

**EXECUTIVE REPORT
ON
PAROLE REVIEW
DECISIONS**

**DECISIONS FOR THE PERIOD
January 1, 2012 through December 31, 2012**



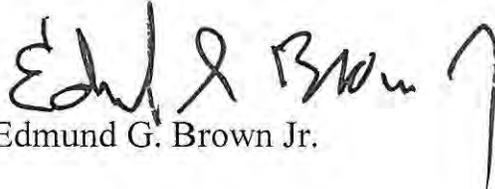
BY GOVERNOR EDMUND G. BROWN JR.

**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(b) of the California Constitution, I submit this report on the actions I have taken in 2012 in review of decisions by the Board of Parole Hearings. Of these decisions, I reversed 91 and modified 2. I have included copies of each of my actions.

Sincerely,


Edmund G. Brown Jr.

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

CHARLES MCCLELLAN, D-82931

Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Charles McClellan was a drug addict who used PCP daily from 1979 to 1985. In 1985 and 1986 he also used cocaine on a regular basis, smoking up to 14 grams per week. Mr. McClellan was in a common-law relationship with Portia Thompson, and he had been living with her. He stole money from Portia to continue his drug habit. Portia's family had encouraged Portia to leave Mr. McClellan. Mr. McClellan eventually moved in with his brother. Mr. McClellan repeatedly threatened Portia's relatives for trying to break up his relationship. On October 27, 1986, Mr. McClellan, following through on these threats, broke into the home of Veronica Jones, Portia's sister, and murdered her. Mr. McClellan fatally stabbed her 42 times with a switchblade knife and fled. Police arrested him four days later.

GOVERNING LAW

The question I must answer is whether Mr. McClellan will pose a current danger to the public if released from prison. In answering this question, I must adhere to the same legal standards as the Board of Parole Hearings. 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. McClellan suitable for parole based on his good behavior and programming while in prison, favorable psychological report, and realistic parole plans.

I acknowledge Mr. McClellan has made efforts to improve himself while incarcerated. He has never received a serious disciplinary report in prison, and the last time he was counseled for minor misconduct was over nine years ago. He has also earned his GED, completed three vocations, and held numerous institutional jobs. He has also participated in self-help programs, including extensive involvement in Alcoholics and Narcotics Anonymous, as well as in the Substance Abuse Program; Success from the Inside Out courses; Alternatives to Violence Project

Workshop; Breaking Barriers Program; Conflict Resolution Training Course; Mood Management Group Therapy; Life Prisoner's Support Group; Literacy Life Skills Self-Help Program; and a parenting class. I commend Mr. McClellan for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. McClellan's crime was absolutely senseless. The victim did not pose a threat to him. She was not involved in Mr. McClellan's relationship with Portia other than allegedly advising Portia to leave a man who was a drug addict and would steal money from her.

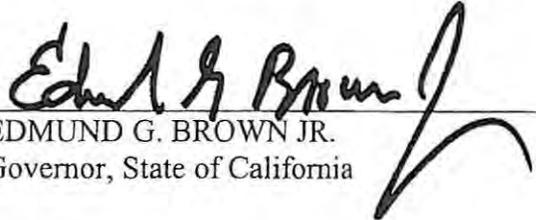
I am concerned that Mr. McClellan lacks insight into his conduct. This is a man who made threats to kill members of Portia's family and then brutally murdered her sister. At his 2011 court-ordered parole hearing, Mr. McClellan chose to speak only about his institutional adjustment. The last time he discussed his insight into the murder was at his 2010 parole hearing. Mr. McClellan told the Board that he "harbored ill-will toward" Ms. Jones and resented her for interfering with this relationship with Portia. I don't find this explanation convincing or that it explains why he stabbed Ms. Jones 42 times. Something doesn't add up here. Until Mr. McClellan shows he understands why he repeatedly stabbed a woman who posed him no threat, I cannot be assured he would not pose a threat to public safety or other family members if released. Neither the 2010 nor the 2011 parole hearings give me reason to believe he has developed sufficient insight or understanding of what brought him to such a violent state of mind that he committed this particular murder in the way he did. I would also note that Mr. McClellan's presentation was "aloof and kind of flat." That kind of reaction to this horrible crime troubles me and worries me that he continues to be a danger.

I would also note that one of Ms. Jones's surviving family members has written several heartfelt and powerful letters expressing fear of Mr. McClellan even to this day, citing his previous threats to kill family members. Given this real and understandable fear, I believe a truly remorseful person would have done everything in his power to communicate the changes in his life that would alleviate such fears. Nothing in the record shows me that he has done this.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. McClellan is currently dangerous. When considered as a whole, I find the evidence discussed above provides evidence of Mr. McClellan's current dangerousness. Therefore, I reverse the decision to parole Mr. McClellan.

Decision Date: January 26, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

BOBBY HARPER, C-44744
First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

X

STATEMENT OF FACTS

Between 1973 and 1981, Bobby Harper engaged in a string of criminal activity, often involving weapons and violence. On April 6, 1981, Bobby Harper and five other men confronted Otis Carter and Morris Mikes, both of whom were drug dealers, to rob them of their drugs and money. The men forced the two victims into a residence where they held Mr. Carter in a bedroom and Mr. Mikes in the living room. Mr. Harper then shot Mr. Carter five or six times, killing him. Mr. Mikes fortunately was able to escape uninjured.

GOVERNING LAW

The question I must answer is whether Mr. Harper will pose a current danger to the public if released from prison. In answering this question, I must adhere to the same legal standards as the Board of Parole Hearings. 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. Harper suitable for parole based on the time he has been discipline free while in prison, his remorse, and the fact that he has recently taken responsibility for the shooting of Mr. Carter.

I acknowledge Mr. Harper has made some limited efforts in prison to improve himself while incarcerated. He earned a high school equivalency certificate, attended 10 Alcoholics Anonymous meetings in 1991, participated in 14 weeks of Men's Self-Help Group in 1992, and just recently joined Criminals and Gangmembers Anonymous. These efforts were a step in the right direction, but they do not overcome the other factors showing that he remains dangerous.

Mr. Harper viciously murdered Mr. Carter because he was dealing drugs in his gang's territory. A gang of six, armed men overcame Mr. Carter and Mr. Mikes, forced them into a residence, separated the two, and Mr. Harper shot Mr. Carter several times. He was subsequently convicted

for possessing a deadly weapon while in jail waiting to be committed to state prison. Despite being convicted of shooting Mr. Carter in 1981, he consistently denied being the shooter until his parole hearing in 2010. He refused to participate in his 2011 parole hearing.

Until it is clear that Mr. Harper understands the reasons for his lengthy history of violent crimes and weapon offenses culminating in his murder of Mr. Carter, I am concerned that he remains a danger. At his 2010 parole hearing, he offered a motive for killing Mr. Carter, but did not really explain in a credible way why he committed this crime, made a deadly weapon in jail, belongs to a gang, or engaged in so many other violent activities. Since 1986, the Board has consistently recommended that Mr. Harper participate in self-help programming. Despite these recommendations and the availability of programs, in over 29 years, he has gone to only a handful of meetings and self-help groups. Available programming may help Mr. Harper examine his reasons for turning to violence and understand how to avoid violence in the future.

It is also concerning that Mr. Harper remains a validated member of the Crips. As far as the record shows, he has made no effort to separate himself from the Crips since he was validated as a member by gang experts in 1989. In addition, Mr. Harper has done little in prison to learn the skills necessary to get a job and support himself when released. He has no job offer. Without the skills to find employment, I am concerned that he will return to his violent criminal and gang lifestyle when released.

CONCLUSION

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

Decision Date: January 27, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JAMES HOOD, J-10228

First-degree murder

AFFIRM:

MODIFY:

REVERSE:

 X

STATEMENT OF FACTS

Bruce Beauchamp worked for James Hood as a construction worker. In 1990, Mr. Beauchamp was tried and acquitted of killing Mr. Hood's wife. Two years later, Mr. Beauchamp and another broke into Mr. Hood's office complex and stole construction equipment. They later tried to sell the equipment back to Mr. Hood. Mr. Beauchamp appears to have been trying to blackmail Mr. Hood for \$250,000. Mr. Beauchamp seemed to believe that information he was threatening to reveal would induce Mr. Hood to give him the money he was seeking. On March 2, 1992, after Mr. Beauchamp and Mr. Hood spoke on the phone, Mr. Beauchamp came to the office complex, greeted Mr. Hood's private secretary, and went into Mr. Hood's private office. A short time later, Mr. Hood shot him seven times, killing him.

GOVERNING LAW

The question I must answer is whether Mr. Hood will pose a current danger to the public if released from prison. In answering this question, I must adhere to the same legal standards as the Board of Parole Hearings. 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

I acknowledge Mr. Hood has made some efforts to improve himself while incarcerated. He has taken classes including stress management and conflict resolution and has completed vocational training in several areas. And he has not violated any prison rules. I commend Mr. Hood for his good behavior and the positive steps he has taken in prison. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

First of all, I have grave doubts that Mr. Hood has been honest and forthcoming about the killing in this case. The facts show that he killed Mr. Beauchamp in cold blood. He induced Mr. Beauchamp to come into his office with the promise of \$5,000, shot him dead, and then planted a weapon on the body before the police arrived. Mr. Hood contended that he shot Mr. Beauchamp in self defense. But the evidence showed that Mr. Beauchamp was left-handed while the gun was found in his right hand; there was only a single fingerprint on the weapon, rather than many

fingerprints that would normally result from handling the weapon; and Mr. Beauchamp's arm was moved after he died, but before the police came. All of this throws serious doubt on Mr. Hood's honesty and leads me to believe that he is seriously minimizing his culpability in this crime. According to the jury, this was not justifiable self-defense and given the evidence, Mr. Hood's claim to the contrary is not credible.

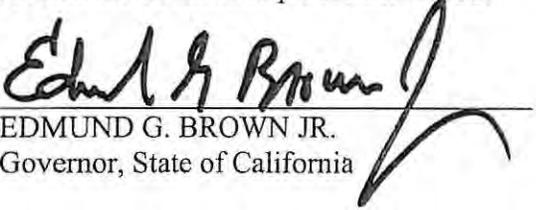
Mr. Hood also does not appear to understand why he resorted to murder. He says he shot Mr. Beauchamp partly because he was grieving because of his wife's death. But losing a loved one is something that we all experience in life. This experience, although painful, does not explain his decision to commit murder. Mr. Hood also describes the fact that he carried a gun as one of the reasons he committed the crime. But merely possessing a weapon does not explain why he decided to use it to kill Mr. Beauchamp. Until Mr. Hood shows that he has genuinely explored and can give a credible account of the circumstances that led to his killing of Mr. Beauchamp, I cannot be persuaded that he would not commit future acts of violence if released from prison.

Mr. Hood decided not to participate in the Board's psychological assessment of him. And his decision to not discuss his crime at his parole hearing prevented the Board from delving into whether he truly understands and has come to grips with the reasons he committed murder. His decisions required me to base my assessment of his current risk on other evidence in the record. I strongly encourage him to participate in future evaluations so that the Board and I will have the benefit of what might be a more favorable assessment of his mental state.

CONCLUSION

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

Decision Date: January 27, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

KEVIN CLEMES, H-57639
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

In 1991, Kevin Clemes and his wife Jeanice separated and he filed for divorce. But at some point, they resumed their relationship. On the day their divorce was to become final, Mr. Clemes woke up to find that his wife had not slept at home. She came home at ten o'clock that morning. During the day, Mr. Clemes and his wife used methamphetamine. Throughout the evening, they drank heavily and used drugs at a bar and at their home. At the end of the evening, they argued over the fact that Jeanice was cheating on him. She said that she was going to change clothes and leave. He grabbed her dress and ripped it. Jeanice kicked him between the legs.

