime because he was greedy and selfish, he looked up to his brothers' gang friends, and he hadn't come to terms with his childhood sexual abuse. He reported that although he knew Mr. Madani wouldn't be armed and although he "didn't want anybody – anyone to get shot," he "recruited gang members because I knew...they would have weapons." When the Board asked Mr. Elster if he didn't bring his own gun because he intended for his partners to do his "dirty work," he responded, "Yes." He explained, "I was just trapped in two worlds, to be a good student and good person for my moms [sic] and to be a fearless, ruthless guy like my brothers." These statements do little to explain his deliberate leadership in this crime. Mr. Elster actively recruited gang members and drug dealers to execute an armed robbery and exact revenge on his former employer. His assertions that he was merely trying to impress his friends and feed his family do not account for the prolonged and calculated manner in which this robbery was undertaken. And his claim that he didn't want anyone to "get shot" is undermined by his own admission that he specifically recruited armed criminals to do his "dirty

work.” These statements minimize Mr. Elster’s culpability. He must honestly confront the nature of his actions and demonstrate that he is prepared to live without violence in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Elster is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Elster.

Decision Date: August 19, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DARRYL GEYER, P-57424
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On June 11, 1996, Darryl Geyer set fire to a five-story apartment building. Seventy-six-year-old Dolores DeLeon and her daughter, Melinda, were forced to jump from the fourth floor of the building. Ms. DeLeon died in the fall, and Melinda was seriously injured but survived.

GOVERNING LAW

The question I must answer is whether Mr. Geyer will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Geyer suitable for parole based on his acceptance of responsibility, remorse, lack of serious prison misconduct, insight, vocational and educational achievements, psychological evaluation, participation in self-help classes, age at the time of the crime and his increased maturity while incarcerated.

I recognize that Mr. Geyer committed this crime when he was 18 years old and that he has since been incarcerated for over 20 years. I acknowledge that Mr. Geyer experienced instability in his life while growing up. He reported that after his parents lost their jobs, they drank excessively, used drugs, and neglected him and his siblings, leading to their placement in foster care. He said that he was molested by a family friend when he was 12, and was also physically and sexually abused while in foster homes. He began running away at 13, was homeless and prostituting himself by 14, and attempted suicide at 15. Mr. Geyer reported that he began setting fires during this time, and set "hundreds of fires" as a juvenile. At the time of the life crime, he was unemployed and living with various men in exchange for sex. I also acknowledge that Mr.

Geyer has made some efforts to improve himself in prison. He has not been disciplined for serious prison misconduct, has received positive work ratings, has completed vocational programs, and has earned his GED. He has participated in some self-help programming, including Celebrate Recovery, Insight, and Anger Management. I carefully examined the record for evidence demonstrating Mr. Geyer's increased maturity and rehabilitation, and gave great weight to his diminished culpability as a young person, the factors related to his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Geyer's crime was extremely disturbing and showed a reckless indifference to human life and suffering. After setting numerous fires around San Francisco, he set fire to an apartment building in the middle of the night, forcing the building's tenants to evacuate. In an attempt to escape from the burning building, Ms. DeLeon and her daughter jumped from the fourth floor, and Ms. DeLeon tragically fell to her death. Perhaps even more troubling is Mr. Geyer's long history of fire-setting. After his arrest, Mr. Geyer confessed to arson investigators that he had set 15 other fires in the area. The Probation Officer's Report indicated that Mr. Geyer was a suspect in nine arson cases while living in Ohio and pled guilty to three of them. One of the San Francisco arson investigators stated that "everywhere the defendant has been, there has [sic] been fires." Mr. Geyer was also suspected of setting several other fires, including one that was set in the garage of the home of the man he was living with at the time of the life crime. While incarcerated, he has admitted to setting "hundreds of fires" as a juvenile.

Mr. Geyer has not fully explained why he engaged in such reckless and destructive behavior, and has yet to show that he has the skills necessary to cope with stress and negative emotions. He told the psychologist in 2011 that he initially set fires in locations where he had been molested, but that he developed a habit of setting fires to express his anger because he felt "dirty" and depressed after prostituting himself. At his 2016 hearing, Mr. Geyer stated that on the day of the life crime, he was angry about his sexual involvement with two men and spent all night walking around San Francisco. He explained, "[I] got mad and reverted back to that same, you know, destructive behavior that I had never basically received help for at the time, and chose to set that fire." When asked what he hoped to achieve by setting Ms. DeLeon's building on fire, he responded, "It was a learned behavior that I had come to do when I got angry, and it was a vent. It was how I expressed my anger." Mr. Geyer's understanding of his fire-setting behavior is incomplete. He was a serial arsonist who set countless fires in more than one state. Many questions remain, including what attracted Mr. Geyer to fire, why he chose to express his feelings by setting fires, and why he continued this behavior despite knowing that it could lead to injury and death. Without more complete answers to these questions, I am not confident that Mr. Geyer will be willing or able to refrain from dangerous fire-setting when stressed or angry in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Geyer is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Geyer.

Decision Date: August 19, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

THOMAS HYATT, H-43972
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

On November 3, 1991, Thomas Hyatt and 57-year-old Henri Morlet were drinking together. At some point, Mr. Hyatt stabbed Mr. Morlet several times. Mr. Hyatt then went to the house of a friend, Andrew Navarro, and told him about the stabbing. The two men returned to the scene approximately six hours later where they found Mr. Morlet still alive, moaning and asking for help. Mr. Hyatt stabbed Mr. Morlet several more times and cut his throat, killing him. Mr. Hyatt and Mr. Navarro dragged Mr. Morlet's body to a nearby parking lot, and then fled. Mr. Morlet was found with a total of twelve stabbing and slashing wounds to his body, including a large cut on the side of his head and a very large wound to his neck.

GOVERNING LAW

The question I must answer is whether Mr. Hyatt will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Hyatt suitable for parole based on his remorse, participation in self-help programming, insight, educational and vocational achievements, positive work ratings, and its belief that he had addressed the concerns in the 2012 psychological evaluation.

I acknowledge that Mr. Hyatt has made efforts to improve himself. He has not been disciplined for serious misconduct since 2010. He has earned his GED, completed vocational training, and routinely received positive work ratings. He has participated in some self-help programs, including Alcoholics Anonymous, Criminal and Addictive Thinking, and Victim Awareness. I commend Mr. Hyatt for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Hyatt's crime was atrocious. While drinking in a park, he stabbed Mr. Morlet several times and then left him for dead. When he returned and realized that Mr. Morlet was still alive, he stabbed him several more times and slashed his throat. The apparent motive—an unwanted sexual advance—is especially trivial. His shocking and disturbing actions show a particularly callous lack of respect for human life.

In 2015, I reversed Mr. Hyatt's parole grant based on the horrific nature of the crime, his inadequate explanation for brutally stabbing Mr. Morlet, his violent behavior in prison, and his elevated risk rating. The Board found him suitable for parole again in 2016, but my concerns remain.

Mr. Hyatt has yet to sufficiently explain what led him to brutally murder Mr. Morlet. At his 2016 hearing, Mr. Hyatt said that he was angry and resentful because he was sexually abused when he was young. He reported that he was homophobic, attacked Mr. Morlet after he made a sexual advance toward Mr. Hyatt, and Mr. Morlet threatened to report the assault to the police. He claimed that he tried to calm Mr. Morlet and Mr. Morlet made a second sexual advance. He explained that he stabbed Mr. Morlet in order to prevent him from reporting the assault to the police, and that he finished killing him when he returned to the crime scene and discovered Mr. Morlet was still alive. These statements do not add up. Mr. Hyatt has not adequately accounted for the extreme level of violence exhibited in this horrendous crime. Many people have difficult childhoods or life experiences. However, very few people would be willing to stab someone numerous times over an unwanted sexual advance or some other trivial motive, and even fewer would return to the crime scene several hours later to finish murdering someone.

I remain troubled by Mr. Hyatt's continued violence in prison. He has been disciplined six times for violent conduct while incarcerated, most recently in 2010 for fighting with another inmate after an alarm had been activated and all inmates were ordered to get down. I note that Mr. Hyatt has only participated in a few self-help programs designed to address violent and aggressive behavior. I encourage him to continue programming and to demonstrate that he has the skills necessary to refrain from behaving violently.

Mr. Hyatt's elevated risk score supports my concerns. The 2012 psychologist rated Mr. Hyatt a moderate-to-high overall risk of future violence if released, based in part on Mr. Hyatt's uncertain risk of substance abuse relapse, continued violent behavior in prison, limited insight into the crime, and minimization of his culpability for the crime. I direct the Board to administer a new comprehensive risk assessment before Mr. Hyatt's next hearing in order to provide a more current and complete assessment of the risk he poses.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Hyatt is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Hyatt.

Decision Date: August 19, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JIMMY MEJIA, C-10575
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On December 15, 1978, Jimmy Mejia was driving drunk at speeds of 65 to 70 miles per hour and failed to stop at a traffic light. Mr. Mejia hit a car containing 35-year-old Eloisa Lopez, her 74-year-old mother Margarita Silva, her 15-year-old son Mario Lopez, and her 13-year-old daughter Anna Juarez. Eloisa and Margarita died at the hospital. Anna was hospitalized in the intensive care unit with fractured teeth and skull injuries. Mario received treatment for a concussion. Mr. Mejia fled the scene, but was arrested later that day with a blood alcohol content of 0.24. He was released on bond.

On June 10, 1979, Mr. Mejia and an unidentified individual armed themselves with guns and went to an apartment complex to rob a drug dealer. While at the complex, the two men were confronted by 18-year-old Thomas Biddle. Mr. Mejia shot Mr. Biddle in the back, killing him. The case went unsolved for a couple of months.

Less than a month later, on July 6, 1979, Mr. Mejia removed a loaded .38 caliber revolver from his waistband and placed it on a table in a bar. Witnesses contacted police, and Mr. Mejia was arrested that day.

GOVERNING LAW

The question I must answer is whether Mr. Mejia will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Mejia suitable for parole based on his current age, vocational and educational upgrades, self-help programming, lack of rules violation reports since 1986, length of incarceration, commendations from staff, and acceptance of responsibility.

I acknowledge that Mr. Mejia is 64 years old, has been incarcerated 37 years, and has made efforts to improve himself while incarcerated. He has participated in numerous self-help programs including Alcoholics and Narcotics Anonymous, Alternatives to Violence, Toastmasters, Victim's Awareness, and Balanced Reentry Activity Group. He has not been disciplined for serious misconduct since 1986. He completed vocational training, earned an associate's degree, and received positive commendations from staff. I commend Mr. Mejia for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Mejia's deliberate and heartless actions resulted in the deaths of multiple people. He drove drunk, traveling twice the speed limit, and killed a mother and her daughter. Then, while out on bail, he shot and killed a teenage boy who attempted to thwart his planned armed robbery. Mr. Mejia fled and was not arrested until he pulled out a loaded gun at a bar nearly a month later. Mr. Mejia killed three people in the span of a few months. In addition, just a few years earlier, he shot his wife in the head after an argument, killing her. He was charged with murder, but pled guilty to involuntary manslaughter and served three years in prison. Mr. Mejia's criminal behavior began when Mr. Mejia was just 12 years old. He was counseled and released after he rolled a large rock down a hill, damaging someone's garage. As a juvenile, he was sent to the California Youth Authority for committing a vehicle theft and a robbery. As an adult, he was convicted several times of driving under the influence, burglary in 1971, and being under the influence of a controlled substance in 1977. He was also arrested for assault with intent to commit murder and admitted shooting at gang members. Once in prison, Mr. Mejia continued to drink alcohol and was disciplined three times for alcohol in 1980, 1982, and 1986, and he was disciplined for kicking two correctional officers in 1986.

Given such an extensive criminal history resulting in four deaths, I believe Mr. Mejia must provide a far more convincing explanation for why his violent behavior took so many forms over so many years. During his psychological evaluation in 2014, Mr. Mejia spoke generally about how he was affected by the physical and verbal abuse he endured from his parents and siblings as a child, his feelings of abandonment, his substance abuse, and his gang involvement. When asked by the psychologist about his criminal history he said he "lost control" of his life and "cared for no one." When asked how he reached that point he replied, "I had a misperception of my family and authority...I was acting out against adults for what my family did to me...I masked my shame and guilt for killing the first three people by being uncaring and angry, even at myself...I kept committing further destructive acts." He gave similar responses at his 2016 hearing. He said, "I couldn't stop myself from committing further crimes" and "I didn't care about myself or my community." He said he did not know how to "deal with" killing his wife and the two women in the car crash and did not seek help. These reasons do not sufficiently explain how he came to be so out of control that he killed four people in three separate incidents. His statements make it seem like he was not in control of his actions, which is false. After he killed his wife, I would have expected to see a radical improvement in his behavior given such a significant loss. However, he went on to kill three more people. I acknowledge that Mr. Mejia has not been violent in prison since 1986, but given the utter havoc he wreaked in the community for over a decade, he must be able to better explain why he could not control himself for so long. I encourage him to continue his self-help participation to deeply reflect on his actions.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Mejia is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Mejia.

Decision Date: August 19, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

THOMAS PATTERSON, H-88299
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On June 6, 1992, Thomas Patterson and Anthony Scrivani went to Rodney Klein's house armed with a .38 caliber handgun and intending to rob Mr. Klein. During a struggle with Mr. Patterson and Mr. Scrivani, Mr. Klein broke away, got into the driver's seat of his truck, and closed the door. Mr. Patterson then shot Mr. Klein in the head, killing him. Mr. Klein's body was found later that day. The passenger window of the truck was broken out and there were items on the ground that looked like they had been gone through. Mr. Klein had no shoes on, his shirt was torn, and his pants were pulled down around his thighs. In addition to the gunshot wound, he suffered multiple rib fractures, contusions on his clavicle and lung, and multiple abrasions on his elbow and neck.

GOVERNING LAW

The question I must answer is whether Mr. Patterson will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Patterson suitable for parole based on his maturity, self-help participation, vocations, parole plans, and remorse.

I acknowledge that Mr. Patterson has made efforts to improve himself. He has participated in some self-help programs, including Alcoholics Anonymous, Alternatives to Violence, and Victim Awareness. He mentored struggling youth and donated to charities. Mr. Patterson earned several vocational certifications and routinely received satisfactory to above average work ratings. I commend Mr. Patterson for taking these positive steps, but they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Patterson's crime was callous and unnecessary. As Mr. Klein tried to escape, Mr. Patterson shot him in the head and killed him. In addition to his fatal injury, Mr. Klein suffered multiple contusions, abrasions, and rib fractures at the hands of Mr. Patterson and his crime partner. Mr. Patterson spent years lying about the crime and blaming his crime partner before beginning to acknowledge his responsibility in 2014.

Mr. Patterson's account of this crime still doesn't add up. He told the Board in 2016 that he was armed because he "ran into" a friend who gave him a loaded gun to protect himself while he went fishing that day. Mr. Patterson explained that Mr. Scrivani just "came by" the pier where he was fishing, ran down Mr. Patterson's car battery while performing maintenance, and suggested going to the victim's home to pick up another battery. Mr. Patterson reported that he didn't know that Mr. Scrivani intended to commit a robbery, and that he was intoxicated and scared when Mr. Scrivani chased the victim out of his trailer. When Mr. Scrivani said the victim was going to get a gun, Mr. Patterson explained, "I got fearful and that's where I made the decision that day that hey, I'm not going to get shot, I'm going to shoot." Mr. Patterson told the Board that when he learned that Mr. Klein's body was found with his pants around his thighs, "I discovered that maybe that scene was tampered with." Mr. Patterson has become more forthcoming about the crime in the last few years, but I am not convinced by this depiction of these events. It seems unlikely that he set out that day to go fishing, had no intent to commit a crime, and somehow stumbled into getting a gun and shooting Mr. Klein. The record shows that Mr. Scrivani told police that they planned the robbery together several days earlier, and that they left with \$400 from Mr. Klein's trailer. Furthermore, by all accounts the victim was in his truck trying to escape when Mr. Patterson shot him in the head. There is no indication that Mr. Klein was armed with or reaching for a gun. Mr. Patterson is downplaying his role in this crime. I am not convinced that he will be able to abstain from violence in the future because he has yet to confront—in a forthcoming manner—the nature of his actions and what led him to gun down an unarmed man.

Mr. Patterson's risk rating supports my concerns. The psychologist who evaluated him in 2014 rated him an overall moderate risk of future violence, based in part on "his limited insight and some ongoing deflection of responsibility for the life crime." While he has accepted more responsibility since then and no longer claims that the shooting was an accident, I believe Mr. Patterson must do more to come to grips with his violent actions.

Additionally, the Board received some extremely troubling correspondence about Mr. Patterson after his parole hearing that contains disturbing allegations about recent threats, violent acts, and willingness to carry out sexual violence. I direct the Board to ask questions at his next hearing to get to the bottom of these issues, and to record its findings about the information's credibility.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Patterson is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Patterson.

Decision Date: August 19, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

CHAUNCY NAFF, P-47454
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On July 18, 1997, Athens Park Bloods members Jerry Brewer, Chauncy Naff, Issac Moxley, and Rubin Rankin drove past a group of Crips members, including Marvin Stewart. Someone in Mr. Brewer's car yelled something about the Bloods. Mr. Brewer drove away, but returned a few minutes later. Mr. Naff began firing a .25 caliber pistol from the car. He shot Mr. Stewart once in the back, killing him. Mr. Brewer accelerated away from the scene, but struck another vehicle. All of the Bloods members jumped out of the car and fled on foot. One of them fired four additional shots as they fled.

GOVERNING LAW

The question I must answer is whether Mr. Naff will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Naff suitable for parole based on his age at the time of the crime, his current age and maturity, his risk rating, educational and vocational achievements, and participation in self-help programming.

I acknowledge that Mr. Naff's crime was committed when he was 17 years old and that he has since been incarcerated for 19 years. He told the psychologist who evaluated him in 2015 that he began associating with gang members when he was just 8 years old, and that he was often unsupervised because his father was in and out of prison and his mother worked to support the family. Mr. Naff reported that he looked up to his older brothers and other gang members, and felt loyalty toward them. The psychologist concluded that Mr. Naff "was clearly at a

disadvantage given his specific family circumstances” and was “susceptible to [his brothers’] influences.”

I also acknowledge that Mr. Naff has made some efforts to improve himself in prison. He has participated in self-help programs including Narcotics Anonymous, Criminals and Gangmembers Anonymous, and Anger Management. He earned his GED and several vocational certifications, and routinely received above average work ratings. The 2015 psychologist noted that Mr. Naff “has shown recent improvements in his maturity.” I carefully examined the record for evidence demonstrating Mr. Naff’s increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole.

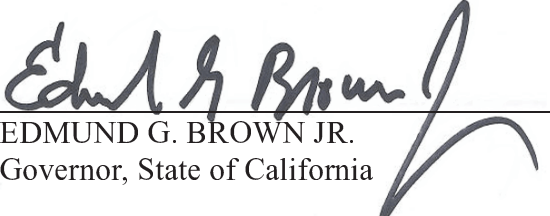
Mr. Naff’s crime was senseless. He and his fellow gang members approached a group of rivals, taunted them, and circled back so Mr. Naff could gun them down. As a result, Mr. Stewart was brutally killed while standing in the street.

Mr. Naff has continued to perpetrate the gang activity and drug use that led to this appalling crime. While incarcerated, he has been disciplined 7 times for serious misconduct, including refusing orders, testing positive for marijuana, and possession of a cell phone. He was most recently disciplined in May 2015 for possession of a cell phone – one month after the psychologist rated him a low risk for future violence due in part to him “ma[king] better decisions as evidenced by no new disciplinary actions.” According to confidential information, Mr. Naff used the cell phone to post gang-related messages and pictures of himself on the internet. I agree with the investigating correctional officer, who determined that this information was reliable and indicates that Mr. Naff was participating in gang activity just last year. He has yet to demonstrate a sustained commitment to rehabilitation and following the rules. Mr. Naff must show that he is dedicated to and capable of living without drugs, gangs, and violence before being released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Naff is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Naff.

Decision Date: August 26, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JOSE VELASCO, T-42153
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On April 27, 2001, Jose Velasco and his sister went to Joey Pacheco's girlfriend's house to serve her with an eviction notice. Mr. Velasco and Mr. Pacheco argued. The argument escalated into a fistfight and then a fight with weapons; Mr. Pacheco grabbed a tire iron and Mr. Velasco had a baseball bat. Mr. Pacheco retreated to his vehicle when Mr. Velasco got the bat. Mr. Velasco began striking the vehicle near the driver's door. At some point, Mr. Pacheco threw the tire iron, striking Mr. Velasco on the arm. Mr. Velasco hit Mr. Pacheco with the bat two to four times, crushing Mr. Pacheco's skull, killing him. Mr. Velasco returned to his vehicle and left. He was arrested later that night when he went to a hospital seeking treatment for his arm wound using a false name.

GOVERNING LAW

The question I must answer is whether Mr. Velasco will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Velasco suitable for parole based on his age at the time of the crime, insight into his anger and substance abuse, self-help programming, educational and vocational upgrades, positive work reports, relapse prevention plan, honesty, remorse, and acceptance of responsibility.

I recognize that Mr. Velasco was only 19 years old when he committed this crime. He described his home life as "dysfunctional." He was neglected, exposed to substance use, and physically abused. He reported that his father left the family when he was in third grade, and that his mother went to prison when he was 12 years old for a drinking and driving manslaughter. He

reported that he was supervised by a babysitter in his mother's absence. He started to engage in fights at nine and joined a gang at 14. He also began abusing alcohol and drugs at a young age and was confined to Juvenile Hall and a group home for various crimes. The psychologist who evaluated Mr. Velasco in 2016 opined that "Mr. Velasco's violence appears to have more recent attenuation in custody with no violence-related disciplinary infractions since 2010."

I also acknowledge Mr. Velasco has made efforts to improve himself while incarcerated. He has not been disciplined for serious institutional misconduct since 2010. He participated in self-help programming including Alcoholics Anonymous, 12-Step Spirituality, Criminals and Gangmembers Anonymous, Stress and Anger Management, and Mapping a Life of Recovery. He completed vocational training, upgraded educationally, and received positive work ratings. I carefully examined the record for evidence demonstrating his increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his hallmark features of youth, and his subsequent growth in prison during my consideration of Mr. Velasco's suitability for parole. However, they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

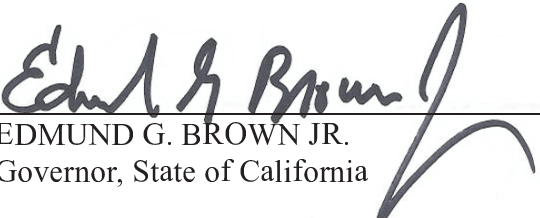
Mr. Velasco's crime was extremely senseless. He turned an argument over an eviction notice into a deadly fight. He brutally killed Mr. Pacheco by crushing his skull multiple times with a baseball bat. The amount of violence Mr. Velasco displayed was disproportionate to the situation at hand. His actions have had a long-lasting impact on Mr. Pacheco's family members, who spoke at the hearing about the devastation this crime has had on their family.

Mr. Velasco has not behaved in a manner that convinces me that he is now willing or able to abide by the rules. He was counseled in 2002 for drinking and threatening a correctional officer, and disciplined in 2003 for battery on another inmate, in 2005 for possession of inmate-manufactured alcohol and testing positive for alcohol, in 2006 for possession of gambling and pornographic materials, and in 2010 for fighting with another inmate. At the hearing, he told the Board that the last time he possessed or made alcohol was in 2005 and that he took a "long look" at his life after his fight in 2010 and started to make some changes. But his comments are undercut by confidential information deemed reliable in 2014. While I share the Board's hope that Mr. Velasco may have turned a corner, as exhibited by his involvement in self-help courses since about 2013, I would like to see a longer demonstrated commitment from Mr. Velasco to living without alcohol or violence.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Velasco is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Velasco.

Decision Date: August 26, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

MICHAEL HAWKINS, C-17926
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On March 2, 1976, Michael Hawkins and his younger brother Robert armed themselves with one or two knives and went to the home of their 75-year-old and 79-year-old grandparents, Pearl and Cleo Hawkins. The brothers had previously planned to rob and kill their grandparents. At some point, Pearl got up to get them some food. When she stood up, Michael and Robert grabbed her, forced her to the ground, beat and strangled her, and then each slit her throat with a knife, killing her. They then kicked Cleo, a “semi-invalid,” out of bed and Robert started severely beating him in the chest and covering his mouth and nose in an attempt to induce a heart attack. When that failed, both brothers stabbed Cleo, cutting his throat three times, killing him. They ransacked the house, stole money and jewelry, cut the phone lines, drove off in their grandparents’ car, and got hamburgers. After his arrest, Michael was interviewed by a probation officer, who said that it did not sound like he was sorry about the crime. Michael replied, “Am I supposed to be? I don’t feel bad. I couldn’t care less. Fuck, no. I’m not going to run myself down.” He told police that their original intent was to kill their parents.

GOVERNING LAW

The question I must answer is whether Mr. Hawkins will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate’s pre- or post-incarceration history, or the inmate’s current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give “great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner” when determining a youthful offender’s suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Hawkins suitable for parole based on his lack of recent rules violations, remorse, participation in remedial classes, lack of violent history, and his age now and at the time of the crime.

I acknowledge that Mr. Hawkins' crime was committed when he was 21 years old and that he has since been incarcerated for over 40 years. He told the psychologist who evaluated him in 2016 that he was physically abused by his father, had a poor relationship with his stepmother, and struggled with a learning disability. He described himself as the "black sheep" of the family and said that he felt like an outcast. Mr. Hawkins began using drugs and alcohol at age 12, and said that at the time of this crime he had been living on the street with his brother and abusing substances. The psychologist concluded that as a result of his "disrupted" upbringing and "his cognitive limitations, Mr. Hawkins['] younger brother may have influenced his actions" at the time of this crime. Since he has been incarcerated, Mr. Hawkins has made efforts to improve himself. He is now 61 years old and has not been disciplined for serious misconduct since 1995. He has participated in self-help programs including Alcoholics Anonymous, Celebrate Recovery, and Anger Management. He was a hospice volunteer, and participated in basic education classes. The psychologist noted that he has matured in prison and "no longer presents as an impulsive or reckless man." I gave great weight to Mr. Hawkins' diminished culpability, difficult childhood, intellectual limitations, youthfulness at the time of the crime, and growth during his lengthy prison term. However, I believe these factors are outweighed by his horrific crime and his minimization of his role in it.

Mr. Hawkins displayed an unspeakable disregard for his grandparents' lives in committing this crime. He and his brother armed themselves and planned to kill their elderly grandparents for money. When their grandmother got up to get them something to eat, they attacked her, held her down, strangled her, and slit her throat multiple times. They then turned on their bedridden grandfather, beat him severely, and ultimately slit his throat too.

Mr. Hawkins minimizes the extent of his participation in this gruesome crime. He told the 2016 Board that killing their grandparents was his brother's idea, and said, "I didn't want to do it, but I just went along with it hoping that it – that it was just talking, he wasn't going to go through with it. But when he actually did, well, that was – I went ahead and did it anyway." He said he followed his brother's direction to slit his grandparents' throats because he was a follower and was being "stupid" and "foolish." Mr. Hawkins reported that he did not want to let his brother down, did not want to look weak in front of him, and felt stuck in the situation. He told the psychologist that his grandparents "were innocent; they loved us. I know they loved us...The sad thing...I think the reason most young people attack old people is because they are vulnerable." These explanations do little to account for the extreme violence Mr. Hawkins inflicted on two vulnerable, elderly family members. The 2016 psychologist concluded that Mr. Hawkins' "appreciation of his role in the Life crime and expression of remorse for his actions remain limited." He was not just a passive follower in this crime; he deliberately cut both victims' throats before ransacking the house and fleeing. Mr. Hawkins must be more forthcoming about his intent and role in this crime to show that he has honestly confronted the issues that led him to be so violent.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Hawkins is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Hawkins.

Decision Date: September 1, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

CHARLES CAIN, C-41832

Second degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Sixteen-year-old Charles Cain was friends with the son of Paul and Carol Glover. On at least two occasions, Mr. Cain had lived at the Glovers' house while having problems with his family. On the morning of May 28, 1981, Mr. Cain walked to the Glovers' house. When Mrs. Glover answered the door, Mr. Cain lied to lure her outside. Mr. Cain followed Mrs. Glover as she walked into her garage, then pulled out a pocket knife, and stabbed her several times in her back. As Mr. Cain stabbed her, Mrs. Glover screamed, "No! What have I done?" Mrs. Glover fell to the floor, and Mr. Cain stabbed her twice in the neck. Mr. Cain watched as she died—according to him, her face turned pale and her eyes rolled back in their sockets. He wiped Mrs. Glover's blood off of himself, and then fondled her breasts and raped her lifeless body. Mr. Cain took money out of Mrs. Glover's purse, wrapped her body in a bedspread, and placed her in the back of her new car. He drove to a deserted area, dumped Mrs. Glover's body, and went to a shopping center where he bought clothes with the stolen money. Mr. Cain then disposed of the knife, abandoned the car, and hitchhiked to a friend's house. Mrs. Glover's body was found later that night by two joggers. She had been stabbed over 13 times, including 10 times in the back, once in the armpit, and twice in the neck, and bled to death from wounds to her lungs, aorta, and carotid artery.

GOVERNING LAW

The question I must answer is whether Mr. Cain will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Cain suitable for parole based on his acceptance of responsibility, remorse, insight, lack of serious prison misconduct since 1996, vocational skills and work history, parole plans, psychological evaluation, and increased growth and maturity while incarcerated.

I recognize that Mr. Cain's culpability is somewhat diminished because he was 16 years old when he committed this crime. I acknowledge that Mr. Cain had some instability in his life while growing up. He reported that his parents were very young when he was born and that they married and divorced twice during his childhood. He said that he did not bond with his mother, felt rejected by his father, was abused by his father and stepfather, and had difficulty in school. He began drinking at 12 with his father, and subsequently became a heavy drinker. Due to Mr. Cain's behavioral problems, he was sent to live with an aunt in Washington for several months, but his alcohol use and problematic behavior resumed upon returning to California. The psychologist who evaluated Mr. Cain in 2014 opined that at the time of the life crime he "demonstrated a lessened capacity to extricate himself from a dysfunctional home environment," and concluded that Mr. Cain "has made significant progress towards rehabilitation and gaining maturity." Clearly, Mr. Cain has made some progress during his 35-year incarceration. He has not been disciplined for serious prison misconduct since 1996, has earned his GED, and has completed vocational training. He has received positive work ratings and has attended self-help programs, including Alcoholics Anonymous, Causes of Anger, and Alternatives to Violence. I commend Mr. Cain for these efforts. I gave great weight to all the factors relevant to his youth at the time of the crime and his subsequent growth in prison. However, I believe he remains unsuitable for parole.

Mr. Cain committed a truly horrendous and shocking crime. For approximately a week, he planned to rape his friend's mother, a woman who had provided him with housing and tried to help him. On the day of the crime, he viciously stabbed Mrs. Glover to death, raped her corpse, and then callously wrapped her body and discarded it.

When the Board of Parole Hearings granted Mr. Cain parole in 2014, I reversed the decision because I was concerned that he had not sufficiently addressed his substance abuse problem and had not offered an adequate explanation for committing this horrific crime. Mr. Cain claimed that he murdered and raped Mrs. Glover because he was angry about his strained relationship with his parents, and wanted revenge after Mrs. Glover told him that he was responsible for his problems. Mr. Cain's statements to the Board in 2016 regarding his understanding of why he attacked and raped Mrs. Glover remain troubling.

Mr. Cain repeated many of the same explanations, stating that he was angry due to his ongoing family problems and was triggered by Mrs. Glover's comment that he was the cause of his problems. He said that he planned to rape Mrs. Glover because he wanted revenge and power, wanted to "humiliate" her and make her feel like "less than a person," and believed that "if [he] could make her feel terrible, then it would make [him] feel better." Mr. Cain claimed that when he was alone with Mrs. Glover, she saw his knife and screamed which caused him to panic and

stab her. He said, "A lot of rage came out. I think that I lost control." When asked why he raped Mrs. Glover after stabbing her several times, he explained, "I came over here not to do this [stab her] but to rape her, and it was like this is what I'm going to do. This is why I came here...I wasn't going to be cheated of that, that that's what I felt I needed to do." The instability in Mr. Cain's life and his inability to manager his anger do not explain why he planned to rape Mrs. Glover or why he ultimately murdered and raped her. The viciousness of the crime is completely disproportionate to the trivial motive or the issues Mr. Cain was experiencing. Because his understanding of what enabled him to target and unleash all of his anger on to Mrs. Glover remains deficient, I am not confident that he will refrain from acting violently.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Cain is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Cain.

Decision Date: September 16, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ROBERT THOMPSON, K-25912
Second Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ **X** _____

STATEMENT OF FACTS

On August 28, 1994, Robert Thompson spent most of the day replacing an axle on his car at his uncle's house. His uncle, who was helping, left the area. An hour later, Mr. Thompson took his uncle's shotgun and confronted Julie Salvatierra. He fired three shots at her from point blank range, killing her. Mr. Thompson unsuccessfully tried to set fire to the house where he killed Ms. Salvatierra, and left the scene. He then approached two people and asked for their truck, saying someone was after him. He also asked for a shirt, and some scissors to cut his hair. He was apprehended in an alley near the scene.

GOVERNING LAW

The question I must answer is whether Mr. Thompson will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Thompson suitable for parole based on his lack of violent crime as a juvenile, remorse, acceptance of responsibility, current age, self-help programming, vocational upgrades, compliance with mental health treatment and medication, and parole plans.

I acknowledge Mr. Thompson has made efforts to improve himself while incarcerated. He has not been disciplined for serious misconduct since 2011. He has participated in self-help programming, including Alcoholics and Narcotics Anonymous, Aggression Replacement, Victim Impact, and Houses of Healing. He received positive work ratings and in 2016 a psychologist wrote that Mr. Thompson set a good example for other inmates. I commend Mr. Thompson for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Thompson's crime was unexpected and bizarre. Without provocation, he shot and killed Ms. Salvatierra, a near-stranger. His actions have had a devastating and long-lasting impact on her family and friends.

I am troubled by Mr. Thompson's long history of mental instability. At trial, a psychiatrist and a psychopharmacologist, both of whom had interviewed Mr. Thompson, opined that he was "in a state of delusional paranoia at the time he shot [Ms.] Salvatierra." One said Mr. Thompson thought he had "shot with blanks, that the blood was paint, that the whole thing was a game, and that the victim was connected with both the Mafia and the police." The other said Mr. Thompson "thought people were trying to kill him, the victim was involved in the plot, and that firing a shotgun loaded with blanks would somehow protect him from imminent danger." At his recent hearing, Mr. Thompson described feeling at the time that his life was in danger and that his uncle left the house because he knew "something" was going to happen to Mr. Thompson. Mr. Thompson described trying to escape from the house through a window and crawling through the brush. When this escape was unsuccessful, he apparently searched the house for possible intruders. While it was initially believed that these psychotic symptoms were primarily due to Mr. Thompson's drug use, he has continued to suffer from similar paranoia in prison. The 2015 psychologist noted, "He has described experiencing auditory hallucinations of 'voices' and visual hallucinations of 'faces.'" Mr. Thompson has gone to staff numerous times "expressing fears and safety concerns" that could not ultimately be substantiated. In 2007, he became agitated because he believed a group of inmates was going to kill him. When officers directed him to sit in the hall, he yelled out, "It's a death sentence," and charged at an officer, wrapped both arms around his body, and knocked him to the floor. Mr. Thompson also attempted suicide by hanging in 2007 and he cut his wrist in 2012.

It is quite encouraging that Mr. Thompson is aware of his need for ongoing medication to control his psychotic symptoms and that he, with the help of his family, compiled a list of outpatient mental health facilities that may be helpful to him when released. But the psychologist opined that Mr. Thompson's "psychotic symptoms that have resulted in misperceptions and distortions of reality" remain "a highly [relevant] risk factor, as he continues to display instability of affect and cognition." To convince me that he's ready to live independently and without unprovoked violence, I would like to see a more extensive plan from Mr. Thompson that clearly identifies the individuals or organizations he can rely on for help, his plan to obtain appropriate medication, and the circumstances under which he believes he should turn to others for help.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Thompson is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Thompson.