Mr. Clemes then retrieved his gun and hit her in the back of the head with it, causing her head to bleed and the gun to fire a bullet, which lodged in the wall. Jeanice cleaned up her blood and took off her dress. She went into the living room, where Mr. Clemes was waiting with the gun. She said she was leaving but he insisted she stay. Another physical struggle ensued. This time, Mr. Clemes pressed the gun against Jeanice's forehead and fired it, killing her.

GOVERNING LAW

The question I must answer is whether Mr. Clemes will pose a current danger to the public if released from prison. In answering this question, I must adhere to the same legal standards as the Board of Parole Hearings. 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. Clemes suitable for parole based on his remorse, insight into the factors leading to the crime, psychological evaluation, institutional job performance, participation in self-help classes and book reports, parole plans, and support in the community.

I acknowledge Mr. Clemes has made efforts to improve himself while incarcerated. He has participated in Alternatives to Violence, Pathways to Sobriety, and has recently been involved in Alcoholics Anonymous. I commend Mr. Clemes for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

The evidence indicates that in the midst of a heated and violent confrontation, fueled by jealousy and drugs, Mr. Clemes intentionally killed his wife, execution style, by pressing a gun to her head and shooting her. He obviously knew the gun was loaded because it had already discharged once. Yet he told the parole board that he did not intend to kill her. I do not believe Mr. Clemes is being honest with the board or himself.

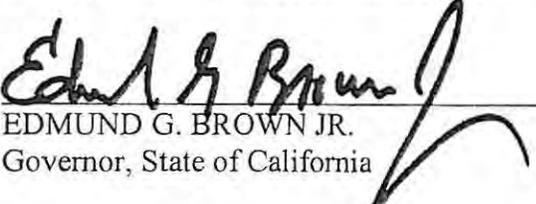
Since his 2008 hearing, Mr. Clemes has claimed that he turned the cylinder back on the gun after the weapon first discharged. He said that when he pressed the gun up against his wife's forehead and pulled the trigger, he thought it would just frighten her because he did not believe there was a live round in the chamber. The 2008 hearing panel shared my conclusion that his claim is not credible. The record indicates that, while under the influence of drugs and alcohol, Mr. Clemes went from arguing with Jeanice, to ripping her clothing, and then to hitting her in the head with a loaded gun hard enough to cause the gun to fire. It is simply not believable that he stopped during his increasingly violent abuse of her to rotate the gun's cylinder to an empty chamber to ensure his wife's safety, before pressing the gun to her forehead and pulling the trigger.

I am also concerned that Mr. Clemes has not adequately addressed his long history of substance abuse. He started drinking alcohol at ten years old and drank to excess at least five days a week for over two years in his late teens and early twenties. He started using marijuana in his early teens and methamphetamine in his early twenties. He continued to use methamphetamine on a daily basis for seven years. He sold methamphetamine for five years to support his drug habit. Without a doubt, his substance abuse was a factor that led him to kill his wife. The psychological evaluation indicated that his substance abuse is "the most dangerous risk factor for recidivism in his profile of risk" and that his ability to refrain from future use should be viewed as "potentially fragile." Yet, he only resumed his participation in Alcoholics Anonymous in the last quarter of 2009, at the Board's urging. Given the length and severity of his substance abuse, I am not convinced that Mr. Clemes has invested enough time in addressing his substance abuse problems to have learned how to abstain from drugs or alcohol in the community. Given the relationship that his substance abuse had to the murder, I am concerned that he still would pose a danger to the community if released.

CONCLUSION

I have considered the evidence relevant to whether Mr. Clemes is currently dangerous. When considered as a whole, I find the evidence I have discussed shows why he currently poses a danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Clemes.

Decision Date: February 10, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

IVAN VON STAICH, E-10079

Second-degree murder and attempted murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

Ivan Von Staich and Cynthia Bess were in a relationship before he was sent to federal prison in 1980 for threatening a former girlfriend who was going to testify against him on an arson charge. While he was in prison, Cynthia became involved in a relationship with another man, Robert Topper. Although she continued corresponding with Mr. Von Staich in prison, her communication became less frequent after she met Mr. Topper.

In 1983, Mr. Von Staich was released on parole to a halfway house. But just 20 days after being released, he was returned to federal prison because he broke into a residence Cynthia had just moved from to find clues about where to find her. One condition of Mr. Von Staich's parole was to stay away from Cynthia. Although Cynthia made no further contact with Mr. Von Staich for the remainder of his sentence, Mr. Von Staich sent letters to her both professing his love and threatening to hurt her if she left him for another man or if she told law enforcement anything that would lead to a longer incarceration. In a two month span, he made 67 collect calls to her parents' house and many calls to Mr. Topper threatening him to stay away from Cynthia. Mr. Von Staich was released again on November 14, 1983, and learned where Cynthia was living. Prior to his release, Cynthia had married Mr. Topper.

At about one in the morning on December 8, 1983, Mr. Von Staich arrived at Cynthia's house wearing gloves and carrying a hammer, wire cutters, and wire strippers. He cut the phone lines in back of the house, then kicked in the front door and went after Mr. Topper. Mr. Topper grabbed a gun and shot Mr. Von Staich twice, severing one of his fingers. Despite being wounded, Mr. Von Staich was able to wrest the gun away from Mr. Topper. Mr. Von Staich repeatedly bludgeoned Mr. Topper with the hammer, then used Mr. Topper's gun to shoot him four times at close range in the back and neck, killing him.

Mr. Von Staich then found Cynthia in the kitchen. He struck her multiple times in the head with a handgun, crushing her skull. As the result of this attack, Cynthia spent months in a coma, underwent two brain surgeries, and suffered permanent brain damage. Mr. Von Staich was sentenced to 30 years to life after being convicted of second degree murder with a firearm enhancement and attempted murder with great bodily injury.

GOVERNING LAW

The question I must answer is whether Mr. Von Staich will pose a current danger to the public if released from prison. In answering this question, I must adhere to the same legal standards as the Board of Parole Hearings. 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

I acknowledge Mr. Von Staich has made efforts to improve himself while incarcerated. He has not had any serious rule violations since 2008. He earned a Diploma of Legal Assistance in 2007. He has also participated in some self-help programs including Alternatives to Violence and Anger Management. I commend Mr. Von Staich for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Von Staich's crime was brutal and disturbing. He made threats for months while incarcerated and made extraordinary efforts to locate Cynthia, including the 67 phone calls to her father, breaking into her former home to find clues, and violating a specific condition of parole not to contact her. After tracking her down, he went to the home in the middle of the night with gloves, wire cutters, and a hammer. He cut the telephone wires before he stormed the house by kicking down the door. He beat Mr. Topper with a hammer and shot him with his own gun. He then bludgeoned Cynthia with the gun, crushing her skull and causing permanent brain injury.

Mr. Von Staich has a long history of threatening and violent behavior.

- When he was 13 years old, Mr. Von Staich's mother wrote a complaint to the Orange County Sheriff's Office indicating that "a fight began with Ivan and Robert (father) and then Ivan kicked my little baby and then broke several plates in the kitchen and then broke a plauge of mine (*sic*). Ivan then went out to the garage and got a screwdriver and yelled he was going to kill me with it. I then locked and nailed the back door shut. Ivan then kicked in the back door. When my other son Mark came Ivan ran."
- At age 16, he struck another minor in the mouth with a twelve inch crescent wrench.
- When he was 17 and absconding from parole, his mother contacted his probation officer to report that he was in her home and had threatened to kill her with a baseball bat.
- Four months after he was released from the California Youth Authority in 1974, he was subdued and taken into custody for striking his sister, rendering her unconscious, pushing his mother, fighting with his father, tearing the telephone out of the wall of the home, and threatening to kill his family if they called the police.

- According to his former Youth Authority parole agent, he was a hostile and vicious person who had terrorized his own family.
- In 1976, he was arrested for Assault with a Deadly Weapon for flipping over a bed in the Riverside County Jail while another inmate was on it. The other inmate required treatment at the county hospital.
- He kidnapped an ex-girlfriend and forced her to return with him from out-of-state against her will. The Riverside District Attorney's Office recorded seven hours of conversations between Mr. Von Staich and his ex-girlfriend in which he threatened her and her family for being willing to testify against him on an arson charge. He told them that he would be "after them until he went to his grave," and was later arrested near her school.
- Cynthia Topper wrote to the federal authorities that she was afraid for her life before Mr. Von Staich attacked her and killed Mr. Topper.
- A federal probation officer described him as an "extremely vicious individual, with no regard for humanity."
- At sentencing, the Judge said that he imposed the maximum punishment because "a more dangerous individual I have not had in my Court before Mr. Staich, and I have sentenced four people to death, all deserving souls, but none of which I find to be as dangerous as Mr. Staich." At the end of the sentencing hearing, Mr. Von Staich threatened the Judge.
- Even during his current prison term, his threats continued. Mr. Von Staich was married while incarcerated. When his wife served him with divorce papers, he responded with an eight page letter using his commitment offense and other statements to intimidate and threaten her.

I am troubled that Mr. Von Staich tries to shift blame for the crime and minimizes his culpability. He told the psychologist who evaluated him in December 2010, that he went to the house that night just to talk to Cynthia, but when he arrived, Mr. Topper began threatening him, then lured him in and attacked him. According to Mr. Von Staich, he attacked Mr. Topper in an effort to protect himself. He maintains that he had no intention of hurting anyone that evening and that he was merely reacting to being shot. At his most recent parole hearing, he even claimed that Cynthia had called him to invite him over that evening. He told the psychologist that he committed the crime because of the "uncertainty of the relationship . . . the female never cut it off with me completely[.]" He said he could have avoided committing the brutal murder and assault, by "not being involved with that type of female ever." When asked what he would say to the victims if he had the opportunity, after saying he would apologize, he volunteered, "I am not a murderer, there is mitigating circumstances (*sic*); I wish that man didn't shoot me." He also said that he has "never really been a criminal; I never stole anything, I never robbed anyone."

Mr. Von Staich's depiction of the horrific home-invasion murder and attempted murder he committed is utterly unbelievable, and shows that he minimizes his responsibility for his crimes. I agree with the psychologist that Mr. Von Staich "severely limits his responsibility" and "continues to place an inordinate amount of culpability for his actions on the victims." The crime was not a spur-of-the-moment incident. It is clear that Mr. Topper was obsessed with Cynthia, and had been stalking her and threatening her and Mr. Topper for some time. As the psychologist discussed, "in particular, the inmate's forethoughts and actions involving cutting the telephone lines and taking a hammer (to possibly pry open a window) as an acceptable prelude to initiating a late-night/early-morning uninvited discussion with a former girlfriend remains inadequately explained." Overall, the psychologist observed, that Mr. Von Staich "appears to have not spent a sufficient period of time exploring or understanding his thought process leading up to his commission of the life crime, as well as identifying his errors in thinking and judgment that led to his previous antisocial/criminal conduct." I agree. Mr. Von Staich has not adequately explored the reasons for his violent actions that night, or for his long history of violent and antisocial behavior.

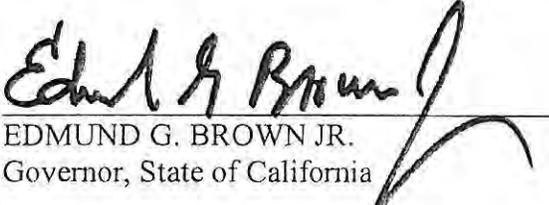
Mr. Von Staich's recent psychological assessment scores confirm my concerns about the threat to public safety he would pose if released from prison at this time. He scored in the moderate range for psychopathy, moderate to high range for risk of violent recidivism, high range for risk of general recidivism, and moderate to high range for overall risk to society. Among other factors, these assessments are based on Mr. Von Staich's current reduced level of remorse, deceitfulness, lack of insight, minimization for his responsibility for the crime, and rationalization of his actions. I find the more favorable conclusions of the psychologist Mr. Von Staich hired to be unconvincing.