Decision Date: September 16, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

LESLIE CLOSNER, D-84378
Second Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ X _____

STATEMENT OF FACTS

On October 16, 1987, Leslie Closner and his girlfriend Jan Ferguson checked into a motel. The next day, they attended Ms. Ferguson's daughter's wedding and reception, then went back to the motel, where they argued. Mr. Closner shoved Ms. Ferguson onto the floor and strangled her to death. He moved Ms. Ferguson's body onto the bed and ripped off her clothes. Mr. Closner had sex with her corpse and left the motel room. He returned moments later to retrieve his wallet, and had sex with Ms. Ferguson's corpse again. He then bit both of Ms. Ferguson's nipples off and swallowed them. He fled the motel, and turned himself in to Oregon police two days later.

GOVERNING LAW

The question I must answer is whether Mr. Closner will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Closner suitable for parole based on his lack of misconduct in prison, educational and vocational upgrades, commitment to sobriety, knowledge of the cycle of violence, marketable skills, and his risk assessment.

I acknowledge Mr. Closner is 68 years old, has been incarcerated nearly 29 years, and has made efforts to improve himself while incarcerated. He has never been disciplined for misconduct during his incarceration. He has participated in self-help programming including Alcoholics and Narcotics Anonymous, Toastmasters, Nonviolent Communication, Veterans Club, and Breaking Barriers. I commend Mr. Closner for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

It was senseless for Mr. Closner to strangle his girlfriend to death, but especially horrific for him to defile her by having sex with her corpse multiple times before biting off and ingesting her nipples. Mr. Closner's actions were heinous and beyond comprehension, but this was not the

only incident of physical and sexual violence against his romantic partners. In the course of their five year, on-and-off relationship, Mr. Closner physically abused Ms. Ferguson, humiliated her, and raped her. When they were separated, he “[followed] her around to the point of obsessing over her.” Before he met Ms. Ferguson, Mr. Closner had been married to his high-school sweetheart for 12 years. He admits physically and sexually abusing her as well. That relationship ended after an incident in which Mr. Closner pushed his wife to the floor and choked her until their young daughter came into the room to see her mother being strangled. That time, he stopped and “froze” only because his daughter yelled.

Mr. Closner must do much more to explain this terrible crime along with his history of violence. He believes that his mother caused “core wounding” because she had been physically abusive to him when he was a child and because she sexually abused him by “[parading] around the house in the nude,” allowing him to “strategically position himself in order to observe her.” He claimed that the night of the murder, he was jealous and felt inferior because Ms. Ferguson was dancing with another man at her daughter’s wedding earlier in the evening. He caused a scene at the wedding and continued arguing with her at the hotel that night. He asserted that Ms. Ferguson struck him in the back, causing him to “immediately [trigger] back to when I was a young boy, being struck by my mother.” He said that he “just exploded” in rage. He explained that after he realized that he had killed Ms. Ferguson, “all of the sudden, to get rid of this shame, the shame and this guilt, I got erotically aroused, sexually stimulated and had sex with Jan’s corpse twice. And it was my shame and resentment in murdering Jan.” He continued, “I felt powerless. I wanted to dominate her. I wanted to destroy what made me feel humiliated.” He also described being sexually aroused by “women being dominated,” and that his “projected resentment” at not being able to control his anger and rage “made me feel heightened erotic and stimulated me and that’s what was going on at that time. You know, to make myself feel better.” Mr. Closner stated, “I mutilated Jan’s body to satisfy the need for her taking away my masculinity. I wanted to take away her femininity. And that’s why I destroyed, you know, her body or, bit her – bit her nipples off because I felt less than a man, and I wanted to destroy what made me less than a man.”

I am not convinced that Mr. Closner has worked through what it was that caused him to kill Ms. Ferguson or to defile and mutilate her body. The psychologist who evaluated Mr. Closner in 2014 opined that it was “extremely unlikely” that he would commit another violent crime again and that it was “probable” that “had Closner not been under the influence of intoxicants at the time, that the homicide would never have occurred.” I discount the psychologist’s conclusion because I believe his analysis neglects to account for Mr. Closner’s behavior in the 17 years leading up to the crime. He had a strikingly similar incident with his wife five years earlier and had a history of raping and abusing his girlfriend and his wife. Even if his claims of intoxication during each instance of abuse are true, there is something much deeper at play here. Many abuse alcohol and drugs without turning to such violence. His belief that he was so wounded by being physically abused as a child and seeing his mother’s naked body that he could commit such a crime against Ms. Ferguson as a 39 year old man is bizarre. Furthermore, it seems clear that whatever sexual issues potentially caused by his relationship with his mother that may have contributed to this crime have yet to be resolved. The 2014 psychologist noted that Mr. Closner then spoke of his mother “sometimes with anger and sometimes with a lustful voice” and that during the interview at one point he “seemed to become sexually excited as he described

watching his mother undress.” I am encouraged that Mr. Closner has been involved in therapy to try to address these issues, but I am not persuaded that he now has an effective plan to appropriately handle anger, jealousy, and rage without turning to violence against women.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Closner is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Closner.

Decision Date: September 23, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DAVID CREE, V-08833
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

On October 7, 2000, Jesse Lamkin and David Cree were drinking beer and watching television at Mr. Cree's house. They constructed a sawed-off shotgun and left the house to go target shooting. Sometime between 4:00 and 5:00 a.m. on October 8, they approached Gregory Rowan and Jimmie Richardson, two African American men who were standing on a sidewalk. Mr. Cree asked the men where "the girls" were. As the men approached the car, Mr. Lamkin shot both of them with the sawed-off shotgun. Mr. Rowan survived, but Mr. Richardson died from a shotgun wound to the head. Mr. Lamkin and Mr. Cree fled the scene.

GOVERNING LAW

The question I must answer is whether Mr. Cree will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Cree suitable for parole based on his age at the time of the crime, insight, acceptance of responsibility, remorse, self-help programming, credibility, marketable skills, and parole plans.

I recognize that Mr. Cree was only 20 years old when he committed this crime. Mr. Cree reported that his childhood was marked by "disruption and abuse." His mother suffered from paranoid schizophrenia and was placed in a conservatorship when he was five years old. As a result, Mr. Cree spent time in foster care and with other family members. He first used alcohol at age 13, frequently drove under the influence, and was known to his friends as the "designated drunk driver." His father was often incarcerated for drug sales and robberies and injected Mr.

Cree with methamphetamine when he was 14 years old. At age 15, his father committed suicide. Additionally, Mr. Cree reported that he was molested by a man in his neighborhood beginning at age 12, and he was involved in a sexually exploitative relationship with a 46-year-old man, the victim of the involuntary manslaughter, at age 15. The psychologist in 2014 opined that since 2011, Mr. Cree has not evidenced “signs of impulsivity or poor behavioral control.” Mr. Cree has also made efforts to improve himself while incarcerated. He has not been disciplined for serious misconduct since 2011. He has participated in self-help programming including Alcoholics Anonymous, Long Term Offender Program, Parenting, Family Relationships, Anger Management, and he has been receiving individual therapy. He has completed vocational training. I carefully examined the record for evidence demonstrating his increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his hallmark features of youth, and his subsequent growth in prison during my consideration of Mr. Cree’s suitability for parole. However, they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Cree’s crime was senseless. He and Mr. Lamkin constructed a sawed-off shotgun and went out target shooting. While driving around, they approached two men standing on the street. Without provocation, Mr. Lamkin fired at both of them because he allegedly thought one of the men could have been someone who had stabbed them several months earlier. Both men were hit, and Mr. Richardson died from his injuries. Even though Mr. Cree was only 20 years old, this was not the first time he was involved in killing another person. In 1996, he was convicted of involuntary manslaughter after he shot and killed a 46-year-old man he claimed physically and verbally abused him. He served three years at the California Youth Authority and paroled shortly before the murder of Mr. Richardson.

For the majority of his incarceration, Mr. Cree has not shown that he is willing or able to abide by the rules. While in prison, Mr. Cree has been disciplined six times for serious misconduct, including three times for mutual combat in 2004, 2005 and 2011. In the 2011 incident, Mr. Cree was fighting another inmate and kicked the inmate in the “head area” after the inmate fell to the ground. Correctional staff had to deploy a blast grenade and use pepper spray to stop the fight. Mr. Cree also had a serious substance abuse problem that continued during his incarceration. He was disciplined for resisting staff while he appeared intoxicated in 2005. He began kicking his feet at staff necessitating the placement of leg restraints. He admitted using alcohol and marijuana three to ten times per month in prison until 2009. Based, in part, on his substance abuse and violence in prison, the psychologist in 2014 rated him a moderate risk of future violence. With respect to his 2011 disciplinary violation, the psychologist opined that “though he has been managing his behavior appropriately since that time, his relatively recent involvement in a violent act casts some doubt on his ability to consistently manage his impulses and regulate his emotions” and noted that he “may be prone to behavioral instability.” The psychologist also opined that Mr. Cree’s ability to refrain from substance use in the future was “guarded” given his extended and frequent use in prison. Due to the fact that Mr. Cree’s substance abuse contributed to the life crime and he continued to engage in violence and substance abuse in prison for so long, I share the psychologist’s concerns.

I am encouraged to see that Mr. Cree has not been violent since 2011 and has since engaged in self-help classes. However, given his poor behavior for many years and his only recent progress, I believe he needs more time to demonstrate a more sustained commitment to positive behavior and programming.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Cree is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Cree.

Decision Date: September 23, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DANIEL MARTIN, C-70256
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Daniel Martin arranged to live in his brother's apartment while his brother was stationed overseas in the military. His brother's wife, Valda, planned to move to Ohio. Less than a week before Mr. Martin's brother shipped out, Valda changed her mind and decided she would live in the apartment with Mr. Martin. Mr. Martin's brother left on August 8, 1981. A day later, Mr. Martin began to think about killing Valda. On August 11, 1981, Mr. Martin came home after drinking with a friend, and took a knife and a pillow to the bedroom where Valda was sleeping. He jumped on top of Valda, covered her face with the pillow, and started stabbing her in the chest and abdomen. Valda started screaming and bit Mr. Martin's thumb. He punched Valda repeatedly in the head, and stabbed her three more times in the neck to get her to stop screaming. Valda eventually lost consciousness. Neighbors heard Valda screaming for several minutes and called police, but when police responded to the house Mr. Martin turned out the lights, hid in the bathroom, and did not answer the door. Once the officers left, Mr. Martin took a nap and woke up a few hours later to dispose of Valda's body. He drove to a ravine and dumped her body. Mr. Martin's mother reported Valda missing and Mr. Martin told her that Valda had packed up her belongings and disappeared.

When police found Valda's body her intestines were protruding from her abdomen, she was naked from the waist down, and her legs were spread. An autopsy found semen in her rectum, three stab wounds to her neck and six to her chest, and a gaping wound to her abdomen. The autopsy determined that she had died of a fractured skull caused by blunt force trauma to her head. Police were unable to identify Valda's body for several months. They eventually arrested Mr. Martin in Ohio on November 7, 1981.

GOVERNING LAW

The question I must answer is whether Mr. Martin will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Martin suitable for parole based on his length of incarceration, remorse, acceptance of responsibility, current age, self-help programming, laudatories from staff, knowledge of the 12-steps, marketable skills, adequate insight, credibility, and parole plans.

Mr. Martin has been in prison for nearly 35 years and is now 58 years old. I acknowledge he has made efforts to improve himself while incarcerated. He has not been disciplined for misconduct since 2005. Since my reversal in 2014, he has participated in additional self-help programming including Alcoholics and Narcotics Anonymous, Criminal Thinking, Anger Management, and Victim Impact. He has also worked in the Prison Industry Authority and received positive commendations from staff. I commend Mr. Martin for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Martin exhibited erratic and disturbing behavior at the time of this crime. He contemplated killing his sister-in-law for a couple of days “nearly every day, all day long” before he attacked her in her sleep. He repeatedly stabbed her, including multiple times in the throat, and severely beat her head. He took a nap and then dumped her body in a ravine and told people she had disappeared. When authorities found her body, it was unrecognizable. At some point after the murder, he admitted to an acquaintance that he had killed a number of people, including Valda. While awaiting trial, he wrote a letter threatening to kill President Reagan and the First Family if he was not pardoned for this crime. A United States Secret Service agent went to the jail to interview Mr. Martin and reported that while Mr. Martin may not have carried out the threat, he was a “scary personality.” Clearly, Mr. Martin was not acting rationally at the time of this crime.

I reversed the Board’s 2014 grant of parole because of the appalling and senseless nature of the crime and his failure to adequately explain why he killed Valda in such a brutal manner. His actions have continued to have a devastating and long-lasting impact on Valda’s family who has appeared at his hearings. Although the Board found Mr. Martin suitable for parole again in 2016, I still believe he poses an unreasonable risk of danger to the public if released from prison.


Mr. Martin still cannot give a credible explanation for the reasons he murdered Valda. In 2014, Mr. Martin told the Board he hated Valda and felt a need to protect his brother because Mr. Martin believed Valda was cheating on his brother. He also claimed he was angry that Valda moved back into the apartment when he was supposed to be living there alone, and that he was afraid that Valda would come onto him and he would “break down” and “allow her” to “incorporate [him] in her behavior.” At his 2016 hearing, he gave similar statements and emphasized that he “completely” hated Valda and felt that he was entitled to the apartment. He said he “didn’t want to run anymore” and was going to make this his “last stand” in life. When asked why he had to stab her in the throat, he responded, “I don’t know” and conceded that he guessed it was to make sure she was dead. It is troubling that after nearly 35 years he still cannot explain why he had such a deep hatred for Valda that he was willing to kill her in her sleep, despite the fact that he only knew her for a short period of time. He claimed that family was most important to him and he wanted to protect his brother, yet Valda was part of his family and

his brother knew of her alleged infidelity and did nothing. Mr. Martin also has not explained why he had such all-consuming thoughts about killing Valda for days and why he exhibited such brutality in carrying out his plan. The psychologist who evaluated Mr. Martin in 2013 noted that he “had a difficult time offering any real explanation for his decision to kill the victim.” A subsequent psychologist in 2015 opined that Mr. Martin’s insight had not changed since 2013 and his “lack of insight regarding the life crime” was a “significant factor in his risk for future violence.” I encourage Mr. Martin to continue exploring the underlying reasons for his extreme level of violence and why he murdered Valda. His current explanations do not assure me that he will avoid similar unforeseen violent behavior once returned to the community.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Martin is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Martin.

Decision Date: September 23, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

FRANCISCO MARTINEZ, D-32790

Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On November 7, 1985, Alfredo Enriquez, Juan Osorio, and Fernando Hernandez were sitting at a bar and arm wrestling when Francisco Martinez approached Mr. Osorio and told him to “shut up.” Mr. Osorio told Mr. Martinez that “in this country, we all [are] free.” Mr. Martinez left the area. Five to ten minutes later, Mr. Martinez returned and asked Mr. Osorio for a beer. Mr. Osorio told him he did not have any money. Mr. Martinez left, came back five to ten minutes later, and stabbed Mr. Osorio in the chest with a broken beer bottle. Mr. Osorio clutched his chest and struggled to get out the front door. Mr. Hernandez stood up to help Mr. Osorio, and Mr. Martinez stabbed Mr. Hernandez in the neck and chest. Mr. Martinez then turned on Mr. Enriquez and said, “I am going to kill you also, today.” Mr. Enriquez tried to escape, but Mr. Martinez stabbed him in the stomach. Mr. Enriquez fell face-down, and Mr. Martinez stabbed him again in the back. Mr. Osorio and Mr. Enriquez survived the attack, but Mr. Hernandez was killed.

GOVERNING LAW

The question I must answer is whether Mr. Martinez will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate’s pre- or post-incarceration history, or the inmate’s current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Martinez suitable for parole based on his current age, insight given his cognitive limitations, self-help programming, compliance with mental health treatment, ability to remain sober in prison, risk assessment, lack of violence since 2008, remorse, and parole plans.

I acknowledge Mr. Martinez is 63 years old, has been incarcerated nearly 31 years, and has made efforts to improve himself while incarcerated. He has not been disciplined for serious misconduct since 2008. He has participated in self-help programming including Alcoholics and Narcotics Anonymous, Group Therapy, Denial and Anger Management, and Victim Impact. He

also has some intellectual limitations and remains illiterate. I commend Mr. Martinez for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

It is alarming how little provocation it required for Mr. Martinez to stab three people with a broken bottle. This was an extreme overreaction to a trivial argument at a bar. Mr. Martinez' actions resulted in the death of Mr. Hernandez and serious injuries to Mr. Osorio and Mr. Enriquez.

I am troubled by Mr. Martinez' volatile psychological state. He has been receiving mental health treatment throughout his incarceration. Early on, he was suicidal and heard voices. He was treated at Atascadero State Hospital and at one point, struck another patient and had to be placed in full-bed restraints. In 2005, he still had ongoing hallucinations that were partially controlled with medication. He was then described as "functioning at his baseline," but "stable" with medications. In 2008, he continued to report auditory hallucinations and anxiety. A progress note indicated that Mr. Martinez needed "increased support at low risk for any suicidal, homicidal behavior." He was last disciplined for mutual combat with another inmate in 2008. Between November 2009 and March 2010, psychotropic medication was given to Mr. Martinez under an involuntary medication order due to his "history of becoming assaultive, when his behaviors decompensate due to symptom exacerbation (in association with not taking his medication)." The psychologist who evaluated Mr. Martinez in 2014 noted that he "appeared to be much more lucid in his overall presentation, both verbally and mentally, [than] he was in 2012." But, the psychologist also observed, "Records reflect that the inmate has a history of experiencing severe and rapid psychiatric decompensation, with an accompanying decreased level of functioning." While I am glad that Mr. Martinez is now willing to take his medication and is willing to seek out mental health services after he is released, I am not convinced that he is mentally stable enough at this point to successfully manage in the community.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Martinez is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Martinez.

Decision Date: September 23, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

BILLY BRANDON, C-66936
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

On August 10, 1981, Richard Frank interrupted his phone call to confront his housemate Billy Brandon because Mr. Brandon had not passed along a telephone message that Mr. Frank's girlfriend had left for Mr. Frank. Mr. Frank hit Mr. Brandon, threw him on the floor, and resumed his telephone conversation. Later, Mr. Frank, another roommate, and the roommate's friend left the apartment. When Mr. Frank returned later that night, Mr. Brandon shot him four times with a .38 caliber revolver, killing him. At least two of the shots, which hit Mr. Frank in the head, were fired at close range.

GOVERNING LAW

The question I must answer is whether Mr. Brandon will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Brandon suitable for parole based on his age, his sincere remorse, lack of rules violations in prison for the past decade, participation in self-help, and development of his educational and vocational skills.