Lastly, I find that Mr. Von Staich has not shown genuine remorse. The psychologist described Mr. Von Staich's affect as "superficial" when discussing remorse and his demonstrated empathy as "detached and unemotional rather than internal and emotional." In the hearing and psychological evaluations, he referred to Cynthia and Robert Topper as "the female in this case" and "the male victim." The psychologist went on to say that Mr. Von Staich's "reported remorse appears to be more focused on how the life crime has impacted his life, rather than an internal sense of empathy for the loss of life experienced by one victim, the impact of that loss on those close to him, and the significance of the wounding of the other victim." This lack of remorse is a further indication that Mr. Von Staich has not dealt with the issues that led to his violent behavior and would present an unreasonable risk to public safety if released at this time.

CONCLUSION

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

Decision Date: February 10, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DOUGLAS DUSTIN, K-06121
First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

In March 1985, Douglas Dustin and his wife, Heidi, separated after he learned she was having an affair. She moved into their San Diego vacation home, and filed for divorce in March 1986. Mr. Dustin put a listening device on her telephone and spied on her. He stalked her and even set her boyfriend's car on fire in the parking lot of a restaurant where the pair were dining.

On September 13, 1987, he drove from Los Angeles to San Diego, and waited in the house for Mrs. Dustin to return. At around 7:15 p.m., neighbors heard gunshots followed by Mrs. Dustin screaming, "help me, help me." Neighbors saw Mrs. Dustin run into the street, chased by Mr. Dustin. Mr. Dustin fired once and Mrs. Dustin fell into the street. He then put the gun to her head and fired two more times, killing her.

Mr. Dustin surrendered himself to law enforcement officials the next day. A jury convicted him of first-degree murder and found that he used a firearm in the commission of the crime. In the sanity phase, a mistrial was declared when the jury was unable to reach a verdict. A second sanity trial resulted in a mistrial for the same reason. Mr. Dustin filed a petition for a new trial as to his guilt. The Court granted the petition. But before the trial began, the court suspended proceedings based on doubts about Mr. Dustin's mental competence. After Mr. Dustin was found mentally competent to stand trial, he waived his right to a jury trial and stipulated to have the court decide both guilt and sanity. The court found him guilty of first-degree murder with a firearm-use enhancement. The court also found that Mr. Dustin was sane at the time of the crime. He was sentenced to 25 years to life in prison for murder and a two-year consecutive term for the use of a firearm. The judgment was affirmed on appeal.

GOVERNING LAW

The question I must answer is whether Mr. Dustin will pose a current danger to the public if released from prison. In answering this question, I must adhere to the same legal standards as the Board of Parole Hearings. 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. Dustin suitable for parole based on his lack of prior criminality, institutional behavior, insight into the crime, remorse, psychological evaluations, participation in self-help courses, and parole plans.

I acknowledge Mr. Dustin has made efforts to improve himself while incarcerated. He has participated in self-help programs including: Understanding Violence, Alternatives to Violence, Anger Management, Exploring Healthy Boundaries, Relationships Group Therapy, and Alcoholics Anonymous. I commend Mr. Dustin for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Dustin's crime was calculated and vicious. Mr. Dustin stalked his wife for nearly a year. He set her boyfriend's car on fire and discussed the potential consequences of killing her with others. On the evening of the murder, Mr. Dustin entered the home she was living in and waited for her to return. He then shot her, chased her into the street and shot her again. Once she fell, he placed the gun to her head and shot her twice in the head.

When the Board of Parole Hearings granted Mr. Dustin parole in 2010, I reversed the decision because I was concerned about Mr. Dustin's mental health and limited participation in self-help programs. I remain concerned by Mr. Dustin's long struggle with mental illness. His severe depression with psychotic features and personality disorder with obsessive-compulsive and dependent traits contributed to the reasons he killed his wife. Before committing this crime, he received mental health help from 1984 to 1987. He saw counselors and a psychiatrist and took medication, but these steps were not enough to stop him from carrying through with his plan to kill his wife.

Since his arrest nearly twenty five years ago, he has been under constant psychiatric supervision, with extensive therapy and mental health services. As I indicated in my decision last year, I was troubled that Mr. Dustin had symptoms of psychosis and depression as recently as February 2007. And the fact that his participation in available programs declined after he was denied parole in October 2007 caused me concern that if released, he might stop participating in self-help and mental health programs. I also noted that he contemplated suicide as recently as 2008 because of the decision to place him in a lower level of mental health care. If this type of change caused him to become suicidal in prison, I was concerned that the stress of being released back into society might affect him in a similar manner. In 2010, the psychologist described him as having current symptoms of a personality disorder with obsessive-compulsive and dependent traits including: "fearfulness of independent freedom, some tendency toward over reliance on others, fear of separation, [and] excessive reliance on others (e.g. group, structured setting) to assume responsibility."

Since my decision to block his grant of parole last year, Mr. Dustin has shown a renewed dedication to participating in self help programs. For instance, over the last year, he has participated in Alcoholics Anonymous, Exploring Healthy Boundaries, and Understanding

Violence, to name a few. He continues to receive psychological assistance from mental health experts in the prison. And not surprisingly, given his participation in these numerous programs, his mental health appears to have improved. Mr. Dustin reported to the evaluator in 2011 that his obsessive-compulsive symptoms have diminished. His treating psychiatrist noted that he was impressed with Mr. Dustin's personal growth, focus on continued rehabilitation, and recent emotional stability. I am encouraged by Mr. Dustin's recent success at tapering down the antidepressants he has taken since 1987 while remaining psychologically stable. I am also encouraged by his efforts to address my concerns by participating in a number of self-help programs. But, I am not convinced that this recent period of stability is permanent. Given his extensive history of mental illness and the violence he engaged in as the result of his mental illness, I hope to see sustained improvement in Mr. Dustin's mental condition before he is safe to release.

CONCLUSION

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

Decision Date: February 16, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JOHNNY AMES, C-94266

Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

 X

STATEMENT OF FACTS

On the evening of October 11, 1983, Johnny Ames murdered Modesto Solorio, a man who was partially paralyzed on one side due to a stroke he had suffered. Mr. Ames had drunk whiskey that morning, and had used amphetamine and barbiturates at some point during the day. By that evening Mr. Ames was at a bar playing pool with Alfred Perez and his brother, Isidro Perez. Mr. Ames got into an argument with Mr. Solorio, who was also playing pool and had been buying the men beer. Alfred broke up the fight.

Later, all four men got in Mr. Solorio's car. Alfred drove because Mr. Solorio was too drunk to drive. The group picked up some more beer and then went to a park. Mr. Solorio and Mr. Ames left the car to go to the bathroom. Mr. Ames then began viciously attacking Mr. Solorio. He beat Mr. Solorio with his hands, then with Mr. Solorio's boot, and a tire iron from the trunk of the car. The beating knocked out some of Mr. Solorio's teeth and caused bruising on his head. Mr. Ames then grabbed a buck knife from the trunk and began stabbing Mr. Solorio. He stabbed him more than 30 times in the back, chest and face, killing him. Mr. Ames dragged the body to a nearby river. Mr. Ames and the Perez brothers fled, but were caught by police a short time later.

GOVERNING LAW

The question I must answer is whether Mr. Ames will pose a current danger to the public if released from prison. In answering this question, I must adhere to the same legal standards as the Board of Parole Hearings. 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. Ames suitable for parole based on his remorse and insight, vocational and educational achievements, and lack of recent serious discipline.

I acknowledge Mr. Ames has made efforts to improve himself while incarcerated. He debriefed from the Nuestra Familia prison gang in 1993, and earned his GED a few years later. Mr. Ames has not been disciplined since 1998, and he has not been counseled for minor misconduct in a year and a half. He has held several institutional jobs and completed two vocations. In addition, Mr. Ames has participated in some self-help programming, including Alcoholics and Narcotics Anonymous, White Bison Substance Abuse Program, Chemical Abuse/Addiction Group, Parenting program, and Peer Education classes. I commend Mr. Ames for taking these positive steps. But they are outweighed by negative factors that show he remains unsuitable for parole.

The murder Mr. Ames committed was inexplicable and unusually violent. He beat Mr. Solorio with his hands, a boot, and a tire iron, and then stabbed him more than 30 times in the face, back, and chest. The murder is all the more reprehensible because Mr. Solorio was a particularly vulnerable victim. He could not have been able to defend himself because he was partially paralyzed and very drunk.

When the psychologist who interviewed Mr. Ames in 2011 asked him what he could have done differently, Mr. Ames said that he should have listened to his family and not hung around with the Perez brothers. He also said ongoing conflicts between his friends and people who frequented the bar caused the crime. These statements do not explain why Mr. Ames attacked Mr. Solorio or why he did so in such an extraordinarily violent way. The psychologist noted that Mr. Ames "had no explanation for the brutality and cruelty of his assault." Mr. Ames admitted to the 2011 Board that the bar fight had nothing to do with Mr. Solorio, and said he murdered Mr. Solorio "for no reason." He also said he was high on drugs and angry about his father's death. Those reasons also do not begin to explain this senseless murder. I agree with the 2011 psychologist that Mr. Ames "has displayed a dearth of insight with limited self-awareness and knowledge," and "effectively negates personal responsibility with externalization of blame."

Mr. Ames's recent elevated risk ratings cause me further concern. In 2011, the psychologist who evaluated him assessed him as falling in the moderate range of psychopathy and presenting a high risk of general recidivism, a moderate risk of violent recidivism, and an overall moderate risk of violence if released back into society. With respect to his psychopathy rating, the psychologist noted that Mr. Ames had an aimless, impulsive, and irresponsible lifestyle, has been untruthful, deceitful, and callous, and has displayed lack of empathy and remorse, and failure to accept responsibility with minimization and externalization of blame.

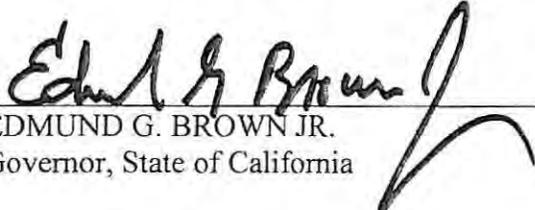
To the extent Mr. Ames now recognizes that his anger is one reason he murdered Mr. Solorio, he does not appear to have adequately addressed this problem in prison. Mr. Ames claims he took an anger management class in 2004. But as his psychological evaluator noted last year, he "could not describe the content of self-help programs he attended or what he gained from his participation that will prevent future crime." Until it is clear that Mr. Ames understands why he savagely attacked and murdered Mr. Solorio, and has adequately addressed the causes, I am concerned that he remains prone to engaging in further violent behavior if released from prison.

I am also troubled by Mr. Ames's infrequent participation in verifiable self-help for his extensive drug and alcohol problem. He used drugs and alcohol daily for years, and was intoxicated when he murdered Mr. Solorio. But Mr. Ames has not participated in Alcoholics or Narcotics Anonymous in over a decade. Though Mr. Ames told the 2011 Board that he does substance-related self-help in a Native American group, he admitted that attendance is not documented and the group is not supervised. The 2011 psychologist noted that despite attending substance abuse treatment, Mr. Ames "was unable to describe the content of the program or what he gained from his participation that might help prevent future use." The psychologist also said that Mr. Ames needs to develop a more detailed relapse prevention plan, identify locations of Alcoholics Anonymous meetings, and obtain a sponsor. From my review of the record I have not seen sufficient evidence that he has followed those recommendations. Until it is clear to me that he has developed a detailed relapse prevention plan, identified substance abuse programs in his community, and presented letters from individuals expressly offering to sponsor him, I remain concerned that he would be susceptible to relapse.