I acknowledge Mr. Brandon is 64 years old, has spent more than 35 years in prison, and has made efforts to improve himself while incarcerated. He earned a GED and completed vocational training. Mr. Brandon participated in self-help programs including Anger Management, Stress Management and Anger Control, and Alternatives to Violence. I commend Mr. Brandon for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Brandon's actions were far out of proportion to the events that preceded them. Mr. Frank had just returned, completely unsuspecting, with pastries and milk from a trip to a donut store,

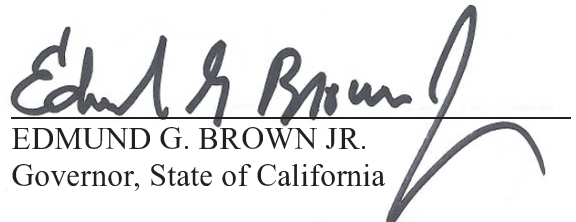
when Mr. Brandon shot him first from a distance and then twice in the head at close range as Mr. Frank lay face-up on the floor. Mr. Brandon's actions caused tremendous pain for Mr. Frank's family. I note that both his mother and father have written to express their loss and describe the impact of their son's murder on multiple facets of their lives.

None of Mr. Brandon's statements to the Board indicate that he is ready to accept that anger played a critical role in the murder, that he adequately understands the source of his anger, and that he can now keep it under control. Mr. Brandon has consistently denied that he intended to murder Mr. Frank, insisting that he thought his housemate was a burglar. He maintains this story despite the fact that Mr. Brandon's version of the killing, in the words of the Commissioner, "just doesn't comport with the evidence." When the Board told Mr. Brandon that the widely accepted account is that "[Y]ou're mad at this guy, and you killed him," Mr. Brandon acknowledged having had anger problems in the past but steadfastly clung to his implausible burglar story. As he continues to explain the murder with a story that hinges on self-defense rather than on his own uncontrollable rage, he remains unable or unwilling to confront and resolve the personal issues that caused him to murder a man he lived with. Furthermore, he continued to have problems getting along with cellmates at least through 2002, when he received disciplinary write-ups for refusing to accept a cellmate on two different occasions. His behavior leads me to believe he does not yet have the ability to appropriately resolve conflict. I further note that, after the Board granted parole to Mr. Brandon, two letters were received alleging that Mr. Brandon had exhibited sexual misconduct, which, if true, would further increase his unreasonable risk of danger if released. I direct the Board to conduct a thorough investigation into the allegations made in these letters and address these issues at his next hearing.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Brandon is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Brandon.

Decision Date: September 30, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

TOMMY RUIZ, J-61606
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Jennifer Muhic broke up with her boyfriend Tommy Ruiz in early March 1994. She had previously called Mr. Ruiz's ex-girlfriend several times and asked how to break up with him because she was afraid of him. On March 13, 1994, Ms. Muhic ran downstairs screaming after talking to Mr. Ruiz on the phone. She told her parents she needed a restraining order because "Tommy just threatened to kill me." On the night of March 14, Ms. Muhic was talking on the phone to a friend when she got a call from Mr. Ruiz, who apparently asked to see her. When she called her friend back, Ms. Muhic said that Mr. Ruiz was being a jerk and she did not intend to meet him, but was going to bed instead. Around 2:30 a.m. on March 15, 1994, officers reported to the scene of an accident and found a car on fire and Ms. Muhic's badly burned body lying on the ground next to the driver's door. The autopsy determined that the cause of death was a fractured hyoid bone, which could have been from strangulation. Mr. Ruiz was arrested the next day after telling his parents that he killed Ms. Muhic.

GOVERNING LAW

The question I must answer is whether Mr. Ruiz will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Ruiz is suitable for parole based on his lack of disciplinary record in prison, insight, acceptance of responsibility, vocational achievements, marketable skills, and parole plans.

I acknowledge that Mr. Ruiz's crime was committed when he was 21 years old and that he has since been incarcerated for 22 years. Mr. Ruiz reported that his father physically and emotionally abused him and his mother, and that as a result, he thought it was normal to use violence against romantic partners. The psychologist who evaluated Mr. Ruiz in 2016 concluded that at the time of the crime, he was "immature, impulsive, reckless, and displayed violent (verbal and physical) behavior toward women." I also acknowledge that Mr. Ruiz has made some efforts to improve himself in prison. He has never been disciplined for serious misconduct while incarcerated. Mr. Ruiz has participated in some self-help programs including Stress Management, Anger Management, and Domestic Violence. He routinely received positive work evaluations and earned several vocational certifications. I carefully examined the record for evidence demonstrating Mr. Ruiz's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a young person, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Rather than just walking away from the relationship, Mr. Ruiz strangled his ex-girlfriend to death in her parents' home, dragged her body into her car, and drove it to his house, where he stole a speaker from her car and obtained a can of gasoline. He then drove to a remote location, poured gasoline all over the car, and set it on fire with Ms. Muhic's body inside. Mr. Ruiz displayed a callous indifference to Ms. Muhic and those who cared about her in committing this crime. I note that her family members appeared at his hearing and described the ongoing loss they feel as a result of her death.

Mr. Ruiz's shifting descriptions of the crime make me question his credibility. When he was first arrested, he told investigators that Ms. Muhic met up with him to talk about their breakup, and that she began calling him names and making him mad. He claimed that the next thing he knew, she appeared to be passed out and he had no memory of what happened. Mr. Ruiz eventually recanted that version and told the investigators that he strangled Ms. Muhic while he was driving, and that he set fire to the car in an attempt to kill himself. He changed his story again at his first parole hearing in 2005, when he told the Board that he went to Ms. Muhic's house that night, she let him in, and he strangled her after they argued and "she said a few things that kind of...upset me." He gave yet another account in 2016, when he told a psychologist that on the day of the crime, he repeatedly called Ms. Muhic and went to her house because he wanted to talk to her, and that she eventually let him inside. He reported that they began arguing and he became angry because she had been with another man and she pushed him, so he pushed her back and "grabbed her by the neck and I slammed her on the ground." Mr. Ruiz reiterated to the psychologist that he intended to kill himself by setting the fire. But just a few months later, he changed his story again and told the Board that he had not been "forthright" with the psychologist and had set the car on fire to "[a]ttempt to hide evidence." He insisted that he didn't set out to harm Ms. Muhic, and that he called her and went to her house multiple times that day because he "still believed that I could convince her to give me another chance."

Mr. Ruiz's multiple accounts of the crime give me little confidence that he is now telling the whole story about his actions. Even his current version fails to account for the evidence in the

record that shows Ms. Muhic was terrified of Mr. Ruiz both before and after breaking up with him. The day before the crime, she told her parents that she wanted to get a restraining order because he threatened to kill her. On the night of the crime, she told a friend she had no intention of meeting up with Mr. Ruiz that night despite his repeated efforts to see her. Similarly, Ms. Muhic's family has consistently described a very different series of events: that Ms. Muhic would not have let Mr. Ruiz into the house because she was very afraid of him, that he broke in through a downstairs window, and that she told a friend she was scared when she thought she heard him in the house that night. When weighed against the rest of the evidence, Mr. Ruiz's claim that he was not at the house to harm Ms. Muhic is not believable. The 2016 psychologist concluded that Mr. Ruiz represents a moderate risk of future violence, in part because he "continues to minimize his behavior in the Life crime" and failed to discuss the crime in a forthright manner. Given his many shifting accounts of this crime, I am not confident that Mr. Ruiz has honestly confronted the nature of his actions. He must do so to demonstrate that he is prepared to live without violence in future relationships.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Ruiz is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Ruiz.

Decision Date: September 30, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JOHN BADGETT, E-92535
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

In January 1989, John Badgett, his brother Lance Badgett, and Michael Palmer came to California because there were warrants out for their arrest in Texas. At some point, John and Lance discovered that Michael wanted to return to Texas, and they became angry and worried that Michael might reveal their location or turn them in. On February 18, 1989, Lance shot Michael in the head once with a .38 caliber revolver, killing him. John dismembered Michael's body and threw some of the body parts into the ocean, and left his torso near the highway. Michael's head, hands, and feet washed up on the shore the next day, and the rest of his body was discovered a few days later.

GOVERNING LAW

The question I must answer is whether Mr. Badgett will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Badgett suitable for parole based on his age at the time of the crime, risk assessment, participation in self-help programs, current age, acceptance of responsibility, insight, and remorse.

I acknowledge that Mr. Badgett's crime was committed when he was 20 years old and that he has since been incarcerated for 27 years. He told the psychologist who evaluated him in 2016 that he endured "a lot of abuse" from his stepfather, and that it taught him that "[v]iolence was a solution and generally the first option" if he felt angry. The psychologist concluded that Mr. Badgett's "capacity to show restraint at the time [of the crime] was severely damaged" as a result

of his years of using violence to solve problems. I also acknowledge that Mr. Badgett has made some efforts to improve himself in prison. He has not been disciplined for serious misconduct since 2004, and has been commended by correctional officers and work supervisors for his positive attitude and behavior. Mr. Badgett earned several vocational certifications and routinely receives exceptional work ratings. He has participated in self-help programs including Substance Abuse Treatment, Alternatives to Violence, and Criminal Thinking. I carefully examined the record for evidence demonstrating Mr. Badgett's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his youthfulness at the time of this crime, his diminished culpability as a young person, and his subsequent growth in prison during my consideration of his suitability for parole.

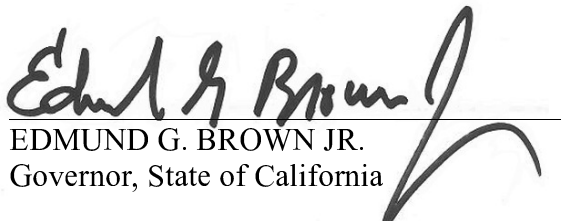
Mr. Badgett and his brother hatched a plan to murder Mr. Palmer, their close friend, because of their unproven suspicions. After Mr. Badgett's brother shot Mr. Palmer in the head, Mr. Badgett spent an hour cutting off his head, hands, and feet. They threw the severed body parts in the ocean in an attempt to prevent the victim from being identified, and disposed of their bloody clothes and weapons. This crime was a shocking violation of Mr. Palmer's humanity.

Mr. Badgett has not yet articulated how he came to commit such a heinous crime. He told the Board that he had previously served a prison term after someone turned him in for another crime. He said he was angry as a result and that he "made up his mind" that "if somebody else told on me, I would kill them before I would go back to prison." When he heard that Mr. Palmer was homesick and had made phone calls to Texas, Mr. Badgett became concerned that Mr. Palmer would tell authorities that they were hiding in California or somehow "let it slip." Mr. Badgett told the 2016 psychologist, "One of my jobs I worked in a meat market so I decided that I would dismember him to keep him from being identified." He said, "Once I made up my mind with my brother we followed through with it." These explanations simply do not account for the amount of violence Mr. Badgett inflicted. He and his brother decided that Mr. Palmer needed to die merely because he missed his home state and made calls to people there. Mr. Badgett had every opportunity to handle this situation differently by simply talking to the victim or taking any number of more reasonable courses of action. Instead, he escalated his behavior to the point that he was prepared to murder and cut up his close friend. Mr. Badgett must better demonstrate that he understands how he became so willing to inflict such extreme violence to assure me that he is capable of preventing himself from acting violently in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Badgett is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Badgett.

Decision Date: October 7, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

LONNIE STRINGER, K-24602
Second Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ **X**

STATEMENT OF FACTS

Lonnie Stringer often told friends he was unhappy with his wife, Cynthia, and that he wanted to kill her. He was angry because Cynthia did not want children and she refused to adopt her niece to be eligible for a tax deduction. Around the time of the murder, Mr. Stringer was unemployed, in debt, and had just lost \$1,000 gambling. He told acquaintances that he wanted to divorce Cynthia and then kill her for the proceeds of a \$100,000 insurance policy on her life. Mr. Stringer even tried to hire someone for \$1,000 to kill his wife, but later said he was just joking.

On April 28, 1995, Mr. Stringer beat his wife over the head with a blunt object, fracturing her skull seven times, killing her. Cynthia was supposed to give her niece a ride to school on her way to work. When Cynthia did not pick her up as scheduled, her niece called to ask why her aunt was late. Mr. Stringer answered, sounding sad, and said that she was lying down. Mr. Stringer left the house to run errands for about an hour. When he returned home around 10 a.m., he asked a neighbor to call the police. By the time police arrived, Cynthia's body was already very cool and her blood was coagulated, indicating she had been dead for a while. There were no signs of a struggle or forced entry. There were no drops of blood leading away from the house. However, Cynthia's blood was found on towels in the laundry room, suggesting that Mr. Stringer had cleaned up and changed his clothes inside the house. Mr. Stringer initially lied to police about his whereabouts the previous evening and the morning of the murder, but he was eventually arrested in July 1996.

A jury convicted Mr. Stringer of second degree murder, and he was sentenced to 16 years to life in prison. Despite his assertions of innocence, his conviction has been upheld by all reviewing courts.

GOVERNING LAW

The question I must answer is whether Mr. Stringer will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Stringer suitable for parole based on his credibility, insight, lengthy period of positive rehabilitation, current age, lack of a violent criminal history, lack of misconduct in prison, self-help programming, vocational upgrades, parole plans, remorse, and risk assessment.

I acknowledge Mr. Stringer has made efforts to improve himself while incarcerated. He has never been disciplined for serious misconduct during his incarceration. Since my last reversal in 2015, he has continued to participate in self-help programming including Victim Impact, Anger Management, Child Abuse Awareness, and Yokefellows. He has continued working in the Prison Industry Authority and has received several positive commendations from staff. I commend Mr. Stringer for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

I reversed Mr. Stringer's grants of parole in 2013 and 2015 because I found Mr. Stringer's claim of innocence so implausible given the strong circumstantial evidence against him that he posed an unreasonable risk to the community because of his lack of credibility. Although the Board found Mr. Stringer suitable for parole for a third time, I still believe he poses a current danger to society.

After telling friends and acquaintances that he wanted to kill Cynthia and attempting to hire someone to do it for him, Mr. Stringer brutally bludgeoned his wife to death in their own home. He cleaned up the bloody scene and left home, intentionally making himself visible to establish an alibi. Upon his return, he had a neighbor call police. Mr. Stringer's actions have continued to have a devastating and long-lasting impact on Cynthia's loved ones and the community.

Mr. Stringer's claim of innocence and his assertion that his ex-brother-in-law, whom he admittedly had not seen in years, killed Cynthia is very implausible. As the Court of Appeal determined in 1997 when it upheld Mr. Stringer's conviction, "no one except appellant had a motive, or the opportunity and means, to kill the victim." The Court found that there was "overwhelming" and "amply sufficient" evidence to sustain his conviction. Mr. Stringer was unhappy in his marriage, unemployed, in debt, had just lost money gambling, and knew Cynthia had a \$100,000 insurance policy on her life. He had previously had told several people he wanted to kill his wife and even attempted to hire someone to kill her. The vicious beating reflected a crime of passion and there were no signs of forced entry or struggle. Mr. Stringer has previously filed a petition claiming ineffective assistance of counsel, arguing that his trial attorney failed to investigate and present potential third party culpability evidence. The Court of Appeal rejected this claim in 2009, holding that "no reasonable probability of a more favorable result exists in light of all the evidence, including the evidence of [his] guilt and evidence that the victim was killed before the time she would have left her residence for her appointment, while [Mr. Stringer] was present, and before the third party's supposed entry into the victim's residence." The California Supreme Court also denied Mr. Stringer's petition. While I note there is pending litigation regarding Mr. Stringer's case, his claim of innocence given the current

record and evidence is implausible. Based on all of the above, I believe he is an unreasonable risk of violence if released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Stringer is currently dangerous. When considered as a whole, I find the evidence I have discussed shows why he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Stringer.

Decision Date: October 7, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

THEOPHILUS WAGNER, C-59729
Second Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ **X** _____

STATEMENT OF FACTS

Theophilus Wagner and his girlfriend, Theresa Arnold, used PCP and sold the drug out of their home. On January 16, 1982, Mr. Wagner and Ms. Arnold were at home with their three-year-old son Phillip and five-year-old Theresa, Ms. Arnold's daughter from a prior relationship. Mr. Wagner cut the throats of the two children from ear to ear with a nine-and-one-half-inch serrated knife. Theresa died instantly from two severed neck vertebrae, and Phillip died upon arrival at the hospital. Phillip also had cuts on his hands, indicating that there had been a struggle. Ms. Arnold reportedly attempted to stop Mr. Wagner from attacking the children, but she left the home with Mr. Wagner after the attack and neither adult appeared upset or sought help for the children.

GOVERNING LAW

The question I must answer is whether Mr. Wagner will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Wagner suitable for parole based on his lack of violent criminal history, lack of violence in prison, remorse, acceptance of responsibility, current age, self-help programming, insight into substance abuse, and parole plans.

I acknowledge Mr. Wagner is 61 years old, has been incarcerated nearly 35 years, and has made efforts to improve himself while incarcerated. He has only been disciplined for serious misconduct once, in 1983. He has participated in self-help programming including Alcoholics Anonymous, Long Term Offender Pilot Program, and Anger Management. He has completed vocational training. I commend Mr. Wagner for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Wagner's crime was horrifying. High on PCP and alcohol, he used a nine-and-a-half inch serrated knife to cut two children's throats from ear to ear, killing them. His girlfriend's daughter died at the scene when the knife severed her vertebrae. His son fought back and sustained additional cuts as a result, but ultimately died at the hospital as a result of his injuries and blood loss. It is difficult to imagine the suffering they experienced at the hands of their own father, who was charged with protecting and caring for them.

Mr. Wagner has not yet adequately explained how he changed from someone who had "vowed... that I would never, ever whip my kids," as he told the Board, to someone who slit their throats. He acknowledged that he had argued with Ms. Arnold that night, but explained that "I've never, ever reached that stage of anger or rage to where I would want to injure someone." He has yet to reconcile these two depictions of himself. Even were PCP the primary driver of the murder, he and Ms. Arnold had been using and selling PCP from the family home as a means of supporting themselves, apparently unconcerned by putting the children at risk in that regard. He described to the psychiatrist being so high on PCP on one occasion that he tried to break a thick glass coffee table with his head at the behest of auditory hallucinations. Even with such an indicator of irrational violence, Mr. Wagner did not attempt to stop using PCP. Given the horror of this crime, I believe Mr. Wagner needs to do more drug treatment than I've seen to date and probe more deeply into his motivations and behavior before I could be convinced that he could be safely released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Wagner is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Wagner.