CONCLUSION

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

Decision Date: February 17, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DAVID BURGESS, C-26009

Second-degree murder

AFFIRM:

MODIFY:

REVERSE:

 X

STATEMENT OF FACTS

David Burgess, also known as Daniel Giammarco, had known Raymond Stoffer for about a month. On May 28, 1980, Mr. Burgess and Mr. Stoffer ate dinner at a restaurant. Mr. Burgess consumed three alcoholic drinks. He and Mr. Stoffer returned to Mr. Stoffer's Oakland apartment. The men then argued because Mr. Burgess thought Mr. Stoffer owed him money for sex. Mr. Burgess eventually choked Mr. Stoffer with an extension cord and stabbed him 31 times. He then stole Mr. Stoffer's car and fled.

Mr. Burgess was arrested a few months later in Los Angeles for a separate crime. A police officer pulled Mr. Burgess over for speeding on the freeway and found that Mr. Burgess was driving a car that did not belong to him. The car's owner, Richard Tellez, was sitting in the front passenger seat, bleeding and injured. Mr. Burgess had stabbed and beaten him. Mr. Tellez survived. Mr. Burgess was arrested and he pled guilty to Mr. Stoffer's murder while he was incarcerated for robbing and assaulting Mr. Tellez.

GOVERNING LAW

The question I must answer is whether Mr. Burgess will pose a current danger to the public if released from prison. In answering this question, I must adhere to the same legal standards as the Board of Parole Hearings. 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. Burgess suitable for parole based on his remorse, educational, self-help, and vocational achievements, lack of recent discipline, and parole plans.

I acknowledge Mr. Burgess has made efforts to improve himself while incarcerated. He has earned his GED, a paralegal certificate, and two college degrees, as well as completed several vocations. He has been regularly employed in institutional jobs. Mr. Burgess has not been disciplined in over a decade, and he has not been counseled for minor misconduct in over six years. He has also participated in self-help programming, including Alcoholics Anonymous,

Substance Abuse Therapy Group, Yokefellows Christ-Centered Peer Counseling, Process Oriented Therapy Group for Abuse Survivors, Individual Psychotherapy, Lifers Group Therapy, Anger Control Group, Schema Therapy and Mindfulness Group, Life Skills, House of Healing, Marriage and Family Course, Inmate Employability Program Videos, and Freedom in Christ class. Since I last reviewed Mr. Burgess's case in 2011, Mr. Burgess has continued attending Alcoholics Anonymous, and completed parole readiness and effective communication classes, as well as a Victim Awareness Retreat. I commend Mr. Burgess for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Burgess brutally strangled and stabbed Mr. Stoffer thirty one times in Mr. Stoffer's own home, a place where he expected to be safe from this kind of attack. Not only was Mr. Stoffer no threat to Mr. Burgess, but he had tried to help Mr. Burgess by offering him a job so that he could stop being a prostitute. My concern arising from the brutal murder Mr. Burgess committed is compounded by the fact that he stabbed two other men under similar circumstances, one of whom he killed.

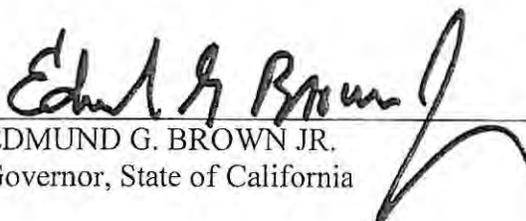
Given Mr. Burgess's extensive history of violence, I am concerned that the elevated risk ratings assessed in 2010, including that Mr. Burgess presents an overall moderate risk for violence and is in the moderate range of psychopathy, have not changed. The psychologist who evaluated Mr. Burgess in 2011 found that "there appears to have been no intervening mitigating or aggravating dynamic variables in the past year that might significantly alter this previously offered [moderate] risk assessment instrument."

I am also concerned that Mr. Burgess was absent from verifiable substance abuse treatment for 13 years. The record shows that until Mr. Burgess resumed participating in Alcoholics Anonymous in 2010, he last attended in 1997. Mr. Burgess's 2011 psychologist noted that this hiatus showed that Mr. Burgess "may not have a clear understanding of the need for ongoing participation in a substance abuse recovery support program." Given that Mr. Burgess admits that alcohol lessened his ability to think clearly and lowered his inhibitions on the day he murdered Mr. Stoffer, and the 2010 psychologist found that Mr. Burgess's risk of violent recidivism would increase if Mr. Burgess resumed drinking or using drugs, I must be assured that Mr. Burgess is committed to sobriety before I can conclude that he would not pose a risk of danger if released.

CONCLUSION

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

Decision Date: February 21, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

MICHAEL GARRETT, J-95746
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On August 1, 1995, Michael Garrett murdered his girlfriend, Debbie Moreau. The two had been getting room and board in exchange for caring for a woman's disabled son while she worked out of town. At the time of the murder, Ms. Moreau was sleeping in her bed. Earlier that day, she and Mr. Garrett had argued. As she lay sleeping, Mr. Garrett retrieved a wrench and hit her several times in the head with it before strangling her to death with a necktie. He then wrapped her body in bedding and hid her in a guest room.

A week later, the homeowner became concerned because she was unable to get in touch with Mr. Garrett or Ms. Moreau and her son reported that he was not being cared for. She arrived at the house to find that Mr. Garrett had overdosed on drugs and alcohol. She called 911 and Mr. Garrett was taken to the hospital. When looking for Mr. Garrett's address book to contact relatives to notify them that he was in the hospital, she found Ms. Moreau's decomposing body. Mr. Garrett woke up in the hospital days later and confessed that he had "freaked out" and hit Ms. Moreau with a lead pipe during an argument.

GOVERNING LAW

The question I must answer is whether Mr. Garrett will pose a current danger to the public if released from prison. In answering this question, I must adhere to the same legal standards as the Board of Parole Hearings. 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 remorse, insight into the reasons he committed the crime, extensive self-help and substance abuse programming, institutional behavior, and realistic parole plans.

I acknowledge Mr. Garrett has made efforts to improve himself while incarcerated. He has participated in Alcoholics Anonymous consistently since 2006 and Narcotics Anonymous since

2007 and has completed nearly every available book and workshop in self-help since 2006. I commend him for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Garrett senselessly murdered his girlfriend by brutally beating her while she was vulnerable, sleeping in her own bed. He then strangled her and hid her body in another bedroom. This was not the first time Mr. Garrett was violent towards a woman with whom he was in a relationship. He also abused his ex-wife while they were married.

I am concerned that Mr. Garrett has not yet fully addressed the reasons he violently murdered Ms. Moreau. The psychologist who evaluated him in 2011 expressed concern that Mr. Garrett continues to "appear somewhat perplexed" about why he violently killed his girlfriend and was not "entirely comfortable discussing (and perhaps even viewing himself as someone with) his history of violence, which appears to have been focused exclusively on romantic partners (e.g., his ex-wife and Debbie Moreau)." This causes me concern that Mr. Garrett has not sufficiently accepted or examined his history of violence against women. He points to his abandonment issues and substance abuse problem as reasons he committed the crime, but many have substance abuse problems and fear being abandoned, yet do not hurt and kill their significant others.

Mr. Garrett's substance abuse problem is extensive. He began smoking marijuana and drinking almost daily at twelve years old and by the end of high school, he was using cocaine on weekends. He used methamphetamine and alcohol daily for the fourteen years preceding the crime. He admits that he used heroin, alcohol, and marijuana for ten years after being incarcerated. His heavy substance abuse spanned thirty years. The psychologist observed, "Mr. Garrett has a long-standing history of behavioral instability, which appears closely tied in with his significant substance-abuse problems." Mr. Garrett reports that he has not used drugs or alcohol since August 5, 2005. But the psychologist elevated his risk assessment score because of Mr. Garrett's "significant substance abuse history and the role it played in the life crime and his general problems in the community" and indicated, "only time will tell whether or not Mr. Garrett has permanently turned a corner and will be able to maintain his sobriety this time." I am encouraged by the resolve Mr. Garrett has shown by committing himself to self-help and substance abuse programming in the last few years, but I am not convinced that Mr. Garrett's sobriety is permanent and am concerned that he will again turn to violence when inebriated.

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 I have discussed shows why he currently poses a danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Garrett.

Decision Date: March 1, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DAVID LEAVITT, C-48328
First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

In late 1980, David Leavitt was dating Sherry Anderson, a woman who had a young son with her estranged husband David Anderson. On December 1, 1980, Sherry met Mr. Anderson to drop off the baby for a visit. At the drop-off, Mr. Anderson said he would no longer allow her to see the baby. Sherry later told Mr. Leavitt that Mr. Anderson had kidnapped the baby. Mr. Leavitt called police. The responding officer told Mr. Leavitt he would not pursue the matter because Sherry had agreed to give the baby to Mr. Anderson. Mr. Leavitt was upset Sherry had lied to him and that the police would not do anything.

Mr. Leavitt drank a case of beer and a bottle of liquor. He and his brother Andrew Leavitt armed themselves with hatchets. They and two other men went to the apartment building where they thought Mr. Anderson had the baby. Mr. Leavitt and Andrew entered the building while one of the other men stayed outside to keep watch. Mr. Anderson's 67-year-old mother, Jean Anderson, thought Mr. Leavitt and Andrew were her son's friends. She motioned for them to walk to a side door, and they came inside. Mr. Anderson was not home. His 47-year-old sister, Patricia Ronayne, was the only other person at home. Patricia had recently had throat surgery and could only speak through a mechanical device.

Once inside, the Leavitt brothers began attacking the two women in the kitchen. One of the brothers knocked Jean down to the floor, then while holding her down with his knee, put his hands around her throat. The other brother held Patricia across the kitchen table by her throat, while holding his hatchet. He told Patricia to get Mr. Anderson on the telephone and have him bring the baby back. Patricia said she would call immediately. The man on top of Jean said "I'll give you this for good measure and to help you keep quiet," and then hit her on the side of her head with an object in his right hand. Both Mr. Leavitt and his brother then began hacking the women with their hatchets.

A neighbor called police when he heard pleas for help, a male voice saying "I've got you now," and what sounded like bodies being thrown against the apartment's wall. Mr. Leavitt and Andrew left before police arrived. When Mr. Leavitt returned to the car he told his companions "we showed them." Officers found Patricia and Jean lying on the kitchen floor in pools of blood. Patricia had large slicing-type wounds on her neck and back. She was hospitalized but died five days later. Jean survived but suffered permanent injuries. She had deep lacerations to her face, head, neck, facial nerve and esophagus, and a fractured mandible.

GOVERNING LAW

The question I must answer is whether Mr. Leavitt will pose a current danger to the public if released from prison. In answering this question, I must adhere to the same legal standards as the Board of Parole Hearings. 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

I acknowledge Mr. Leavitt has made efforts to improve himself while incarcerated. He earned a college degree, completed vocational training, and held numerous institutional jobs. He has not committed any prison rules violations or infractions in many years. Mr. Leavitt has participated in self-help programming, including Alcoholics and Narcotics Anonymous, White Bison Substance Abuse Program, American Indian Spiritual Group, Understanding Addictions Causes and Cures class, Criminal Thinking course, Preventing Relapses courses, Vietnam Veteran's Group, Veterans Issue Group, Alternatives to Violence Program, Co-Dependency class, Cognitive Distortions class, Therapeutic Issues group, Non Violent Communication course, Finding Your Path to Spirituality, Domestic Violence, and Anger Management. He has also been a tutor for the Project REACH program. I commend Mr. Leavitt for taking these positive steps. But they are outweighed by negative factors that show he remains unsuitable for parole.

Mr. Leavitt's attack on Jean and Patricia was horrifying, vicious, and completely senseless. Mr. Leavitt attacked these two innocent women in their own home, a place where they rightly expected to be safe. The women undeniably experienced much pain and suffering from being hacked repeatedly with hatchets. Neither woman had threatened him or provoked the attack in any way. Patricia was particularly vulnerable because she had throat surgery a week before.

Mr. Leavitt has never adequately explained why he committed this brutal murder and attack. He was angry with Mr. Anderson, Sherry, and the police officer who refused to look for the baby. But this anger is not a reason for attacking Jean and Patricia. Mr. Leavitt says he had an alcohol-induced blackout limiting his memory of the attack. In 2011, he told the psychologist who evaluated him that he woke up at a friend's house the next day with no knowledge of what happened. Mr. Leavitt shared only a few memories with the psychologist, including telling his brother and other crime partners about the incident with Ms. Anderson, and when Jean ushered him around to the side door. He told the 2011 psychologist that he believes that the victims invited him in and he accidentally fell against a table which collapsed and caused him to fall to the floor with Patricia. Mr. Leavitt surmises he then felt under attack and thus attacked Jean and Patricia. I do not find any of this credible. That Mr. Leavitt now thinks he went to an apartment while angry and armed with a hatchet but only used the weapon when he happened to accidentally fall against a table with enough force for it to collapse shows that he neither understands his real motivations nor takes responsibility for his violent conduct.

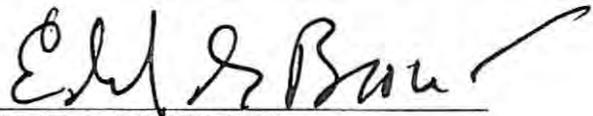
David Leavitt, C-48328
First-degree murder
Page 3

The psychologist found that Mr. Leavitt's insight into his crime could be further developed, and that Mr. Leavitt does not appear to have adequately explored the link between his history of violence in the military and the crime. I agree. Until Mr. Leavitt explains what inside of him turned his admitted "anger, disappointment, and betrayal" into a savage attack on two women who had nothing to do with the situation, I am concerned he remains prone to further violent behavior if released.

CONCLUSION

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

Decision Date: March 1, 2012



EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ISMAEL ESPINOZA, C-89608
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

 X

STATEMENT OF FACTS

On September 21, 1983, Francisco Espinoza and Ricardo Figueroa were arguing over an ex-girlfriend. Francisco's hand was injured so he told Mr. Figueroa that his brother, Ismael Espinoza, would fight him. Mr. Figueroa left, but said he would return with others. Ismael and his friend Gustavo Cadena took the opportunity to go get a gun before the others returned. Mr. Figueroa came back five minutes later with several others, including Jose Luis Negron. When Ismael got back with a rifle, Mr. Figueroa and Francisco were fighting. Ismael fired two times, hitting Mr. Negron, who fell to the ground. Ismael fired three more times at Mr. Negron while he was rolling on the ground. Mr. Espinoza also fired two rounds at Mr. Figueroa, but he was not hit. Mr. Negron died.

Ismael fled to Mexico and lived with his grandmother until he was arrested for the possession of marijuana by Mexican authorities. He was set to be returned to California for prosecution for murder when he, along with several other inmates, overpowered a guard and escaped from custody. Ismael re-entered the United States and lived in East Los Angeles until his arrest on December 8, 1983.

GOVERNING LAW

The question I must answer is whether Mr. Espinoza will pose a current danger to the public if released from prison. In answering this question, I must adhere to the same legal standards as the Board of Parole Hearings. 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. Espinoza suitable for parole based on his remorse and acceptance of responsibility, favorable psychological report, long period of good behavior, and educational, self-help, and vocational programming.

I acknowledge Mr. Espinoza has made efforts to improve himself while incarcerated. He earned his GED, completed three vocations, and held several institutional jobs. Mr. Espinoza has also participated in self-help programming, including Alcoholics and Narcotics Anonymous, Substance Abuse Program, Relapse Prevention, Parenting, Living in Balance, Mapping Your Steps, Anger Management, Victim Awareness, Grief & Loss, and Anger Management therapy group. I commend Mr. Espinoza for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

I am concerned that there is information in the confidential portion of Mr. Espinoza's prison file indicating that he has been involved with the Mexican Mafia and Paisas. And as recently as 2009 and 2010, there are reports that he was trafficking narcotics in prison, threatening other inmates for being willing to testify against others, possessing a cell phone, and engaging in prohibited sexual relations with other inmates. This is serious misconduct that displays a lack of judgment and no regard for others or for abiding by the rules. These kind of character flaws most certainly played a key role in the murder Mr. Espinoza committed as well as in his previous escape from jail. Based on this recent information, I am concerned that he remains prone to committing further violent or illegal acts if released from prison.

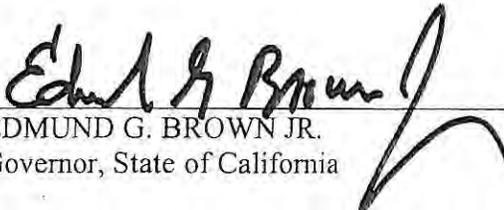
I recognize that the confidential information did not result in Mr. Espinoza receiving any formal rule violations in prison. But I cannot allow him to be released back into society until I am assured that prison officials have thoroughly investigated this information and have either found it to be untrue or unsubstantiated. Before Mr. Espinoza's next parole hearing, I direct the appropriate prison officials to conduct such an investigation and prepare a report addressing my concerns.

I am also concerned that Mr. Espinoza has not adequately addressed his serious drug and alcohol problem. He told the psychologist who evaluated him in 2011 that he started abusing drugs and alcohol around age eight and by adolescence was using PCP and other drugs daily. Mr. Espinoza also admitted he was intoxicated when he murdered Mr. Negron. Although Mr. Espinoza has participated in the Substance Abuse Program, his prison file shows he has only participated in Alcoholics and Narcotics Anonymous from 2004 to 2007. His minimal participation in 12-step programs does not give me confidence that he will be able to avoid alcohol and drugs, factors that contributed to his criminality, if released from prison.

CONCLUSION

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

Decision Date: March 2, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

FRANK MANUEL, D-72980
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Delrise Fields and her 5-year-old daughter, Trenika, lived with Frank Manuel in his house. The two moved out at the end of February 1987 and went to live with Ms. Fields' sister. On March 3, 1987, Mr. Manuel went to the home armed with a knife. When Ms. Fields did not open the door, he came in through the kitchen window. Ms. Fields and Mr. Manuel got into an argument. During the argument, she grabbed for Mr. Manuel's knife and the two struggled for it. Mr. Manuel overcame her, and started attacking her with his hands and the knife. At some point, little Trenika came downstairs to find him choking and stabbing her mother. Trenika got a knife from the kitchen and threatened Mr. Manuel with it and hit his back with her fists while he was leaning over her mother. Mr. Manuel killed Ms. Fields by stabbing her more than forty times.

GOVERNING LAW

The question I must answer is whether Mr. Manuel will pose a current danger to the public if released from prison. In answering this question, I must adhere to the same legal standards as the Board of Parole Hearings. 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. Manuel suitable for parole based on his remorse, level of insight into the reasons he committed the crime, institutional behavior, vocational skills, participation in self-help programming, and parole plans.

Mr. Manuel has made limited efforts in prison to address the issues that lead to his violent behavior. He has attended Narcotics Anonymous and a few anger management classes. These efforts were a step in the right direction, but they do not overcome the other factors showing that he remains dangerous.

Mr. Manuel's murder of Ms. Fields was senseless, vicious, and disturbing. He invaded her home, armed with a knife, by climbing through a window after being denied entry through the door. He then brutally stabbed her 43 times while her helpless young daughter desperately tried to save her mother.

Mr. Manuel does not seem to understand the reasons he committed this terrible crime. The psychologist who evaluated him in 2011 expressed concern that Mr. Manuel has "superficial and incomplete" explanations for his actions and "limited self awareness." He explained that Mr. Manuel "has not explored interpersonal issues that led to his criminal behavior or examined causative factors for his past poor choices. He has vaguely attributed his actions to temper but has not identified the source of or thoughts fueling his purported anger. His voiced need for weapons is unclear. His relationship with women has been unstable and impersonal."

Mr. Manuel also minimizes his responsibility for the murder. Although Ms. Fields had never harmed him in any way, Mr. Manuel said that he felt he needed to bring the knife to "keep her from charging me or advancing on me" and because she had a "little temper of her own." These statements do not ring true, especially because this was not an isolated incident. A few days before he killed her, he forced her to go to his home at knifepoint. He then forced her to have sex with him multiple times. Because Mr. Manuel does not seem to understand the reasons for his violent and threatening behavior, I am concerned that he remains prone to behaving violently.

Mr. Manuel has made few efforts in prison to address these issues by participating in available self help programming. In his psychological evaluation, he could not meaningfully describe the content of the self help programs he has attended, and the psychologist reported that he has not learned the skills necessary to prevent engaging in criminal or violent behavior or substance abuse if released. The psychologist opined that Mr. Manuel's ability to remain sober in the community is uncertain. I agree that "ongoing participation in self-help and self study programs and activities will assist in a greater process of introspection which may lead him to taking greater responsibility and formulating better insight into past poor choices." Until he adequately understands and has addressed the reasons for his violent behavior, I believe Mr. Manuel poses an unreasonable risk of danger to the community if released.

CONCLUSION

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

Decision Date: March 2, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

THANH NGUYEN, E-59720
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

 X

STATEMENT OF FACTS

Thanh Nguyen was at a restaurant with Hung Tran and other friends. Tu Nguyen and Thomas Chu were sitting at a nearby table. Tu's contact lenses enlarged his pupils and often made it appear as if he was staring. Mr. Tran demanded to know why Tu was "eyeing" him and a fight broke out. A crowd gathered around Tu and Mr. Tran. Mr. Nguyen left his table of friends, pulled a gun from his waistband, and fired three shots at Tu. Mr. Tran kicked Tu in the head saying, "If you want to die, so let it be." Tu died of blood loss from the gunshot wounds.

GOVERNING LAW

The question I must answer is whether Mr. Nguyen will pose a current danger to the public if released from prison. In answering this question, I must adhere to the same legal standards as the Board of Parole Hearings. 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. Nguyen suitable for parole based on his positive psychological report, institutional behavior, parole plans, programming, remorse, lack of criminal history, and age.

I acknowledge Mr. Nguyen has made efforts to improve himself while incarcerated. He has not been disciplined for serious misconduct. He has completed several vocations, and has participated in Alcoholics Anonymous and other self-help programs. I commend Mr. Nguyen for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Nguyen's crime was senseless and unprovoked. Mr. Nguyen killed Tu Nguyen, a stranger who was trying to get away from him, only because he thought Tu Nguyen had stared at his friend. He had no reason to bring a gun to the restaurant that evening or engage in violence of

any kind. Mr. Nguyen showed no regard for any of the other patrons in the restaurant that evening when, in response to such little provocation, he pulled a gun and shot a defenseless man three times.

Mr. Nguyen still has not explained why he killed Tu Nguyen. In 2010, he said he committed the murder because he was under stress from recently immigrating to the United States, had a few drinks that evening, wanted to impress someone, and was lonely. These reasons do not explain why he felt he needed carry a gun or use it to shoot into the crowd to kill Tu Nguyen. At his 2010 hearing, he said that he thought he needed a gun for protection. But this does not explain why he used it to commit murder.

I am also troubled by the death threat made to the victim's family via a collect call in 2003, just two weeks after Mr. Nguyen was denied parole. This threat shows me that Mr. Nguyen could pose a danger to the victim's family and other members of the community if released and causes me to question whether his judgment has improved since the crime.