Decision Date: October 7, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

RONALD ENGLAND, D-87084
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

Around May 14, 1986, Ronald England strangled 17-year-old Joseph Hearn to death while they were in a remote mountainous area. Mr. England then shot Mr. Hearn in the back of the head, carried Mr. Hearn's body to a dry wash, and placed a large rock on his body. Mr. Hearn's remains were discovered by a sheriff's deputy on June 30, 1986, but the body was not identified until November 1986.

GOVERNING LAW

The question I must answer is whether Mr. England will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. England suitable for parole based on his participation in self-help programs, remorse, parole plans, current age and increased maturity, insight, positive work reports, and lack of violent criminal history or behavior in prison.

I recognize that Mr. England was an 18-year-old high school student when he committed this crime and that he has since been incarcerated for over 28 years. He reported that he experienced some instability while growing up, including his parents' divorce and two suspensions for fighting. The psychologist who evaluated Mr. England in 2016 observed that "[h]is age at the time of the crime is a noted consideration when examining his actions and assessing his violence risk." He has made efforts to improve himself in prison. He has not been disciplined for serious misconduct since 2008 and has never been disciplined for violent behavior. He has received positive reviews from work supervisors, received commendations from staff for his positive

behavior and programming, and completed vocational training. He has also participated in self-help programs, including Alcoholics and Narcotics Anonymous and Victim Recognition, Reflection, and Healing. I commend Mr. England for these efforts. During my consideration of his suitability for parole, I carefully examined the record and gave great weight to his age at the time of the crime, all of the factors relevant to his diminished culpability as a young person, and his subsequent growth and maturity in prison.

Mr. England's crime was horrific. He is convicted of strangling his 17-year-old friend and teammate to death, shooting him in the head, and hiding Mr. Hearn's body in a dry riverbed. While Mr. Hearn was missing, Mr. England claimed that he had no idea what had happened to him or where his body was located. It was not until Mr. Hearn's body was identified—several months later—that Mr. England spoke with law enforcement officers and ultimately confessed to murdering Mr. Hearn. I note that Mr. Hearn's family members appeared at Mr. England's hearing and spoke of the devastating and long-lasting impact Mr. England's crime had on their family.

I would have expected that Mr. England would have taken his rehabilitation seriously after being convicted of such a horrendous crime. Instead, he started using heroin and continued to use until 2009. Since then, he has participated in only a handful of self-help classes. Although most of his recent self-help programming has focused on substance abuse, it is not clear that he has internalized the material from the courses. The psychologist who evaluated Mr. England in 2016 observed that he "does not have an adequate relapse prevention plan." His lack of a comprehensive relapse prevention plan, just a few months ago, is troubling in light of his heroin addiction while incarcerated. I recognize that he submitted a relapse prevention plan at his hearing and that the Board found it was sufficient, but I am not convinced that Mr. England is ready to maintain his sobriety if released at this time. I encourage him to meaningfully participate in available self-help programming to demonstrate that he is suitable for release.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. England is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. England.

Decision Date: October 14, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

EDDIE HARRIS, C-56229
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On January 21, 1981, Eddie Harris left his mother-in-law's house with Clayton Simon and his wife's 15-year-old sister, Valerie Alexander. They drank alcohol and used drugs. Ms. Alexander got sick, threw up, and passed out. Mr. Harris drove Ms. Alexander to his home, and the men removed Ms. Alexander's clothes. Mr. Harris and Mr. Simon decided to rape the girl, but Mr. Harris didn't want it to happen in his home. The men put the unconscious Ms. Alexander in the car and drove to an alley. Mr. Simon raped Ms. Alexander in the backseat of the car, and then Mr. Harris raped his young sister-in-law. As Mr. Harris raped Ms. Alexander, she woke up, yelled, and threatened to report them. Mr. Harris began to get off of Ms. Alexander, and she pushed him away with her feet. Mr. Harris then stabbed Ms. Alexander several times with an ice pick while Mr. Simon strangled her, killing her. The men dumped Ms. Alexander's nude body in the alleyway where it was found the next morning. She had been stabbed eleven times, had ligature marks on her neck, and her hands were bound together with strips from a bedsheet.

GOVERNING LAW

The question I must answer is whether Mr. Harris will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Harris suitable for parole based on his length of incarceration, acceptance of responsibility, current age, low risk rating, self-help programming, insight, and parole plans.

I acknowledge that Mr. Harris is now 63 years old and has been incarcerated for over 35 years. He has made efforts to improve himself in prison. He has not been disciplined for serious misconduct since 2005. He has participated in self-help programming including Alcoholics and Narcotics Anonymous, Celebrate Recovery, Nonviolent Conflict Resolution, and Alternatives to

Violence. He has received positive work ratings. I commend Mr. Harris for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Harris' decision to rape and kill his sister-in-law is extremely disturbing. Mr. Harris and his friend provided alcohol and drugs to the 15-year-old. After she lost consciousness, the two decided to rape her. Mr. Harris did not hesitate, despite her age, her vulnerability, or the fact that she was his wife's younger sister. When the girl woke up and tried to fight them off, Mr. Harris stabbed her with an ice pick while the other man strangled her. These actions demonstrate an exceptional disregard for the suffering of Mr. Harris' young relative.

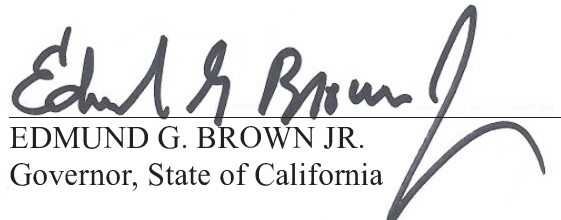
Mr. Harris' depictions of this horrific crime minimize his culpability. At his recent hearing, he told the Board that it was Mr. Simon's idea to "go on and have sex with her since she wouldn't know." Mr. Harris claimed that he "didn't even think about it. I just – I said all right. ... But I couldn't – I didn't want to do it in our house." He reported that he drove the car and "wasn't paying attention at all" and couldn't say whether Mr. Simon raped Ms. Alexander in the back seat. Mr. Harris claimed that when Ms. Alexander woke up as he finished raping her, she told Mr. Simon to stop assaulting her and tried to fend Mr. Simon off. Mr. Harris later clarified, "I assumed she was talking to Clay, but she could have been talking to me, too, because she said stop or I'm going to tell." Mr. Harris reported that he "lost it" when he hit the door frame after being kicked away and was "totally out of control" when he stabbed her. He told the psychologist that after he realized she had died, "he 'cradled her head' in his arms and cried."

While Mr. Harris does accept responsibility for raping and stabbing Ms. Alexander, his story puts much of the blame on Mr. Simon – both for coming up with the idea and for causing her to fight him off when she woke up mid-assault. He claimed that he didn't reflect much on the prospect of raping his sister-in-law. But this claim is not credible. He contemplated the scenario long enough to decide that they couldn't rape her in the home that he and his wife shared. There is no basis to support his assertions that Ms. Alexander woke up and was begging just Mr. Simon to stop attacking her or that he was so distraught after raping and stabbing her that he cradled her and cried. While Mr. Harris has undeniably come a long way in understanding his actions, he still has more work to do to fully appreciate his responsibility for these acts.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Harris is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Harris.

Decision Date: October 14, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

KENNETH KOVZELOVE, E-44065

Two Counts of First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On November 9, 1988, Kenneth Kovzelove and Dennis Bencivenga drove around looking for “Mexicans” to rob or kill. As Mr. Bencivenga drove, Mr. Kovzelove laid down in the bed of the pickup truck, armed with an assault rifle. Mr. Kovzelove was wearing black clothing, a bulletproof vest, and draped a black shirt around his head to conceal himself. After they turned down a dirt road, Mr. Kovzelove spotted Hilario Salgado and Matilde Delasancha walking. Mr. Kovzelove hit the roof of the cab and said, “Two walkers,” so Mr. Bencivenga pulled his truck over. Mr. Kovzelove described that he had enough time to then “pop up [out of the truck bed], lock in sight, lock and load, a second to two seconds. I had to lock the bolt to the rear.” He then fired 18 rounds from the assault rifle while screaming, “Die.” Mr. Salgado was hit 5 times in the chest, abdomen, and leg. Mr. Delasancha was shot 8 times in the legs, abdomen, arm, and hand. Once Mr. Kovzelove saw the men fall to the ground, he dropped down and told Mr. Bencivenga to drive away. Both Mr. Salgado and Mr. Delasancha died.

Mr. Kovzelove confessed to the shooting and said that he “just wanted to shoot someone” and he “did not like Mexicans.” Mr. Kovzelove told officers that after shooting the victims, “I was kind of motivated. I just wanted to go for it...I wish there were like 40 of them and they just rushed me so I could go off on everybody.” When an officer asked Mr. Kovzelove if he was still willing to kill someone if he had the chance, he replied, “Yes sir, I just wish I could do it in a more just way.” He told the officer, “I guess I’m just going to have to get into a mercenary field when I get out. There wouldn’t be much more for me.” He said, “There’s like a violence dial on me, it has to be turned down somehow.”

GOVERNING LAW

The question I must answer is whether Mr. Kovzelove will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate’s pre- or post-incarceration history, or the inmate’s current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give “great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any

subsequent growth and increased maturity of the prisoner” when determining a youthful offender’s suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Kovzelove suitable for parole based on his age at the time of the crime, remorse, insight, educational and vocational achievements, participation in self-help programs, and risk assessment.

I acknowledge that Mr. Kovzelove’s crime was committed when he was 17 years old and that he has since been incarcerated for 27 years. According to the record, he has described a very chaotic childhood, during which he experienced physical and psychological abuse when he lived with his father, and financial instability and homelessness when he lived with his mother. Mr. Kovzelove told the Board that he was “overwhelmed” and tried to gain “control” over his home life through “violent fantasies” about joining the military. He reported that his mother started giving him drugs and alcohol at age 9, and that he went on to abuse alcohol, marijuana, prescription drugs, LSD, and other substances. Mr. Kovzelove told the psychologist who evaluated him in 2014 that although he was sober at the time of this crime, the long-term effects of his substance abuse had a “significant impact” on his judgment. Mr. Kovzelove has made efforts to improve himself in prison. He has not been disciplined for serious misconduct since 1999. He has participated in self-help programs, including Victim Impact, Alternatives to Violence, and Victim Awareness. Mr. Kovzelove earned his GED, vocational certification, and positive work ratings. The psychologist observed that there were “strong indicators that with time, age and maturity, he has become less impulsive” and that he had “generally evolved to be able to demonstrate appropriate, non-violent behavior.” During my consideration of this matter, I gave great weight to all the factors relevant to Mr. Kovzelove’s diminished culpability as a juvenile, his youthfulness at the time of this crime, and his subsequent growth in prison.

Mr. Kovzelove, dressed in all black and equipped with an assault rifle, gunned down two innocent bystanders based on their ethnicity. The level of violence he callously inflicted on these two strangers is shocking, particularly given his young age at the time.

I reversed Mr. Kovzelove’s 2014 parole grant based on the disturbing nature of this crime and his inadequate understanding of the factors that led him to commit it. I asked him to participate in more self-help programs and better explain his fascination with violence. While the Board found him suitable for parole again in 2016, my concerns remain.

Mr. Kovzelove has still not provided an adequate explanation for his decision to unleash such tremendous violence on these victims. He told the Board that he had been having “violent fantasies” about joining the military and “going to war,” and that he and his crime partner discussed “going out and hunting or killing Mexicans.” Mr. Kovzelove said that he thought that “Mexicans” were “here committing crimes...I really saw myself as somehow helping the country. I’m going to go out and do this to these people here committing crimes.” He said that on the night of this crime, they purposely went to a road where he knew “there were farmworkers in the area.” He told the Board, “I didn’t need a whole lot of excuse. All [my crime partner] had

to do was suggest this...I did this, not because of my childhood, not because of the things my dad had did, not because of the things my adult crime partner had done. I was looking to fulfill these violent fantasies, these silly violent fantasies.”

I find these explanations troubling and unpersuasive. Mr. Kovzelove made a series of intentional choices: to dress in black to conceal himself, to put on a bulletproof vest, to arm himself with an assault rifle, to tell his crime partner to stop the car, and to shoot Mr. Salgado and Mr. Delasancha. Mr. Kovzelove’s statements – that his life was overwhelming and that he found comfort and a sense of control in “silly” violent fantasies – simply do not account for his deliberate choices that resulted in him inflicting tremendous violence on the victims. And he has not demonstrated an adequate understanding of why he started having violent urges in the first place, whether he tried to resist them, and what ultimately led him to act on his fantasies by committing these murders. It is not clear to me why Mr. Kovzelove suddenly escalated his behavior to the point that he armed and outfitted himself for a war he convinced himself he needed to fight and murdered two strangers who did nothing to provoke him. Mr. Kovzelove must provide a more adequate explanation for how he came to rationalize his extreme violence to assure me that he will be able to prevent himself from indulging in violent fantasies in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Kovzelove is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Kovzelove.

Decision Date: October 14, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

RICHARD CERNA, E-28765
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On August 13, 1988, Jaime Banguelos drove Richard Cerna to San Pedro in a stolen car. They were looking for members of a rival gang. They saw 13-year-old Michael Fox riding towards them on a bicycle. Mr. Banguelos made a U-turn and drove up to Mr. Fox. Mr. Cerna shot at Mr. Fox four times with a .357 magnum pistol as Mr. Fox tried to get out of the road and hide behind a car. Mr. Fox was struck once in the chest, and later died at the hospital.

GOVERNING LAW

The question I must answer is whether Mr. Cerna will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Cerna suitable for parole based on his youth at the time of the life crime, programing, and lack of institutionalized violence.

I acknowledge that Mr. Cerna was only 16 years old and that he has since been incarcerated for 28 years. His father died when he was 4 and he had a hard time coping with the death. The psychologist noted that Mr. Cerna "was at a disadvantage in terms of not having supervised or sustained experiences from a father in appropriately managing his impulses and behavior in his early adolescence." He was "resistant to input or counsel from authority figures" at the time and susceptible to the influences of gang members. Mr. Cerna is now 45 and has matured and made some efforts to improve himself. He has been disciplined for serious misconduct only twice in prison. He earned two associate's degrees and has completed several vocational training programs. He has been commended for getting along with other inmates and staff. His family

remains supportive of him. I gave great weight to all the factors relevant to Mr. Cerna's diminished culpability as a juvenile, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole.

Mr. Cerna's crime was totally senseless. He and his friend went into rival territory and shot an unarmed 13-year-old riding a bicycle down the street. Mr. Cerna's actions have had a long-lasting impact on Mr. Fox's family, who wrote to the Board in 2014 of their continuing pain and loss.

I am not convinced that Mr. Cerna has turned away from his gang lifestyle. He told the Board that he began associating with gang members at 15. He claimed that he was never "jumped" into the gang and that "just hanging around, running around with gang members, living the gangs lifestyle is what brought me here." In prison, he has continued to associate with gang members. He was validated as an associate of the Mexican Mafia by prison gang experts in 2008 and again in 2014. He told the Board that he had no real involvement with the Mexican Mafia, "My involvement with these guys [Mexican Mafia members] is either neighbors, conversating." When asked about his disciplinary report for possession of a cell phone in 2008, he reported that he was using it to "call home" and when pressed, admitted that he was also maintaining contact with individuals he knew from the street as members of "just the regular neighborhood gang." Mr. Cerna's current claim to the Board is that he was calling these individuals "just to see how everything is going." Two memos in the confidential file from June 2008 that were found reliable by correctional staff indicate he was also using the cell phone for other purposes. Although it seems relatively clear that Mr. Cerna has never been a gang leader, it is clear that he is not being entirely forthcoming. Because of this, I am not convinced that he has now renounced his loyalty to the gangs' values. I encourage him to be more honest and to engage in available self-help programs to demonstrate that he has made a lasting change.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Cerna is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Cerna.

Decision Date: October 28, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

BILL HAM, D-22143
First Degree Murder (two counts)

AFFIRM: _____
MODIFY: _____
REVERSE: _____ X _____

STATEMENT OF FACTS

Bill and Deborah Ham were married for over five years when they separated around June 1984. Mr. Ham moved into his mother's home, but regularly visited Deborah and their four-year-old son Kevin. According to the Probation Officer's Report, Mr. Ham took the separation hard and began harassing Deborah, sabotaging her vehicle, breaking into the house, and following her when she went out in the evening. After a couple months, Mr. Ham suspected Deborah was having an affair with her cousin's wife, Vickie Duchsherer, who was living with Deborah after a recent divorce. In July or early August 1984, Mr. Ham apparently confronted Vickie and Deborah in a bar parking lot and told Vickie, "You can't have her, if I can't have her, I'll see you both dead first." The women fled and Mr. Ham reportedly tried to run them off the road.

On October 9, 1984, Vickie and Deborah picked up Kevin from Mr. Ham, and Mr. Ham stated he wanted to get back together. Deborah said she liked the present arrangement. In the early morning of October 10, Mr. Ham went to Deborah's house, woke her up, and told her he had been crying. She stated she was tired and did not have time to talk. Mr. Ham went back to his mother's home, retrieved his .22 rifle, loaded it with 14 or 15 rounds, and returned to Deborah's house. He broke open the front door and went into the bedroom. Mr. Ham shot Deborah three times in the head, killing her. He then shot Vickie nine or ten times, killing her. Mr. Ham fled leaving Kevin and Vickie's two children in the house with the bodies.

GOVERNING LAW

The question I must answer is whether Mr. Ham will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Ham suitable for parole based on his length of incarceration, current age, self-help programming, lack of a criminal and disciplinary history,

vocational upgrades, knowledge of the 12-steps, insight, acceptance of responsibility, remorse, risk assessment, and parole plans.

I acknowledge Mr. Ham is 62 years old, has been incarcerated 32 years, and has made efforts to improve himself while incarcerated. He has participated in self-help programming including Alcoholics and Narcotics Anonymous, Long Term Offender Program, Criminal Thinking, and Family Relationships. He has received positive work ratings. I commend Mr. Ham for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Ham committed an extremely disturbing crime. While his and Deborah's young child and Vickie's two children were in the Deborah's home, Mr. Ham broke into the house armed with a loaded rifle and murdered both Deborah and Vickie, collectively shooting them nearly 15 times. He left the three children in the home and fled, leaving them to discover the bodies. His actions demonstrate an exceptional disregard for human suffering.