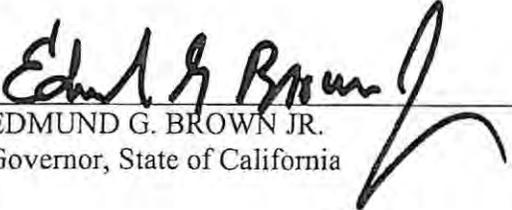
Mr. Nguyen chose not to participate in either the 2011 hearing or psychological evaluation. The parole board indicated that it was difficult to determine whether Mr. Nguyen had learned anything in the self-help classes he had taken. There was no opportunity to question him on how his judgment and thinking have developed. Had he chosen to participate, he may have been able to overcome my concerns by communicating that he adequately understands and has addressed the reasons for his violent behavior.

I share the victim's family's desire to give Mr. Nguyen a chance to live his "normal life" again but agree that the safety of the community is more important and find that Mr. Nguyen would currently still pose an unreasonable risk to the community if released.

CONCLUSION

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

Decision Date: March 2, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

PAUL CROWDER, H-19902

Second-degree murder

AFFIRM:

MODIFY:

REVERSE:

 X

STATEMENT OF FACTS

On June 1, 1991, a group of high school kids had a party at a hotel after their high school prom. They had rented three hotel rooms for the occasion. Two of the high school students at the party were 17-year-old Berlyn Cosman and her boyfriend Kenneth Schaffer. Paul Crowder also attended the party even though he was nineteen and no longer in high school. He had been invited to the party by Mr. Schaffer. Mr. Crowder showed up at the party with a gun.

Mr. Crowder drank alcohol and played with his gun throughout the night. At one point, he was asked if the gun was loaded. In response, he loaded it and said "now it is." At another point, he aimed the gun at a party guest. Someone took the gun away from him, and warned him not to point it at people. But Mr. Crowder soon retrieved the gun, and later poked another guest with the gun, asking him, "[d]o you want your butt blown off? It's only loaded." Mr. Crowder also "dry-fired" the weapon when it was unloaded, jokingly cocked it and pointed it at his own head, and pointed the loaded gun around the room with its hammer cocked back.

Later, Mr. Crowder went to the adjacent hotel room where Ms. Cosman was staying. A party guest told him, "Kenny and Berlyn are going to sleep here. You guys are going to sleep in the car." Mr. Crowder began arguing with Ms. Cosman and the guest. Mr. McClintock, who had been asleep in the other room, heard Mr. Crowder yell "then where am I going to sleep? Fuck you. I want to stay in here and party." Mr. Crowder then said, "[o]kay, then give me my gun and bullets." The door slammed behind him as he left the room. When he returned to the other room, he said, "I hate them. Fuck them. They are just dissing me . . . I hate them. I want to kill them." Mr. Crowder repeatedly slammed the table with his hands and said, "[t]hose fucking bitches, I hate those bitches. I just want to kill them all."

Shortly before dawn, after reloading the pistol, Mr. Crowder returned to the room where Ms. Cosman was sleeping. He stood in the doorway with the gun in his hand and fired a shot. The bullet hit Ms. Cosman in the head and killed her. Mr. Crowder fled the hotel and threw the gun in a bush. He called home for a ride and hid until his ride arrived. After he arrived home he went to sleep. Police arrested him later that day. Mr. Crowder has claimed since the time of his trial that he tripped walking into the hotel room, causing the gun to fire accidentally.

GOVERNING LAW

The question I must answer is whether Mr. Crowder will pose a current danger to the public if released from prison. In answering this question, I must adhere to the same legal standards as the Board of Parole Hearings. 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. Crowder suitable for parole based on his remorse and insight, self-help, educational and vocational programming, positive work and psychological reports, disciplinary-free behavior, and parole plans.

I acknowledge Mr. Crowder has made efforts to improve himself while incarcerated. He earned a GED, completed vocational training, and has held several institutional jobs. He has participated in some self-help programming, including Alcoholics and Narcotics Anonymous, Correctional Learning Network programs, Breaking Barriers workshop, and Anger Management classes. For many years he has mentored youth through the Straight Life Program. I commend Mr. Crowder for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

The murder Mr. Crowder committed was senseless and truly reprehensible. He killed a promising young woman as she lay sleeping in the early morning following her senior prom. Mr. Crowder's actions not only took Ms. Cosman away from her family and friends, but deprived Ms. Cosman of a bright future that included a college scholarship. His actions devastated the lives of her loved ones and has had a long-lasting impact on the community.

The circumstances of the murder make Mr. Crowder's claim that the shooting was accidental unbelievable. He told his 2010 mental-health evaluator that he tripped and the gun went off. He said he initially thought the bullet had gone into the ceiling. The probation report indicates Mr. Crowder said the gun went off while he was on the floor. Yet the bullet hit the sleeping Ms. Cosman, whom he had angrily said he had wanted to kill earlier that night, in the temple, entering her head from a downward trajectory and going through the pillow and the mattress. If the shooting was really accidental, it seems he would have attempted to administer aide or call for help, rather than running and hiding.

Mr. Crowder's claim that the shooting was accidental is not his only claim that is belied by the record. He also claims not to have threatened to kill Ms. Cosman or to have even been angry with her. But that is not what other witnesses at the party observed. Witnesses at the party observed Mr. Crowder arguing with Ms. Cosman, and heard him make threatening statements about hating her and wanting to kill her.

I cannot ignore the evidence that Mr. Crowder engaged in threatening behavior with his gun throughout the night, or that he was angry with Ms. Cosman, or that he said he wanted to kill her, or that after shooting her in the head, he immediately ran away and hid. And unless I ignore this evidence, the only conclusion I can draw is that Mr. Crowder claims that he was *not* angry with Ms. Cosman, and that he did *not* threaten to kill her, and that the gun discharged accidentally when he tripped, and the bullet just happened to hit Ms. Cosman in the head, are simply unbelievable. Mr. Crowder's dishonesty about the murder and his behavior leading up to it shows that he has thus far either been unwilling or unable to confront and deal with his true reasons for killing Ms. Cosman. His failure to accept responsibility by minimizing his culpability for the murder casts doubt over his claims of remorse and indicates that he has not truly learned from his mistakes.

My conclusions about Mr. Crowder's current mental state are confirmed by his statement during a recent psychological evaluation in which he characterized the threatening gestures he made throughout the night when he pointed his gun at people as having been done in a "playful manner." Pointing a gun at someone is never "playful," and I am sure that the high school kids he threatened with his gun that night felt scared and uneasy. This statement is yet another sign that Mr. Crowder does not genuinely understand or accept responsibility for the wrongfulness of his actions. Until he does, there is no assurance that he does not remain prone to violence if released back into society.

Evidence of recent illegal activity by Mr. Crowder in prison also indicates that he has not been rehabilitated. His file contains a confidential memorandum from September 2011 that indicates he is involved in transporting drugs and gang communications within the prison. A similar confidential memorandum from 2010 also indicates he was responsible for delivering gang communications in the prison. Prison officials deemed the sources of the information in these memorandums reliable. The file contains a number of other confidential memoranda from 1996 through 2008 that indicate Mr. Crowder was involved in gang activity and drug sales in prison. Mr. Crowder's participation in these illegal acts shows his propensity for criminal behavior has not changed. It also indicates that his claims of remorse, insight, and personal growth are contrived and insincere.

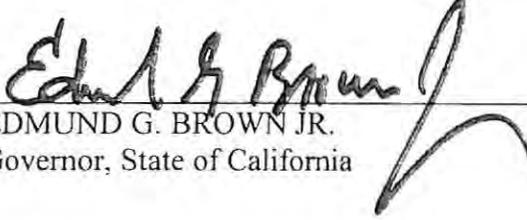
I also find it telling that Mr. Crowder has not taken any steps to improve himself or address my concerns since I reviewed his case in November 2011. At that time I noted that though Mr. Crowder's inability to control his anger played a large role in the crime, he had not taken an anger management class since 2002. According to Mr. Crowder's prison records, he still has not participated in any further anger management programs. In fact, Mr. Crowder does not appear to have participated in any self-help since September 2011. Given the connection between alcohol, anger, and the crime, Mr. Crowder's failure to make continuing efforts to address these issues gives me further concern that he would be susceptible to similar violent conduct if here were to be released now.

Paul Crowder, H-19902
Second-degree murder
Page 4

CONCLUSION

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

Decision Date: March 16, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

MARIO GIOTTA, D-51899
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

Mario Giotta murdered his ex-girlfriend Debbie Cooper after stalking and terrorizing her for a week, and attempted to murder Chuck Yeager, the father of Ms. Cooper's two-year-old child. Ms. Cooper had dated Mr. Giotta for almost three years, but during the two weeks before the murder she repeatedly sought to end the relationship with him. Mr. Giotta did not agree. On July 2, 1986, Ms. Cooper's brothers found Mr. Giotta holding her by the arms, shaking her, and yelling he would kill her if he found her with another man. Several days later, Mr. Giotta waited for Ms. Cooper at her home and when she arrived, he told her that he would kill her if she ever "went out on him." The night of July 6, 1986, Ms. Cooper packed up some things to spend the night at a friend's house so that Mr. Giotta could not find her. As Ms. Cooper and the friend were about to leave, Mr. Giotta drove up, blocked their car, and threw himself on the hood and windshield of the car, refusing to leave until Ms. Cooper agreed to talk to him. Later that night Mr. Giotta went to Ms. Cooper's home and left a suicide note on her pillow. The next day, Mr. Giotta showed up a bar where Ms. Cooper was with Mr. Yeager. He threatened once again to kill himself if she did not come back to him. As a result of these escalating threats, Ms. Cooper obtained a restraining order against Mr. Giotta.

On July 9, 1986, Mr. Giotta went to Ms. Cooper's house but she was not there. He went to a friend's house to drink, use cocaine, and play cards. Mr. Giotta left the card game to buy more beer. He encountered Ms. Cooper with Mr. Yeager and decided to follow them to Mr. Yeager's parents' house. Mr. Giotta drove up as Mr. Yeager was parking. Mr. Yeager asked Mr. Giotta why he was following them. Mr. Giotta did not respond, and instead asked Ms. Cooper why she had lied to him. Mr. Yeager got out of the car, Mr. Giotta warned him not to come closer, and then fired a shotgun once into Mr. Yeager's abdomen. Mr. Giotta approached the car where Ms. Cooper was struggling to free herself from her seatbelt, and he shot Ms. Cooper three times in the left side and back. Ms. Cooper died at the scene. Mr. Yeager was found in the street with his intestines protruding from his abdomen. He was hospitalized for two weeks, and doctors had to remove his kidney, several ribs, part of his liver, some shattered back muscles, and other body tissue. Mr. Giotta returned to his card game, confessed to what he had done, and asked his friend for an alibi. The friend refused. Mr. Giotta withdrew \$250 from an ATM and fled to Nevada. Police arrested him four days later.

GOVERNING LAW

The question I must answer is whether Mr. Giotta 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. Giotta suitable for parole based on his current age, limited criminal history, remorse and insight, educational, vocational, and self-help programming, lack of serious discipline, psychological report, and parole plans.

I acknowledge Mr. Giotta has made efforts to improve himself while incarcerated. He has earned a college degree, completed vocational training, and held several institutional jobs. He has never received a serious disciplinary report, and he has only been counseled once for minor misconduct, in 1990. Mr. Giotta has participated in numerous self-help programs, including Alcoholics and Narcotics Anonymous, Substance Abuse Program, Alternatives to Violence Project, Nonviolent Conflict Resolution, Breaking Barriers, Domestic Violence course, and Building and Maintaining Healthy Relationships. Mr. Giotta has also volunteered as a literacy tutor, facilitated several self-help courses, and become a certified substance abuse counselor. I commend Mr. Giotta for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Giotta's crime was utterly horrific. He repeatedly stalked and terrorized Ms. Cooper in the week before the murder. In addition, Mr. Giotta tried to murder Mr. Yeager, a man who was only trying to protect his child's mother. Had Mr. Giotta been successful, that young child would have been left without any parents. As it is, Mr. Giotta's actions had a devastating and long-lasting impact on Ms. Cooper's loved ones. I note that they have written me three heartfelt letters after the Board granted Mr. Giotta parole and have appeared at Mr. Giotta's parole hearings expressing their loss.

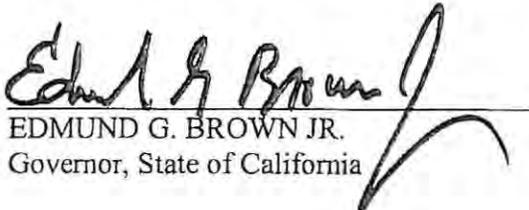
In 2009 the Board recommended that Mr. Giotta participate in self-help related to domestic violence. Since that time, Mr. Giotta has taken a peer-administered domestic violence class as well as a Building and Maintaining Health Relationships course. I am encouraged that Mr. Giotta has recently started to address his history of domestic violence after over two decades in prison. But Mr. Giotta terrorized his ex-girlfriend over an extensive period of time only because she wanted to break up with him, and then he killed her. Given the recency of Mr. Giotta's domestic violence-related self-help, I agree with the victims that there is not sufficient assurance that it is safe to release Mr. Giotta at this time.

Mario Giotta, D-51899
Second-degree murder
Page 3

CONCLUSION

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

Decision Date: March 22, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

LEAH JACK, W-26078
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Leah Jack and her boyfriend, Eugene Inong, argued the morning of her twentieth birthday. Upset, she took her three young sons, 4-year-old Eugene, Jr., 2-year-old Jack, and 37-day-old Dominic, for a drive. She stopped occasionally to use cocaine and methamphetamine. At some point, she pulled over on the side of the highway, placed Dominic's head underneath her rear tire, got back into the car, and drove forward a few feet, running him over. She then backed over the body two more times. She turned to her oldest son and told him, "you're next after Jack." Then, she got out of the car and threw Dominic's body over an embankment. She returned to the house with the two other children in the car and when asked, told her mother that she left the baby somewhere on the highway.

GOVERNING LAW

The question I must answer is whether Ms. Jack 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. Jack suitable for parole based on her lack of recent disciplinary action, family support, realistic parole plans, work evaluations, and positive trending psychological assessments.

I acknowledge Ms. Jack has made efforts to improve herself while incarcerated. She has attended Narcotics and Alcoholics Anonymous, participated with the Long Termer's Organization, and volunteered in the Comfort Care Hospice Program. I commend Ms. Jack for taking these positive steps. But they are outweighed by other considerations that show she remains dangerous if released from prison now.

Ms. Jack's crime was appalling. She murdered her own newborn by repeatedly running over him with her car. She threatened the lives of her two other young children who were in the car. After killing Dominic, she got out of the car, picked up his body, and threw it over an embankment. Her 4-year-old son had to explain to the police what she had done to his brother and where she discarded his body.

This was not the first time she acted violently. About a year before the murder, she attempted to cut the throat of her oldest son with a hunting knife, and on another occasion, fed him arthritis medication, requiring him to be hospitalized.

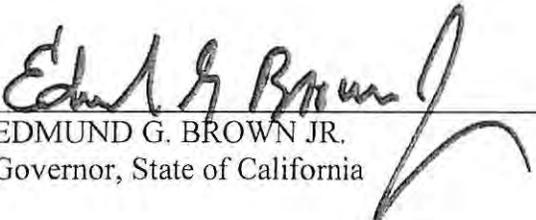
I am troubled that Ms. Jack has not fully realized or resolved her reasons for killing Dominic or trying to kill oldest son. Ms. Jack claims that she killed Dominic because she was depressed due to having been physically abused by her mother as a child and by her boyfriend in the years leading up to her crime. To deal with her depression, she says that she self-medicated with drugs. The psychologist who evaluated her in 2011 describes Ms. Jack as having "reasonable insight." I disagree. The explanation she has offered does not adequately explain why she killed one of her children and tried to kill another. There were clearly deeper reasons at play that contributed to her decisions to repeatedly harm or kill her children. Until she has sufficiently explored and worked through those reasons, I am concerned she will act out violently again if she encounters a stressful situation with family members.

I do not believe Ms. Jack is being honest with herself or the Board about the severity of her substance abuse problem. She was using cocaine, cannabis, and methamphetamine on a daily basis at the time of her crime. She has attended Narcotics and Alcoholics Anonymous meetings and participated in the White Bison Wellbriety program in prison, yet in her most recent psychological evaluation, she was not honest about the extent of her substance abuse. She claimed, for example, that she disliked alcohol and utilized it minimally as a teenager, when the record shows that she consumed alcohol on a daily basis at age eighteen and that alcohol abuse led to a commitment to a psychiatric facility. The psychologist indicated that she has "an uncertain risk of relapse." His assessment of Ms. Jack as an overall low risk is conditioned on her sobriety. I find that her risk of violently reoffending is unacceptably high given her pattern of acting violently when using alcohol or drugs, failure to acknowledge the severity of her substance abuse problem, and uncertain ability to remain sober.

CONCLUSION

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

Decision Date: March 22, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DEMETRIUS MITCHELL, J-35231

Second-degree murder

AFFIRM:

MODIFY:

REVERSE:

 X

STATEMENT OF FACTS

Demetrius Mitchell and his former girlfriend Claudia Beltran shared custody of their two-year-old son, Dante. On May 15, 1992, Mr. Mitchell returned Dante to Ms. Beltran's home after a visit. Ms. Beltran did not want to see Mr. Mitchell and requested that he leave Dante at the front door. Instead, Mr. Mitchell forced Ms. Beltran to go back to his apartment, telling her he would kill her and Dante if she called the police, and made her clean the apartment. Mr. Mitchell then tied Ms. Beltran's arms and legs to the corners of a bed with speaker wire and raped her. He told her he might cut her hair off or burn her on her breast. Ms. Beltran escaped the next day after she asked Mr. Mitchell to get her something from the store.

A week later, Ms. Beltran took Dante to Mr. Mitchell's house. After indicating she did not want to spend the night, Mr. Mitchell pulled her inside and punched her in the face. Ms. Beltran convinced Mr. Mitchell's friend to give her a ride to the hospital, where she notified the police about what happened. Police went to Mr. Mitchell's house but could not gain entry. They told Ms. Beltran to call them when she wanted to pick up Dante. Two days later, police again responded to Mr. Mitchell's home after a neighbor reported a fire. They broke down the door and found Mr. Mitchell handcuffed on the floor with a plastic bag over his head and speaker wire around his neck. After the fire was put out, they found Dante's body under a pile of blankets, placed in a plastic bag with speaker wire around his neck. Mr. Mitchell was hospitalized and arrested.

GOVERNING LAW

The question I must answer is whether Mr. Mitchell 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. Mitchell suitable for parole based on his remorse and insight, self-help, recent discipline-free behavior, and parole plans.

I acknowledge Mr. Mitchell has made efforts to improve himself while incarcerated. He has earned his GED, completed vocational training, and held several institutional jobs. Mr. Mitchell has also participated in self-help programming, including Alcoholics Anonymous, Parenting Education Program, Great Dads training, Anger Management, Creative Conflict Resolutions, Domestic Violence, and Maintaining Healthy Relationships. I commend Mr. Mitchell for taking these positive steps. But they are outweighed by other considerations that show he remains dangerous if released from prison now.

The senseless murder Mr. Mitchell committed is hard to fathom. He killed his own two-year old son. Dante was an innocent victim who did not pose a threat to Mr. Mitchell, given his age and size, and could not have fought back or summoned help.

I am concerned that Mr. Mitchell has not accepted responsibility for the murder. He told the psychologist who evaluated him last year that while police were knocking on his apartment door, he was holding Dante tight, crying at the thought of “losing him,” and “had no clue” he was suffocating his son. He disputes the police report’s statement that Dante was found with speaker wire around his neck. Rather, he theorized to the 2011 Board that the wire, left over from his sexual assault of Dante’s mother, was only in the plastic bag with Dante’s body because he scooped it up when he moved Dante’s body from the bed to the bag. Mr. Mitchell reasserted to the Board that he did not intentionally kill his son and that it was an accident.

Mr. Mitchell’s continued insistence that he accidentally killed his son by holding him too tightly strains credulity. It is implausible that Mr. Mitchell cut off the air supply to a three-and-a-half foot tall, 63-pound toddler—who surely struggled to breathe—long enough to kill him, without ever realizing what he was doing. This is also not the first time that Mr. Mitchell has denied or minimized his violent past. Mr. Mitchell denied raping Ms. Beltran in 2001 and 2008 evaluations and has only recently acknowledged the rape and domestic violence.

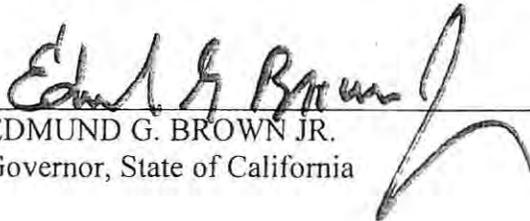
His 2011 psychologist noted that Mr. Mitchell has “tended to minimize or rationalize his behavior in order to portray himself in the most positive light,” that he minimizes or rationalizes his motives for murdering his son, and that “[i]t would likely behoove him to take a more critical look at the underlying motives of the life crime (including the rape of the victim’s mother) in order for him to truly appreciate the mechanisms of this violent behavior.” I agree. Until Mr. Mitchell credibly explains how and why he murdered his son, I am concerned that he will remain prone to violence if released from prison.

Demetrius Mitchell, J-35231
Second-degree murder
Page 3

CONCLUSION

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

Decision Date: March 23, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JORGE VILLALOBOS, E-93097

Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Jorge Villalobos was alone supervising his four year old son Antonio Reyna when he became angry that Antonio was watching television and had not eaten his breakfast. He began to spank Antonio with his belt. Villalobos claims that Antonio fell and hit his head on the concrete molding of the wall. Villalobos and a neighbor rushed Antonio to the hospital. Antonio was unconscious and unresponsive upon arrival. A CAT scan revealed that Antonio's skull was fractured and that Antonio was brain dead. Antonio was pronounced dead the next day. Medical experts testified that the injuries were not consistent with a fall, and with finger-shaped bruising on Antonio's legs and the type of brain and skull injuries he sustained, Antonio was likely picked up by his legs and his head accelerated against a hard object or couch. Mr. Villalobos has claimed since the time of his trial that Antonio's death was an accident.

GOVERNING LAW

The question I must answer is whether Mr. Villalobos 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

I acknowledge Mr. Villalobos has made efforts to improve himself while incarcerated. He earned a GED, completed vocational training, and has worked at the PIA print shop for several years. He has also participated in some self-help programming, including Alcoholics Anonymous, Anger Management and Cage Your Rage classes, Positive Parenting, and faith-based programs. I commend Mr. Villalobos for taking these positive steps. But they are outweighed by other considerations that show he remains dangerous if released from prison now.

Mr. Villalobos's crime was appalling. According to the medical experts who testified at his trial, Antonio suffered a fractured skull that could only have been caused by accelerating Antonio's head against a hard object with considerable force. Antonio was brain dead by the time he

arrived to the hospital. It is senseless that a two year old boy would suffer this violence because he had not eaten his breakfast.