Mr. Ham's superficial explanations for murdering Deborah and Vickie do not explain how he came to exhibit such extreme violence. He told the Board "several factors" contributed to the crime – "it was a witch's brew." He cited jealousy, anger, control issues, and his selfishness as reasons why he committed the crime. He stated, "I had the pain of a broken heart. I had the fear of losing my wife and my son, and those things helped fuel my anger." When asked by the psychologist what about his personality contributed to his behavior he responded, "My relationship with my mom – we could talk about anything. There was trust. My wife was the complete opposite, and there was a lot of friction there." His responses make no sense and even place some blame on his own wife. He stated he feared losing his wife and son, but he has not explained why he then made the decision to kill his wife and leave his son in the house with the two dead bodies. Furthermore, he has yet to explain or even acknowledge his threats of violence leading up to the crime. While the psychologist in 2016 noted that Mr. Ham accepted responsibility and had remorse for his actions, the psychologist opined "he conveyed a limited understanding of some of the personal, interpersonal, and contextual factors that contributed to his violent behavior at that time." I urge Mr. Ham to continue reflecting on his actions so that he can develop greater insight and I can be assured he will not act out violently again.

I am also concerned that Mr. Ham is not willing or able to abide by the rules. On October 24, 2016, Mr. Ham admitted that he had used amphetamine and methamphetamine just four weeks ago, in September 2016. As a result, he was issued a Rules Violation Report. This all occurred after he was granted parole by the Board based, in part, on the steps he had taken to remain sober if released from prison. This very recent use of a serious drug alone demonstrates that Mr. Ham is not currently suitable for parole. I direct Mr. Ham to remain sober, to fully engage in available substance abuse and self-help programming, and to further explore his motivations for this crime. Until he is committed and ready to live a life free of drugs and violence, he remains a risk to society.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Ham is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Ham.

Decision Date: October 28, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

TOMMIE POWELL, C-18165

First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On February 6, 1979, Tommie Powell, Clarence Brown, Darrell Jones, and Christopher Hunt entered a church cafeteria during a bingo game and began shooting their weapons into the ceiling and into the crowd. The shooting lasted about a minute. When the shooting ended, Dorothy Taylor was dead, and Harry Hutchinson had been hit in the upper left thigh. Mr. Jones demanded money from a nun in charge of a bingo game. When she informed the men that the money had been dispersed, all four men exited the cafeteria.

GOVERNING LAW

The question I must answer is whether Mr. Powell will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Powell suitable for parole based on his age and physical condition, the amount of time he has been incarcerated, his lack of violent rules violations in prison, time elapsed since his last disciplinary action, and his sufficient insight into the personal factors underlying the crime.

I acknowledge that Mr. Powell is now 69 years old and has chronic lymphocytic leukemia and arthritis in his knees, and he uses a cane to walk. I also acknowledge that he has completed vocational training and routinely received above average to exceptional work ratings. He has also participated in self-help programming including Alcoholics and Narcotics Anonymous, Criminals and Gangmembers Anonymous, Anger Management, Cage Your Rage, and Stress Management. He dropped out of the Black Guerilla Family and has not been disciplined for serious misconduct since 2010. I commend Mr. Powell for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

It is upsetting that Mr. Powell and his friends burst into a church cafeteria and opened fire on the unsuspecting bingo players. They killed a woman and injured a man. The terror the bingo players must have felt is hard to imagine.

Mr. Powell has not behaved in a way that convinces me that he is ready to be released. He has engaged in a pattern of sexual misconduct increasingly “blatant and endangering to staff.” Between 1985 and 2010, Mr. Powell was counseled four times for masturbating in front of staff and sexually harassing a correctional officer and he was disciplined seven times for masturbating in front of staff, earning two terms in the Security Housing Unit. He told the psychologist that this was a “bad habit” and rationalized his conduct by explaining that others were doing it. The psychologist opined that Mr. Powell had been acting out sexually “to gain the excitement and exhilaration that he previously had been getting with sexual encounters and substance abuse.” Mr. Powell told the Board that, at the time, he did not care about the feelings of others or whether there would be negative consequences. He reported that he was influenced by the poor conduct of other inmates, that he was “seeing how far I could go” after he “got away with it a couple of times,” and that he “was an asshole.” At the parole, he could not explain what he had learned that would enable him to control himself enough to prevent this kind of behavior in the future. Because this sexual misconduct persisted for many years despite being severely disciplined and put in the Security Housing Unit twice for nine months, Mr. Powell must do more to show that he will be able to control his pattern of antisocial behavior were he to be released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Powell is currently dangerous. When considered as a whole, I find the evidence shows that she currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Powell.

Decision Date: October 28, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ANTHONY CLIFFORD, E-84740
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On the evening of March 4, 1989, Julie Gannon returned to the home where she lived with Anthony Clifford and her two sons. She reported that she saw Mr. Clifford coming from her 17-month-old baby's room tying the drawstring on his pants. She went in to check on the child, Brian. She saw bruises on his face and noted that he was acting strangely, and took him to the hospital. At the hospital, a doctor determined that Brian had been sodomized within the last 24 hours and had suffered chronic physical and sexual abuse. Brian was also malnourished. Brian had to be transported to another hospital for surgery and died on March 7, 1989, as a result of severe internal injuries.

GOVERNING LAW

The question I must answer is whether Mr. Clifford will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Clifford suitable for parole based on his remorse, acceptance of responsibility, age, participation in self-help programming, risk assessment, and lack of violent criminal history.

I acknowledge Mr. Clifford has made efforts to improve himself while incarcerated. He has only been disciplined for serious misconduct once in over 27 years of incarceration. He has participated in self-help programming, including Alcoholics and Narcotics Anonymous, Family Relationships, Stress Management, and Anger Management. He also reports having sought out and participated in targeted psychotherapy. In 2016, an AA sponsor wrote that Clifford was a positive influence on fellow AA members. Mr. Clifford has routinely received satisfactory to exceptional work ratings. I commend Mr. Clifford for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Clifford's crime was horrendous. He punched, squeezed, sodomized, and killed a 17-month-old infant. On this occasion, his attack on the child was so severe that the support bars under the crib bent. Although he noticed signs that Brian was seriously injured, Mr. Clifford neglected to take him to the hospital, instead taking him along to buy alcohol and eat at a fast food restaurant.

I reversed Mr. Clifford's grant of parole in 2015 based on his crime and his failure to offer a credible account for the physical signs of long-term physical and sexual abuse. Unfortunately, nothing in Mr. Clifford's narrative has changed significantly, and my concerns remain.

The story Mr. Clifford told the Board this year remains unbelievable. At his hearing, Mr. Clifford claimed the only time he laid a hand on either child was swatting Mitchell on the diaper once. He told the Board that the child's father had never seen evidence of physical abuse. In response to the Board's questioning about the sodomy accusations against him, Mr. Clifford again denied the allegations and went into great detail about distinctions made by various medical providers, two of whom opined that the child's prolapsed anus was "not necessarily" the result of sodomy.

Mr. Clifford's account omits and contradicts the convincing evidence that Brian was sexually assaulted and that he was abused for quite some time. The child's father told police during the preliminary investigation of the murder that he had noticed marks and bruising on Brian. Further, Brian was covered in bruises of varying ages when he went to the hospital, and one of the doctors concluded that the boy had been "chronically abused." The record indicates that Brian's 3-year-old brother also showed "classic symptoms" of an abused child. According to the Follow Up Investigation Report, a pediatrician who examined Brian at the second hospital told investigators that "there is no doubt that [Brian's] anus has been penetrated by an object and appearances are that it has been repetitive." The autopsy found a bruise inside Brian's anus, not visible externally, that was "caused by (probably a thumb) pressure inward and away from the anal opening." The doctor performing the autopsy also concluded that "sexual assault had occurred or at least had been attempted." No doctor ruled out the possibility that the injury was caused by sodomy. Mr. Clifford's explanations remain at odds with the evidence in the record.

Further, Mr. Clifford has still not adequately explained how he came to act with this degree of callousness on such a helpless victim. He told the Board that he was upset from an argument with Julie earlier in the day about his failure to take responsibility for Brian and continued to "obsess" about it, talking himself "into the state of complete and total rage." Thus, he continued, when Brian vomited on him, it exceeded his "threshold level for frustration and anger" and he "exploded," going into what he called an "unconscious... violent rage" that caused him to impulsively punch the child in the face and body, squeeze him around the waist, and scream at him for "a couple minutes" in front of the other child. He, by his own account, did nothing to help the child after he had calmed down. Rather, for hours after this unprovoked attack against the 17-month-old, Mr. Clifford drank, picked up more alcohol, went to McDonald's, and put the "nonresponsive" toddler back into the crib. Not until Ms. Gannon came home and found her child severely hurt was Brian taken to the hospital. Mr. Clifford's explanation that the murder was the product of an unconscious and impulsive rage doesn't account for how he was able to carry on as if everything were fine for hours while the baby lay dying. I would like Mr. Clifford to better address his cruel disregard for Brian's wellbeing leading up to and after that event.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Clifford is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Clifford.

Decision Date: November 4, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JOHN CLUTCHETTE, C-23857

First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On July 11, 1978, John Clutchette, Dawn Poulson, and Robert Bowles traveled to Sacramento in a car to pick up heroin. After stopping in what appeared to be a parking lot, Mr. Clutchette and Mr. Bowles got out of the car. When they returned, Mr. Bowles sat in the front passenger seat. Mr. Clutchette directed Mr. Poulson to sit in the driver's seat so he could sit behind Mr. Bowles. When Ms. Poulson started the car, Mr. Clutchette shot Mr. Bowles in the head. Then, he dragged Mr. Bowles out of the car and shot him a second time in the head, killing him. Mr. Clutchette and Ms. Poulson returned to Oakland where they, along with Worthington Alston, washed the blood off the seat covers. On July 21, 1978, Mr. Clutchette had the leather seat covers and floor carpets of the car replaced at an auto reconditioning shop. He testified that he did this with \$2,000 given to him by George "Pete" Thompson, the person that had loaned him the car. Mr. Clutchette was first arrested on August 25, 1978, but released due to insufficient evidence. Mr. Clutchette was arrested a second time on February 1, 1980, after the police received evidence from his wife showing his involvement in Mr. Bowles' murder. Mr. Clutchette continues to deny shooting Mr. Bowles.

GOVERNING LAW

The question I must answer is whether Mr. Clutchette will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Clutchette suitable for parole based on his current age, insight into involvement with the drug business, vocational training, and recent positive programming.

I acknowledge Mr. Clutchette has made efforts to improve himself while incarcerated. He is now 73 years old and has been incarcerated for nearly 37 years. He has not been disciplined for

serious misconduct since 2008. He has participated in programs such as the Long Term Offender Program, Anger Management, Denial Management, Criminal Thinking, and Victim Impact. Mr. Clutchette has donated money to charity and has routinely received above average work ratings. I commend Mr. Clutchette for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Clutchette's crime was callous and cruel. He shot an unsuspecting fellow drug dealer in the head, left him on the ground, and then directed Ms. Poulson to stay quiet. He tried to cover up his crime by cleaning and then re-upholstering the seats of the car.

I reversed Mr. Clutchette's grant of parole last year because of his ruthless crime, long history of violence, and questionable assertions that he had never been a gang member despite a plethora of evidence to the contrary. This year, he made the same claims. He told the Board many times that he was not and had never been a member of the Black Guerilla Family. He insisted, "I don't like gang members" and "I don't get involved in gang activity." Mr. Clutchette said that he first heard about the Black Guerilla Family when prison officials segregated members of the gang on a yard in 1980, but that "none of us belonged to the BGF. ... We didn't know nothing about no BGF." He claims that he has been repeatedly named as a member of the gang because "everybody wants to read and a lot of folklore and old history and lies and everything about who George Jackson was. Who I am. And, I say, that's not true."

As I detailed in my decision last year, Mr. Clutchette has been identified as a high-ranking and revered member of the gang since the 1970s and as recently as 2008. Although he was acquitted of the murder of a correctional officer in 1970, he later admitted to fellow inmates that he had knocked the officer unconscious before George Jackson killed him. The pair, along with Fleeta Drumgo, became known as the "Soledad Brothers," and made national news when Mr. Jackson's brother made a failed attempt to take the judge, a deputy district attorney, and jurors hostage in exchange for the release of Mr. Jackson, Mr. Clutchette, and Mr. Drumgo. This ultimately resulted in a shootout and the deaths of the judge, Mr. Jackson's brother, and two inmates. In August 1971, about a year after the events at the courthouse, inside the walls of San Quentin, Mr. Jackson obtained a gun and demanded that the guards free Mr. Clutchette. A riot broke out and several correctional officers and inmates, including Mr. Jackson, were killed. While Mr. Clutchette acknowledged that he knew all of the individuals involved at the time and shared the same "political ideology," he steadfastly denies that he was ever in the gang or that he was ever involved in "any violence or anything since I've been in prison." These statements are contradicted by ample evidence in the record, including Mr. Clutchette's statements to other inmates and the fact that Mr. Jackson and others made significant efforts to gain Mr. Clutchette's freedom by way of kidnapping, killing, and rioting. He has no explanation for why they would have gone to such lengths if he was never a member of the Black Guerilla family. While I appreciate that Mr. Clutchette has completed the step-down program and has now been deemed an inactive gang member, I remain troubled by his version of events. His statements, and the evidence to the contrary, demonstrate that Mr. Clutchette has not acknowledged or come to terms with his key role in these historical events or the magnitude of his actions.

John Clutchette, C-23857

First Degree Murder

Page 3

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Clutchette is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Clutchette.

Decision Date: November 4, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

CHRISTOPHER COLBERT, C-91831

Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On November 13, 1983, Christopher Colbert broke into Dorothy Harris' apartment. He encountered Ms. Harris in her home and raped her. He then strangled Ms. Harris to death and dragged her body to the bathroom, putting her under water. Mr. Colbert attempted to remove bloodstains off the bedroom wall and bed, and then stole Ms. Harris' car. Mr. Colbert was arrested on November 16, 1983 after leading at least four police officers on a high speed chase for nearly twenty minutes.

GOVERNING LAW

The question I must answer is whether Mr. Colbert will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Colbert suitable for parole based on his age at the time of the crime, remorse, current age and maturity, lack of rule violation reports since 2003, sobriety over the last two decades, gang drop out, long incarceration, participation in self-help, vocational accomplishments, and parole plans.

Mr. Colbert was only 16 years old when he committed this crime. His father was an abusive drug user and his parents separated when he was in his early teens. Mr. Colbert also experienced negative influences in his neighborhood and joined the Crips at 13. He went to juvenile hall and a juvenile camp for stealing a car and committed this crime a few weeks after being released from custody. He has been incarcerated for the last 33 years and is now almost 50 years old. He claimed to have dropped out of his gang in 2001 and he has not been disciplined for serious

misconduct since 2003. He earned his GED and has routinely received satisfactory and above average work ratings. Supervisors have commended him for having a respectful attitude, mentoring younger inmates, and being a model employee. He has recently started to participate in self-help programs. I gave great weight to Mr. Colbert's youthfulness at the time of this crime and his increased maturity and efforts to improve during his incarceration, but I believe he still poses an unreasonable risk of danger if released at this time.

This crime was unprovoked and senseless. He snuck into Ms. Harris' apartment to commit a burglary and when he came upon Ms. Harris, he did not turn and flee, but instead decided to rape her, strangle her, and place her in the bathtub to drown her. His actions show a callous disregard for the suffering of Ms. Harris.

I am troubled that Mr. Colbert cannot better explain his actions. He told the psychologist who evaluated him in 2014 that the reasons he raped and murdered Ms. Harris were his impulsivity and the "pent up anger" he had because his life "sucked at the time." At his 2016 parole hearing, he told the Board that he committed the crime because "the opportunity arose." He said, "I seen the house open and I approached it, went inside, was shocked to find Ms. Harris come back so early when the lights were out. ... And why did it happen? I believe – well there's numerous factors. But the main one was selfish, demonstrated no empathy for any – Ms. Harris or anybody else, just malicious, careless act on my part." He explained that he committed the rape and murder because, "I wasn't being who I thought I should have been at the time because I was in this whole world of denial and not wanting to function in society by the laws, doing what I wanted to do. I didn't care about the circumstances or the consequences of any of my actions." He elaborated that he raped Ms. Harris because "that was my way of gaining control of the situation, was the sexual assault to let her know, hey, I'm in control of this situation, so therefore you need to stop acting out." Mr. Colbert said that he didn't want to return to custody, so the rape and murder "was pretty much a foregone conclusion." He continued, "So I just went all-out, did what I had to do, and then left the apartment."

The fact that Mr. Colbert was caught in the act of burglary and did not want to face the consequences of his actions does not explain why he was willing to go "all-out" to do what he "had to do" by raping and strangling the stranger whose home he was caught burglarizing. The fact that he stole the victim's car and continued driving it for three days suggests that he was not influenced by any fear of apprehension. Additionally, the fear of being caught does not explain why Mr. Colbert decided to suddenly escalate his criminal behavior to raping and murdering Ms. Harris. As the psychologist concluded, Mr. Colbert "has not demonstrated a viable understanding of the true gravity of his actions, and how the extreme nature of them varies from other, same-aged, adolescent responses to similarly difficult or more difficult family lives and social environments." The psychologist found that Mr. Colbert's "dearth of insight" remains "most significant and highly relevant" to his risk of violence. I urge Mr. Colbert to dedicate significant effort to better understanding his behavior and take full advantage of available programs to demonstrate that he can be safely returned to the community.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Colbert is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Colbert.

Decision Date: November 11, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

RALPH GAINES, E-39804
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Ralph Gaines and his girlfriend, Brenda Baker, shared a home with their 3-year-old daughter and Ms. Baker's 6-year-old daughter from a previous relationship, Erica Moppins. On August 21, 1987, Mr. Gaines severely beat and kicked Ms. Baker and bashed her head against the wall, killing her. Ms. Baker was beaten so badly that the bedroom where she was beaten was covered in her blood and brains.

As Mr. Gaines beat Ms. Baker, 6-year-old Erica yelled for him to stop, saying, "Daddy, I love you, why are you doing this to Momma?" Mr. Gaines yelled at Erica to shut up, then grabbed her and dragged her into the kitchen. Mr. Gaines turned the oven on to its highest temperature, forced Erica into the oven head-first, and closed the oven door, yelling, "Burn, burn, burn." Erica kicked the oven door open and climbed out, but she suffered burns to her arm and a bruise on her face.

When neighbors knocked on the door to investigate, Mr. Gaines yelled, "Get away, get away, I will kill. This is my family. Get away from the door. Leave us alone." Neighbors also heard Mr. Gaines yell, "God take me, I'm ready." A short time later, police arrived, kicked in the door, and found Mr. Gaines on a sofa bed holding the children, who were crying. Mr. Gaines claims that he and Ms. Baker had been using marijuana and cocaine, and that he was suffering from drug-induced hallucinations at the time of the crime.

GOVERNING LAW

The question I must answer is whether Mr. Gaines will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Gaines suitable for parole because they believed his account of the crime was plausible, and because of his staff support, lack of recent violence, risk assessment, remorse, and current age.

I acknowledge Mr. Gaines has made efforts to improve himself while incarcerated. He has not been disciplined for serious misconduct since 2005. Mr. Gaines has participated in self-help programs including Celebrate Recovery, Domestic Violence, and Cage Your Rage. He has received positive work ratings and several vocational certifications. He earned his GED and has recently begun taking college courses. I commend Mr. Gaines for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

I reversed Mr. Gaines' 2015 grant of parole based on the heinous nature of his crime, and his lack of insight into the crime and his history of domestic violence. Although the Board found him suitable for parole again in 2016, my concerns remain.

Mr. Gaines committed a horrific crime. He beat Ms. Baker to death, slamming her head into a wall repeatedly until the room was covered in her blood and brains. Mr. Gaines then turned on Ms. Baker's 6-year-old daughter Erica, who was trying to stop his attack. He put Erica in the oven, turned it all the way up, and left her to die. I find it difficult to understand how Mr. Gaines could carry out these extremely violent and cruel acts, even if he was under the influence of cocaine.

Mr. Gaines also continues to minimize his history of violence against Ms. Baker. He told the Board in 2016 that he began physically abusing Ms. Baker because she "used to yell at me and do some of the same things that my mother used to do and I think I was upset at that and I was reacting to the way she was treating me." He explained that things were good in their relationship when he was "working and feeling really good about [himself]," but that when he got laid off, "it seemed like more frustrations set in and I'd get angry and violence would happen." Mr. Gaines said that although he knew it was wrong to hit others, when it came to Ms. Baker, "I just never thought about it. Why I was doing it and was it wrong or right." He said that just before this crime, he and Ms. Baker argued about money and that he was "saying she was evil" and then hallucinated "an evil face on her." These explanations suggest that Mr. Gaines has not yet come to terms with his years of inflicting physical violence against Ms. Baker, which culminated in this crime. His statements—that he was merely "reacting" to Ms. Baker's poor treatment of him and his economic situation—minimize his culpability for repeatedly physically abusing and ultimately killing her. I am not convinced that Mr. Gaines will be able to abstain from violence because he has yet to adequately confront the nature of his actions. While I am encouraged that Mr. Gaines is being more forthcoming about his history of domestic violence, he must do more to assure me that he is prepared to live without violence in the future, especially in light of the shocking nature of this crime.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Gaines is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Gaines.

Decision Date: November 11, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JOHN GARRETT, H-39710
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

John Garrett lived with his girlfriend and her sister, Alison Nikele. On August 31, 1991, when Ms. Nikele was asleep in her bed, Mr. Garrett shot her three times, including once in the head, and then called 911. Officers arrived and found Ms. Nikele face down on the bed. She was still breathing and had a major laceration on her right shoulder, brain matter on the bed, and a large amount of blood at the base of her skull. Ms. Nikele was transported to a hospital where she died. After Mr. Garrett was arrested, he told officers that he had “mocked suicide” before with the gun and held an “empty” gun to his girlfriend’s head.

GOVERNING LAW

The question I must answer is whether Mr. Garrett will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate’s pre- or post-incarceration history, or the inmate’s current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Garrett suitable for parole based on his support in the community, lack of criminal history, acceptance of responsibility, remorse, current age, parole plans, risk assessment, disciplinary history, and insight into his mental health and substance abuse issues.

I acknowledge Mr. Garrett has made efforts to improve himself while incarcerated. He has been incarcerated for 25 years and has not been disciplined for serious misconduct since 2000. Mr. Garrett has participated in some self-help programs including Alcoholics Anonymous, Narcotics Anonymous, and Breaking Barriers. He historically received positive work ratings and earned several vocational certifications. He earned his GED, and was commended by a social worker for his meaningful participation in a mental health group. I commend Mr. Garrett for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Garrett's crime was tragic. He stood over the sleeping Ms. Nikele and shot her multiple times, reportedly the first step in a plan to kill his girlfriend, her sister, and then himself. Ms. Nikele did absolutely nothing to provoke this violence.


Mr. Garrett has a "lengthy history of relatively severe mental illness." He has struggled with depression since he was six or seven years old. Before he committed this crime, he had thoughts of suicide, made several suicide attempts, and quit his job because he was too depressed to report to work. He reported that the murder of Ms. Nikele was "a crime of despair." He said that he had decided to commit suicide and was "gonna take [his] family with [him]" and "wanted [them] all to be together." Mr. Garrett claimed that he shot Ms. Nikele then "snapped out of it" and called the police. In prison, he has continued to have thoughts of suicide, has made several suicide attempts, and has been hospitalized four times for intensive psychiatric care, most recently in 2009. He has also had "relatively constant" auditory hallucinations and has been diagnosed with schizoaffective disorder. These issues have interfered with his ability to work, as he has been psychiatrically unassigned for much of his time in prison. His medication, therapy groups, and intensive treatment seem to have done some good – the psychologist noted that "Mr. Garrett evidenced a relatively complex understanding of his mental illness" and that there are no present "indicators of instability." The voices Mr. Garrett hears have also subsided. He told the psychologist in 2014 that he could no longer understand the voices and that they were "hardly there." He told the Board in 2016 that he no longer hears voices. He now does volunteer work of picking up trays and cleaning up after dinner. In July 2016, his mental health clinician noted that he was doing very well.

I commend Mr. Garrett for working hard to address these persistent issues. I urge him not to lose hope. But I am not convinced that he has the skills to manage these issues outside of an institutional setting. The psychologist noted, "It is evident that Mr. Garrett's management of his depression plays a significant role in his ability to refrain from future violence." I would like to see him come up with a plan that will address the specifics of how he intends to maintain his medication regime, when he intends to call someone to get help, and how he will support himself if released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Garrett is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Garrett.

Decision Date: November 11, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DEBRA GOODE, W-38312
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Joseph “Joey” Jackson was born November 17, 1986; he weighed 7 pounds 11 ounces. Joey was placed in foster care in 1987. In May 1988, Joey went to live with his father, Robin Jackson, and his father’s girlfriend, Debra Goode. On November 3, 1989, Mr. Jackson and Ms. Goode took Joey to the emergency room. The hospital staff found the child to be unconscious and completely unresponsive. All efforts to resuscitate Joey were unsuccessful; he was pronounced dead on arrival. Attending physicians notified police that the child’s body showed signs of severe abuse and neglect. Ms. Goode admitted to the police that the child was tied up “almost every night” because he often got into cleaning products and would take food from the refrigerator. Ms. Goode’s five-year-old son, Michael, told the police officers that his mother often locked Joey in a closet, forced him to remain under her bed at times, hit him with an electrical cord, and disciplined Joey for taking bottles of milk or food from the refrigerator. Michael also observed Joey drink water and eat feces out of the toilet bowl. The autopsy report disclosed additional signs of severe abuse and neglect, including a lack of subcutaneous fat in his cheeks, chest cavity, and buttocks, protruding ribs, a swollen nose that appeared to have been broken, bruising on his forehead, a skull fracture, and bald patches on his head. Joey’s body was covered with over 34 lesions and bruises in various stages of healing, and there were deep ligature marks on his wrists and ankles, as well as indications that he may have been gagged prior to his death. Although he was almost three years old, Joey weighed only 15 pounds when he died. The cause of death was gross malnourishment, chronic dehydration, and blunt force trauma. The coroner opined that Joey’s physical condition had to have deteriorated over at least a six month period.

GOVERNING LAW

The question I must answer is whether Ms. Goode will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate’s pre- or post-incarceration history, or the inmate’s current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Ms. Goode suitable for parole based on her remorse, maturity, increased insight, lack of criminal history, positive self-help programming, vocational training, and educational achievement.

I acknowledge that Ms. Goode is now 55 years old, has been incarcerated for 27 years, and has made efforts to improve herself while incarcerated. Ms. Goode has only been disciplined for serious misconduct once, in 1997. She earned an associate's degree, and completed several vocational training programs. She has participated in self-help programming including Victim Impact, Alternatives to Violence, Boundaries, Nonviolent Conflict Resolution, AWARE, Compass, and Anger Management. I commend Ms. Goode for taking these positive steps. But they are outweighed by negative factors that demonstrate she remains unsuitable for parole.

Ms. Goode's crime was absolutely appalling. While Joey may not have been her biological son, she supported Mr. Jackson's decision to move Joey into her home and assumed the responsibility of providing for him. Instead of feeding, clothing, and protecting Joey, Ms. Goode callously deprived him of affection, socialization with the other 3 children in the home, food, and water. During the investigation and prosecution for Joey's death, Joey's half-brother, Michael, described how Ms. Goode hung Joey in a closet "like a bat" with food just out of his reach. Ms. Goode admitted tying Joey up "almost every night" in part because he took food from the refrigerator. She also admitted hitting the child regularly, including with a book and a cord. When Joey arrived in Ms. Goode's home in May of 1988, he weighed no less than 23 pounds. When Joey's frail body succumbed to Ms. Goode's abuse 18 months later, he weighed just 15 ½ pounds. The probation report explains that the "starvation and repeated infliction of blunt force trauma during a 6-month-period upon a 3-year-old child would appear to qualify as torture."

I am troubled that Ms. Goode is not yet able to explain in any convincing way what prompted her to torture Joey over this prolonged period. During her parole hearing this year, she said, "I was someone who was in an unhealthy relationship, a constant state of anxiety, fear, anger, loneliness, hurt, resentment, ashamed of my behavior, but choosing to continue to neglect, deny, inflict pain, and murder Joey." She told the psychologist,

Joey just wanted to be loved and I didn't have it in my heart to give it to him. I think my anger stems from always being the one left behind. After they had my sister my mom stayed at home for a while, but then she was on the go again and I was the built-in babysitter. I never abused my sister, but I was not happy being stuck in the house with her. Everyone else is out going to football games, dating, etc. I didn't want Joey, and Robin didn't make it any better by being gone all the time. There was no support and no help. I was angry and I would take it out on Joey.

She further explained that she was angry with Mr. Jackson for hitting her oldest son and that, "deep down inside, that could be one reason I mistreated Joey."

These statements may explain why Ms. Goode was angry with Mr. Jackson, and even why she felt resentment about raising Joey, another woman's child. But they do not explain the daily torment and pain she inflicted upon Joey. Many people act as primary caregivers, including for their stepchildren. However, they don't target and deprive a child of necessities like food and water to the point of starvation or commit the torturous acts that Ms. Goode inflicted on Joey, especially while other children in the home are nurtured and loved. Ms. Goode must do more to account for the utterly inhuman conditions she forced upon this child.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Ms. Goode is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Ms. Goode.

Decision Date: November 11, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

TONY KIM, D-67618
First Degree Murder and
Two Counts of Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On August 1, 1985, 17-year-old Tony Kim drove to 16-year-old Peter Chung's residence to retrieve borrowed football equipment. Mr. Chung's grandmother let Mr. Kim into the home, and Mr. Kim went to Mr. Chung's bedroom. The two began to argue and fought. During the fight, Mr. Kim picked up a hammer from Mr. Chung's bedside table and struck Mr. Chung several times on the head until Mr. Chung collapsed, killing him. Mr. Chung's grandmother entered the bedroom after hearing the commotion, and Mr. Kim also struck her with the hammer several times on the head, killing her. Mr. Kim remained in the house and waited for John Chung, Peter's 14-year-old brother, to return home from summer school. When John returned home, Mr. Kim followed John to his bedroom and hit John on the head several times with the hammer. John fell onto the bed and Mr. Kim left the room. John followed Mr. Kim into the hallway and Mr. Kim again beat him in the head with the hammer until he collapsed and died. Mr. Kim dragged John's body into a bedroom so that it could not be seen from the window. He stayed at the Chung residence for nearly seven hours until it was dark, threw the hammer in a sewer, and drove home.

GOVERNING LAW

The question I must answer is whether Mr. Kim will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Kim suitable for parole based on his age at the time of the crime and subsequent maturity, lack of violence in prison, acceptance of responsibility, remorse, and participation in self-help programs.

I acknowledge that Mr. Kim's crime was committed when he was 17 years old and that he has since been incarcerated for 31 years. He has reported that he came to the United States from Korea when he was 8 years old, and that he had a difficult time adapting to the culture and learning English. Mr. Kim told the Board in 2016 that he was a "loner" who distanced himself from others. He also reported that he had a turbulent home life, with parents who fought frequently about money and a brother who punched him "every other week." I also acknowledge that Mr. Kim has made some efforts to improve himself in prison. He has only been disciplined once for serious misconduct during his three decades of incarceration. Mr. Kim earned his GED, associate's degree, and a business certification. He has been commended by work supervisors and prison officials for his positive behavior and attitude. The psychologist who evaluated Mr. Kim in 2014 concluded that it appears that he "has matured significantly" during his incarceration. I carefully examined the record for evidence demonstrating Mr. Kim's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole.

I reversed Mr. Kim's 2015 grant of parole based on the heinous nature of his crime and his inadequate explanations of his actions. Although the Board found him suitable for parole again in 2016, my concerns remain.

Mr. Kim deployed a shocking level of violence in committing this triple murder. He used a hammer to brutally kill his friend and his friend's grandmother. Rather than stopping himself there, he waited for several hours for his friend's younger brother to come home, and callously beat him to death as well. Mr. Kim then tried to conceal his actions by locking all the doors, closing the curtains, and waiting in the house for hours so he could escape after in the dark.

Mr. Kim has still not adequately explained his willingness to kill three people with so little provocation. He told the Board that he was "consumed" with anger because he felt Peter Chung owed him \$50, and when he discovered that Peter had failed to return some borrowed football equipment, Mr. Kim went to his house to confront him. Mr. Kim said that after he hit Peter multiple times in the head with the hammer, Peter's grandmother came into the room and he felt an "intense spark of panic and fear...And, you know, I just reacted" and hit her with the hammer too. He said that he continued to hit Peter's grandmother because "when I killed Peter, you know, I had blurred that line already with him." Mr. Kim explained that after killing the first two victims, he decided he that he was "willing to kill John," who he thought was a witness, rather than getting caught for the first two murders because he "just couldn't bear the shame of losing face to my father." He told the Board, "At that time, you know, I wasn't thinking," and "I just acted impulsively, irrationally."

These explanations and Mr. Kim's age at the time do not really explain his fight with Peter, much less his violent murder of the other two victims over the course of several hours. Moreover, Mr. Kim's explanation of the third murder—that he did not want his father to find out about the first two murders because he was ashamed—is not very convincing. While all families have problems, by his own account, Mr. Kim came from a relatively stable family and experienced relatively little violence before committing this crime. He must do more to show that he understands how he came to escalate his violent actions so dramatically and deliberately to assure me that he is able to prevent himself from acting similarly in the future. I encourage Mr. Kim to continue to engage in self-help classes or independent study to address, in a comprehensive way, the violent nature of his actions.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Kim is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Kim.

Decision Date: November 11, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

CAMERON SEAHOLM, E-40258

First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On April 17, 1989 the mother of Denise Marie Duerr, age 21, contacted the Garden Grove Police Department to report that Ms. Duerr had left for work that morning at approximately 6:30, and had not been seen or heard from since. A missing person's bulletin was broadcast with a description of Ms. Duerr and her vehicle. On April 20, 1989, the Riverside County Sheriff was informed that Ms. Duerr's car was parked at a residence in Lake Elsinore. Deputies arrived at the residence, seized the vehicle, and arrested Cameron Seaholm for Ms. Duerr's murder. Investigators found traces of human blood and what appeared to be maggots in the trunk of the vehicle. Mr. Seaholm denied any knowledge of Ms. Duerr's murder. He told the officers he stole Ms. Duerr's car from her parking space on April 17 because the keys were hanging out of the trunk. He explained that on April 19 while trying to access the spare tire he found Ms. Duerr's body in the trunk of her car. He reported that he unloaded her body over the side of a hill in order to access the spare.

On the morning of May 20, 1989, Garden Grove police investigators were advised that Ms. Duerr's body had been found in a ravine off of the 91 Freeway near the border of Riverside and Orange Counties. An examination of Ms. Duerr's body revealed that she had been fatally stabbed in the back and neck 21 times. The presence of sperm was found in Ms. Duerr's vaginal tract indicating an act of sexual intercourse at a time contemporaneous with her death.

GOVERNING LAW

The question I must answer is whether Mr. Seaholm will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Seaholm suitable for parole based on his positive rehabilitation over the past decade, age at the time of the crime, subsequent growth and maturity, participation in self-help programming, low risk rating, expressions of remorse, marketable skills, realistic parole plans, and the absence of any prior criminal convictions.

I recognize that Mr. Seaholm committed this crime when he was 22 years old, that he has since been incarcerated for over 27 years, and is now 50 years old. He reported that he had “anger issues” and often “lost his temper” beginning at a young age, with much of his anger and violence directed toward his sister. He also described suffering emotional and physical abuse from his first stepfather between the ages of 9 and 15. I acknowledge Mr. Seaholm has made efforts to improve himself while incarcerated. He has not been disciplined for violence since 1995, and was last disciplined for serious misconduct in 2005. In 2008, he came to the assistance of a correctional officer who fell unconscious during a medical episode, saving the officer from further injury. He routinely received positive work ratings and has participated in relevant self-help programming including Narcotics Anonymous, Domestic Violence Awareness and Prevention, and Anger Management. I carefully examined the record for evidence demonstrating Mr. Seaholm’s increased maturity and rehabilitation, and gave great weight to all the factors relevant to his youthfulness at the time of this crime, his diminished capacity as a young person, and his subsequent growth in prison during my consideration of his suitability for parole. However, they are outweighed by negative factors that demonstrate Mr. Seaholm remains unsuitable for parole.

The final moments of Ms. Duerr’s young life were horrific. Mr. Seaholm had apparently been kicked out of his home after his wife learned that he was doing drugs in the family residence. Ms. Duerr was gracious enough to admit him into her home so that he would not have to live on the streets. Despite her kindness, Mr. Seaholm laid in wait in Ms. Duerr’s carport knowing she would leave her home in the early morning to drive to work. Before Ms. Duerr could enter her car, she was attacked by Mr. Seaholm and dragged to another area in the carport where he stabbed her in the neck and back 21 times resulting in perforation and hemorrhage of soft tissues of the neck, carotid heath, and internal jugular vein. Mr. Seaholm brutally raped Ms. Duerr either while she was dying or after her death. Ms. Duerr’s mother and stepfather have regularly appeared at his parole hearings to express the deep and enduring sadness they continue to experience following the horrifying murder of their daughter.

I am deeply concerned by Mr. Seaholm’s shallow understanding of why he committed this vicious attack and rape on Ms. Duerr. In his most recent version, he claims that Ms. Duerr contacted his wife in early 1989 to tell her that Mr. Seaholm was still using drugs. He told the psychologist in 2016:

Late Sunday night, I decided to do it. ... It was a perfect storm. All my triggers, all my failures in life were peaking. A couple of weeks before, my grandmother had died. She was my refuge. I couldn’t go home to my wife. Everything was happening at that time. My car stopped working. The Thursday before the crime,

Clyde and I picked up a pound of cocaine and I stole some in my pocket. Neither of them saw me until that day. I blamed her. I couldn't go home, she called my home. I believed at the time in my delusion, she was responsible for all my woes, my unemployment, my drug addiction, not being able to go home, not being able to see my wife, my kids.

He further explained that he raped Ms. Duerr because he wanted to "dehumanize and belittle her, and wanted her to know [his] pain." He told the Board, "Denise was an obstacle and I wanted to remove that obstacle." It does not make sense that Mr. Seaholm considered Ms. Duerr to be his biggest problem. Mr. Seaholm had been forced out of the family home approximately 18 months prior to this murder. He claims that he and his wife reconciled several times over those 18 months, but that his cocaine use, not Ms. Duerr, repeatedly led to his wife asking for separations. He points to a single phone call that Ms. Duerr allegedly made several months before the murder as the motivation for this crime. His explanations do not add up. While disappointment and self-loathing may account for his continued use of narcotics, they do not explain why Mr. Seaholm chose Ms. Duerr to be the target of such unbridled violence.

Mr. Seaholm's youth also fails to explain his actions. In the most recent psychological evaluation, the psychologist opined that "his offense was not solely related to immaturity, excessive risk-taking, decreased responsibility, and resistance to punishment, for instance, but instead were part of an entrenched pattern of reckless behavior and personality development of an antisocial nature." Mr. Seaholm must dig deeper and develop a more comprehensive understanding of his antisocial personality characteristics, which the psychologist opined "continued into adulthood in prison." He is making progress, but his gains are relatively recent. Given the serious nature of this crime, I'd like to see a longer period of sustained good behavior and relevant self-help programming so that he can better explain how he acted in such a violent manner with such little provocation.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Seaholm is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Seaholm.

Decision Date: November 18, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ROBERT HOLLIS, D-24399
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On November 12, 1983, Oscar Irvin and his roommate returned to their home where they found Robert Hollis, Ellis Hollis, Clarence Phillips, and Mitchell Thomas. An argument ensued between Mr. Irvin and Mr. Hollis after Mr. Irvin accused Mr. Hollis of bringing a stolen purse into his home. During the argument, Mr. Hollis threw a bottle of gin at Mr. Irvin's face. A short time later, Marcus Oler arrived with Freddie Johnson and spoke with Mr. Irvin in one of the home's bedrooms. Mr. Hollis and Mr. Phillips entered the bedroom and confronted Mr. Oler. Mr. Hollis and Mr. Phillips beat Mr. Oler, bound his hands behind his back with an electrical wire, and hit him with a table leg. When Mr. Oler begged for his life, Mr. Hollis placed a lighter near Mr. Oler's feet and said, "That's what I can do, you know, burn him." Mr. Phillips suggested burning Mr. Oler's hair, but then said he was just "playing." Mr. Hollis responded, "Man, that sound like—that sound like a good idea," and asked Mr. Oler if he was ready to die. Mr. Hollis then told the rest of the group that they had to kill Mr. Oler to prevent him from reporting them to the police, and left with Mr. Thomas to buy gasoline from a nearby market. When they returned, Mr. Hollis, Mr. Phillips, Mr. Thomas, and Mr. Johnson took Mr. Oler, who was bound and gagged, to a vacant house. Mr. Hollis poured the gasoline on Mr. Oler and set him on fire, killing him. The pathologist who examined Mr. Oler's body determined that he died from smoke inhalation and severe burns covering over 95% of his body, he had been alive when he was burned, and there were five areas of hemorrhaging on his body which could have been caused by a fist or blunt instrument.

GOVERNING LAW

The question I must answer is whether Mr. Hollis will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Hollis suitable for parole based on his acceptance of responsibility, remorse, self-help programming, marketable skills, low risk rating, age, and growth and maturity over the years.

I recognize that Mr. Hollis was 20 years old when he committed this crime and has been incarcerated for over 33 years. I acknowledge that Mr. Hollis experienced instability in his life while growing up. He reported that he had limited contact with his mother after his parents divorced, and said that he was physically abused by his father and sexually abused by his older cousins. As an adolescent, he had behavioral problems, used substances, and gravitated toward antisocial peers and criminal activity. I also acknowledge that Mr. Hollis has made some efforts to improve himself in prison. He has not been disciplined for serious misconduct since 2003. He has earned his GED, received positive work reviews, and completed vocational training programs. He has participated in self-help programming, including Alcoholics and Narcotics Anonymous, Relapse Prevention, and Anger Management. I carefully examined the record for evidence demonstrating Mr. Hollis' increased maturity and rehabilitation, and gave great weight to his diminished culpability as a young person, the factors related to his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

This crime was horrific and senseless. Mr. Hollis and his friends viciously beat, bound, and gagged Mr. Oler. After bringing Mr. Oler to a vacant house, Mr. Hollis ignored his many pleas to spare his life and set him on fire. Throughout the night of the crime, Mr. Hollis displayed an exceptionally callous disregard for human suffering.

Mr. Hollis has not provided an adequate explanation for why he beat and burned Mr. Oler to death. He told the psychologist who evaluated him in 2016 that he started beating Mr. Oler because he was angry and frustrated that he had been falsely accused of bringing a stolen purse into the home. He said that his anger "got worse over the night" and his use of PCP "made [him] more brave." The psychologist observed that Mr. Hollis "lacks some insight" into "how his personality contributed to the crime," and "does not explain the traits he developed and manifested that allowed him to enact a plan to kill a friend by burning him." Mr. Hollis' statements do not come close to accounting for the sadistic nature of this crime—he took pleasure at the fear and horrible suffering that he inflicted on Mr. Oler. The argument stemming from the purse incident was not between Mr. Hollis and Mr. Oler so it remains unclear why Mr. Hollis directed his anger at Mr. Oler. In addition, Mr. Hollis' drug use does not explain his willingness to kill the victim. Mr. Hollis indicated that he used PCP with his friends on the night of the crime. But, it was only Mr. Hollis who was serious about setting Mr. Oler on fire and killing him. The record indicates that Mr. Hollis was the one who came up with the idea to set the victim on fire, that he persisted with that plan even as the others attempted to dissuade him, and that he went to the store to get the gasoline that he would use. Until Mr. Hollis demonstrates a more comprehensive understanding of what it was about his own personality that enabled him

Robert Hollis, D-24399

First Degree Murder


Page 3

to act so viciously in response to such a trivial motive, I do not think that he is ready to be released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Hollis is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Hollis.

Decision Date: December 9, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

KELI BURNS, W-24415
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

In 1983, Keli Burns helped Tina Livingston run a prostitution ring. Ms. Burns started working for Anthony “Jack” Sully, a former police officer, who was a frequent client. Mr. Sully provided her with an apartment and paid her to help with his electrical business.

Gloria Fravel went to Mr. Sully’s warehouse to have sex with him because she owed a debt to Ms. Livingston and Ms. Burns. Ms. Burns watched Mr. Sully and Ms. Livingston strangle Ms. Fravel, who was naked and handcuffed in Mr. Sully’s bed. Ms. Burns then helped Mr. Sully dispose of Ms. Fravel’s body, which Mr. Sully beat with a hatchet. On February 7, 1983, her body was found naked on the side of a highway. She had been beaten, stabbed seventeen times, and strangled. Ms. Fravel’s jaw and cheekbones were broken, her teeth were knocked loose, and an object had been forced into her vagina after she died.

Around April 28, 1983, Ms. Burns brought Brenda Oakden to the warehouse so Mr. Sully could have sex with her. Mr. Sully beat Ms. Oakden and shot her in the head, killing her. On a separate occasion, Ms. Burns brought Phyllis Melendrez and her pimp, Michael Thomas, to see Mr. Sully. Mr. Sully beat Ms. Melendrez and Mr. Thomas and shot both of them in the head, killing them. Mr. Sully and Ms. Burns put Ms. Oakden’s and Ms. Melendrez’ bodies inside a barrel and filled it with cement. They put Mr. Thomas’ body in a separate barrel. Ms. Burns drove both barrels to Golden Gate Park and left them there. The barrels were discovered on May 3, 1983.

GOVERNING LAW

The question I must answer is whether Ms. Burns will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate’s pre- or post-incarceration history, or the inmate’s current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give “great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner” when determining a youthful offender’s suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Ms. Burns suitable for parole based on her remorse, current age, vocational and educational achievements, participation in self-help programs, parole plans, and her age at the time of the crime.

I acknowledge that Ms. Burns' crime was committed when she was 21 years old. She reported that she experienced a very turbulent childhood. She and her mother had little money and often had to sleep in cars or on the street, her mother became physically abusive, and she ran away and lived on her own at age 15. At the time of the crime, she worked for a prostitution ring and associated with crime partners who were much older than her. The psychologist who evaluated Ms. Burns in 2016 noted that at the time of this crime, she had "great difficulty considering the full consequences of her behaviors" and that her "immaturity, faulty judgment, and poor decisions" contributed to her "reckless and impulsive behavior." I also acknowledge that Ms. Burns has made efforts to improve herself in prison. She is now 55 years old and has been incarcerated for 32 years. Ms. Burns has participated in self-help programs including Criminal Thinking, Alternatives to Violence, and Anger Management. She earned several vocational certifications, positive work ratings, and credits toward an associate's degree. Several staff members have commended Ms. Burns in recent years for her positive attitude and behavior. I carefully examined the record for evidence demonstrating Ms. Burns' increased maturity and rehabilitation, and gave great weight to all the factors relevant to her diminished culpability as a young person, her youthfulness at the time of this crime, and her subsequent growth in prison during my consideration of her suitability for parole.

Ms. Burns participated in a series of chilling murders. It is difficult to comprehend her willingness to lead multiple victims to their deaths at the hands of a known killer. According to the Ninth Circuit Court of Appeals, the prosecution presented a "staggering" amount of evidence that Mr. Sully "derived pleasure from torturing his six murder victims and mutilating their bodies." *Sully v. Ayers* (2013) 725 F.3d 1057. Despite witnessing Ms. Fravel's murder, Ms. Burns supplied Mr. Sully with an additional three victims and helped him cover his tracks.

Ms. Burns' explanations for her participation in these crimes are inadequate. She reported that at the time of these crimes, she was living in an apartment provided by Mr. Sully and that she was working for him and escorting prostitutes to and from their clients. She told the Board that when she watched Mr. Sully and Ms. Livingston strangle Ms. Fravel, the first victim, she "just froze up." Ms. Burns said that after Ms. Fravel's murder, she didn't think that Mr. Sully "was going to kill anyone else," so she brought another prostitute to his warehouse for him. After Mr. Sully killed the second prostitute, Ms. Burns said, "I took it upon myself to go to the...place across the way and get a barrel" to put the second victim's body in. She said, "[I]t just seemed like the perfect place to put something if you wanted to hide it." Ms. Burns reported that Mr. Sully later called her and asked for another prostitute. No one from her escort service would visit Mr. Sully after the first two victims disappeared, so she recruited Ms. Melendrez and her pimp Mr. Thomas and brought them to the warehouse. Ms. Burns said that she was scared of Mr. Sully because of his ties to law enforcement, that she emotionally blocked off the murders, and that she was "comfortable" and "didn't want to lose...a place to stay, car, money, clothes, everything." When

describing her participation in these crimes, Ms. Burns said, “I made some detrimental choices that I was trusted with lives of other human beings and I took that for granted.”

Ms. Burns’ characterization of her actions indicates that she has not fully confronted her role in the murder of four people. She did much more than make “some detrimental choices” – she brought three of the victims to Mr. Sully’s warehouse after witnessing the first brutal killing months before. She helped him dispose of Ms. Fravel’s body and came up with a way to conceal the bodies of Mr. Sully’s next three victims. Her explanations that she continued to help Mr. Sully because she was both “comfortable” with her living situation and she was scared of him are contradictory and shed little light on her decision to repeatedly supply victims to a man she knew had killed multiple times. Ms. Burns must more honestly account for her active role and better explain why she continued to help a serial killer rather than taking any number of more reasonable courses of action.

Instead of dedicating herself to self-improvement after her conviction, Ms. Burns continued to participate in criminal behavior in prison. She was disciplined five times for serious misconduct, including possession of alcohol, trafficking drugs in 2007, and possession of a cell phone in 2010. Confidential reports indicate that Ms. Burns may have continued selling drugs until at least 2012 and threatened inmates who owed her debts. The 2016 psychologist “had some concern about the degree to which Ms. Burns has the behavioral discipline to be able to abide by the rules and regulations of parole if released at this time” because of her drug trafficking in prison and recent rules violation. The psychologist also determined that Ms. Burns represents a moderate risk of future violence, in part because of her continued participation in drug trafficking and her “impaired ‘insight’ into and ‘remorse’ for the life crime.” Ms. Burns must do more to show that she understands her willing participation in these violent activities and that she is fully dedicated to living without violence and criminal activity in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Ms. Burns is currently dangerous. When considered as a whole, I find the evidence shows that she currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Ms. Burns.

Decision Date: December 16, 2016


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

MARK HALL, C-70773
First Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ **X** _____

STATEMENT OF FACTS

On December 20, 1982, Eloy Ruiz and Randolph Carrier drove to a park to purchase marijuana. When Mr. Ruiz pulled over to ask for marijuana, Michael Prather, Donald Mitchell, and Mark Hall walked up to his car. Mr. Prather pulled a gun and demanded Mr. Ruiz's wallet. When Mr. Ruiz said "No," Mr. Prather shot him. Mr. Prather next pointed the gun at Mr. Carrier while Mr. Mitchell and Mr. Hall pulled Mr. Carrier from the car, hit him and demanded his wallet. Mr. Carrier handed over his wallet and was eventually able to drive away. Mr. Ruiz was taken to the hospital and pronounced dead the next day.

GOVERNING LAW

The question I must answer is whether Mr. Hall will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Hall suitable for parole based on his age at the time of the crime, participation in self-help programs, current age, acceptance of responsibility, insight, remorse, and parole plans.

I acknowledge that Mr. Hall's crime was committed when he was 18 years old and that he has since been incarcerated for more than 33 years. He told the psychologist who evaluated him in 2016 that he "didn't really know" his biological father, that his mother was "an addict, on heroin, not stable," and that when he was two years old he was removed from his mother's home when he was discovered in filthy conditions without adult supervision or enough food. He was then placed with his grandmother, and later, his aunt and uncle, who raised him to believe that they

were his biological parents. The psychologist concluded that Mr. Hall's "problematic behaviors escalated in early adolescence and coincided with his discovery of the truth about his early upbringing," which may have "contributed to his feelings of mistrust and anger." I also acknowledge that Mr. Hall has made some efforts to improve himself in prison. He has been commended by correctional officers and work supervisors for his positive behavior and active efforts to improve himself. Mr. Hall earned one vocational certification. He has participated in self-help programs including Alcoholics and Narcotics Anonymous and other substance abuse treatment, Anger Management, Victim Awareness, Conflict Resolution, Reducing Destructive Thinking and Increasing Insight, Nonviolent Communication, Gang Diversion, Domestic Violence, Parenting, and Living with Purpose. I carefully examined the record for evidence demonstrating Mr. Hall's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his youthfulness at the time of this crime, his diminished culpability as a young person, and his subsequent growth in prison during my consideration of his suitability for parole.

Mr. Hall participated in a cold-blooded crime. During the commission of a robbery, Mr. Hall and his crime partners held Mr. Ruiz and Mr. Carrier at gunpoint, and then fatally shot Mr. Ruiz and hit Mr. Carrier. Mr. Hall displayed a total disregard for the lives of others in committing this crime.


I am troubled that Mr. Hall continued to act violently and violate the rules during the majority of his incarceration. He has been disciplined 52 times for serious misconduct, including mutual combat, assaulting inmates, committing a slashing attack on an inmate, assaulting on a correctional officer, possession of weapons, possession of drugs, and threatening correctional officers. He was disciplined most recently in 2009 for possession of a cell phone. Mr. Hall has admitted participating in gang activity in prison and acknowledged that he was a shotcaller. In 2008, an educational instructor reported that Mr. Hall handed in a homework assignment that stated that he intended to use the instructor to smuggle drugs into the prison, have sex with her, let others have sex with her, and then kill her. This allegation is extremely disturbing, especially in light of Mr. Hall's many years of acting violently in the community and in prison. I direct the Board to thoroughly question Mr. Hall about this incident at his next hearing. Based on his conduct in prison, I am not persuaded that he has left violence and criminal activity behind.

Mr. Hall's most recent risk assessment supports my concerns. The psychologist who evaluated Mr. Hall in 2016 determined that he had a moderate risk of future violence, based in part on his disciplinary history and his "lack of insight." The psychologist concluded that he "would benefit from remaining disciplinary free, continuing his participation in self-help programs, and continuing to gain awareness of the causative factors of the life crime and other criminal behavior." Given his significant history of criminal activity, Mr. Hall must show a more sustained commitment to rehabilitation and living without violence before he can be safely released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Hall is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Hall.

Decision Date: December 23, 2016


EDMUND G. BROWN JR.
Governor, State of California