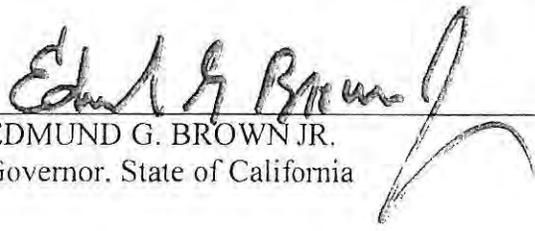
When I look at this killing, I find that Mr. Villalobos has offered no credible explanation. According to the appellate decision, Mr. Villalobos told the investigating officer that he began spanking Antonio while a table was between them, that he struck Antonio three to five times with a belt, and that Antonio then fell with his head towards the wall. Mr. Villalobos then picked Antonio up by his legs and put him on the sofa. In a 2010 psychological evaluation however, Mr. Villalobos stated that he "did not see [the fall] happen, since I was turning to shut the television off." These are inconsistent explanations, and Mr. Villalobos continues to minimize what he did by claiming that Antonio's injuries were sustained from a fall. That explanation flies in the face of conclusive testimony from five expert witnesses who testified that there was no way that Antonio's injuries could have happened from an accidental fall.

I am concerned that Mr. Villalobos has not fully realized or resolved his reasons for killing Antonio. It seems to me that he's minimizing his culpability for the murder, and this raises doubts about his statements of remorse and indicates that he has not truly learned from his conduct. Until he has sufficiently explored and worked through those reasons, I am concerned he will act out violently again if he encounters a stressful situation with family members or others.

CONCLUSION

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

Decision Date: March 23, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

LOUIE PANDO, C-29932

First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On April 7, 1979, Louie Pando, Raymond Yepez, and Philip Trujillo went into the apartment of 62-year-old Grace Ostrander intending to steal a television. Mr. Trujillo knew Ms. Ostrander because he had been staying with someone who lived in the same apartment building. Once inside Ms. Ostrander's home, Mr. Pando hit Ms. Ostrander in the head with a bottle, disrobed her, and then attempted to rape her. Mr. Pando stopped sexually assaulting Ms. Ostrander just as Mr. Yepez approached with a knife and stabbed Ms. Ostrander in the skull. At some point Mr. Pando left the apartment. A neighbor saw Mr. Yepez and Mr. Trujillo carrying Ms. Ostrander's television out of her apartment. The neighbor found Ms. Ostrander nude on her bed. Ms. Ostrander died from multiple stab wounds to her flank, neck, and skull. The police arrested Mr. Pando about a week later.

GOVERNING LAW

The question I must answer is whether Mr. Pando 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. Pando suitable for parole based on his remorse, lack of criminal history and violent in-prison behavior, vocational and self-help participation, age, and parole plans.

I acknowledge Mr. Pando has made efforts to improve himself while incarcerated. He has completed three vocations and held several institutional jobs. He has been discipline-free since 2008. Mr. Pando has participated in self-help programming, including Alcoholics and Narcotics Anonymous, Fathers Behind Bars, Lifeskills Group, Balanced Re-Entry Activity Group, IMPACT Program, and individual psychotherapy. I commend Mr. Pando for taking these

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

Mr. Pando was an active participant in a brutal crime. A 62-year-old woman was killed by someone she knew in her own home, where she expected to be safe. Mr. Pando not only set in motion the violence against Ms. Ostrander by hitting her in the head with a bottle, but he took off her clothes and attempted to rape her in front of his friends.

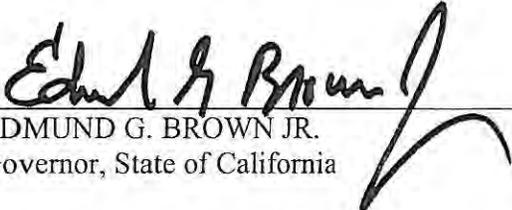
I am concerned that Mr. Pando lacks insight into the crime. In 2011 Mr. Pando told the Board that when Mr. Trujillo was arguing with Ms. Ostrander about borrowing money, "a feeling came over [him]," so he hit Ms. Ostrander with a bottle and proceeded to force her to have sex. Earlier in 2011 Mr. Pando told his evaluating psychologist that he did not know why he hit Ms. Ostrander, and that it just happened. The psychologist noted that Mr. Pando said nothing about the victim and "is not using his time to engage in self-assessment and self-awareness exploring the thoughts, feelings, and motives which may have influenced his violent behavior." I agree. I also note that the psychologist rated Mr. Pando a moderate risk of violent recidivism, based in part on his current lack of insight, and an overall low/moderate risk for violence. The psychologist concluded that Mr. Pando "has little recognition of the dynamic motivations of his violence or his sexual aggression." Until Mr. Pando shows that he understands what motivated him to attack Ms. Ostrander, I cannot be assured that he will not engage in similar violent acts if released.

I am also concerned that Mr. Pando has not participated in self-help addressing one of the reasons he said he became involved in this crime. Mr. Pando told the 2011 Board that he "had a lot of built-up aggression" and was angry at his girlfriend for leaving him and his mother for not being there for him. But despite being incarcerated for over three decades, Mr. Pando has not taken any classes related to anger management. Participating in available formal or self-study programming about anger will help Mr. Pando understand why his anger led to violence and how he can avoid violence in the future.

CONCLUSION

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

Decision Date: March 29, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

EARL BOWDEN, C-31351

First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On October 13, 1975, Sherry Montgomery drove her nineteen year-old brother Earl Bowden and his crime partner Steven Brown to a liquor store in Long Beach, California. While Ms. Montgomery remained outside, Mr. Bowden and Mr. Brown entered the liquor store and robbed Robert Zeiger, the store clerk. After taking \$40 dollars, Mr. Bowden shot Mr. Zeiger in the chest. Mr. Zeiger died from a massive hemorrhage. Mr. Bowden and Mr. Brown fled the scene. The crime remained unsolved for several years.

Four years later, Mr. Bowden was arrested on a charge of kidnapping and attempted rape of a sixty-eight year old woman. According to the probation officer's report, a witness saw Mr. Bowden wrap his arm around the victim's neck and drag her to a parking lot behind the gas station. The witness called the police. When officers arrived, Mr. Bowden was found holding the woman down on the pavement. Mr. Bowden pled to a reduced charge of assault with a deadly weapon and was convicted. While Mr. Bowden was serving his sentence in county jail for that crime, he bragged about committing the murder of Mr. Zeiger to another inmate, disclosing details that the inmate could not otherwise have known about. Mr. Bowden and Mr. Brown were charged with Mr. Zeiger's murder in 1980. In exchange for immunity, Mr. Bowden's sister testified that she had driven Mr. Bowden and Mr. Brown to the liquor store. Mr. Bowden pled no contest to first-degree murder and was sentenced to seven years-to-life imprisonment. Mr. Bowden now categorically denies any involvement in Mr. Zeiger's murder.

GOVERNING LAW

The question I must answer is whether Mr. Bowden 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. Bowden suitable for parole based on his age, discipline-free prison record, vocational training, self help programming, and viable parole plans.

I acknowledge Mr. Bowden has made efforts to improve himself while incarcerated. He completed vocational training and has held several institutional jobs. He has never received a serious disciplinary report, and he has only been counseled once for minor misconduct, in 1988. He participated in Alcoholics Anonymous meetings from 1988 to 1990, completed a seminar in How to Become a Sober Father and Not Get Angry, and participated in Criminon classes and Toastmasters Gavel Club. I commend Mr. Bowden for taking these positive steps. But they are outweighed by other considerations that show he remains dangerous if released from prison now.

The senseless murder Mr. Bowden committed is hard to fathom. The eighteen-year-old store clerk, Robert Zeiger, posed no threat to him. Mr. Bowden had already taken \$40 dollars—a trivial amount in relation to the magnitude of the crime—when he turned his shotgun on Mr. Zeiger and shot him in the chest.

I am concerned that Mr. Bowden has not accepted responsibility for the murder. He denies shooting Mr. Zeiger; indeed, he denies even being at the liquor store when the crime was committed. Mr. Bowden's continued insistence that he did not take part in the murder strains credulity. His sister's testimony placed Mr. Bowden and his crime partner at the liquor store. As the 2011 Board panel noted, the county jail inmate provided information leading to Mr. Bowden's arrest that he could only have discovered from Mr. Bowden himself. Mr. Bowden may have also admitted that he shot the victim to his brother-in-law. Finally, there is the fact that Mr. Bowden pled no contest to the murder and waived his right to a jury trial.

Mr. Bowden continues to minimize his violent past in other ways. When asked by the Board about his assault of the sixty-eight year old woman in 1979, he described it as "just a shoving match" that arose when they bumped into each other getting off the bus. His characterization of that crime is contradicted by evidence that he put the woman in a chokehold and dragged her to a parking lot, or that the police found him holding the woman down on the pavement. It also makes no sense that he would plead guilty to assault with a deadly weapon over a purported "shoving match."

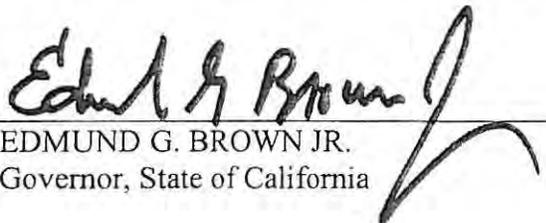
The 2011 psychological evaluation concluded that Mr. Bowden displays "a pattern of pathological lying" and "failing to take responsibility for his own actions," and that "[i]t would behoove him to continue to explore what historical factors led to his crime involvement, and to take a more realistic, honest approach to his past history with himself." I agree. Until Mr. Bowden is able to confront and deal with his true involvement in the killing of Mr. Zeiger, I am concerned that he will remain prone to violence if released from prison.

Earl Bowden, C-31351
First-Degree Murder
Page 3

CONCLUSION

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

Decision Date: March 30, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

CHARLES JOHNSON, D-05007

Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

Charles Johnson pulled into a grocery store parking lot on the night of September 9, 1983. As he exited the store, he exchanged heated words with a group of individuals who claimed he hit their friend Jerry Hitchcock's car. The argument escalated into a series of fights between Mr. Johnson and various members of the group. Mr. Johnson had several opportunities to walk away, but instead escalated the fight by first retrieving a bat and subsequently a .22 caliber pistol from the trunk of his car and firing several shots at the group. As everyone scattered, Jerry Hitchcock exited the store and walked toward Mr. Johnson's car. Mr. Johnson shot Mr. Hitchcock four times, striking him in the chest and back. Mr. Hitchcock retreated and collapsed several feet away. He died at the scene. Mr. Johnson fled and avoided capture. He was apprehended one year later in an arrest for an unrelated fight.

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.)

DECISION

The Board of Parole Hearings found Mr. Johnson suitable for parole based on his age, non-violent prison record, social history and juvenile record, parole plans, and adequate remorse.

Mr. Johnson has made some limited efforts to improve himself while incarcerated. He completed his GED, took a premarriage instruction course, has been a literacy tutor, and is currently enrolled in Partnership for Reentry and Life Skills classes. These efforts are a step in the right direction. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

The murder of Jerry Hitchcock, an innocent bystander in a brawl that Mr. Johnson kept escalating, was utterly senseless. The appellate decision states that at one point in the fight, Mr. Johnson said he had had enough and was allowed to get up and walk back to his car. A member of the group even offered to jump-start Mr. Johnson's stalled car. Instead, Mr. Johnson retrieved his gun and fired at the group, ultimately shooting Mr. Hitchcock multiple times in the back. His actions had a devastating and long-lasting impact on Mr. Hitchcock's family and friends. I note that they wrote three heartfelt letters after the Board granted Mr. Johnson's parole.

I am concerned that Mr. Johnson lacks insight into his conduct. When asked by a psychologist in 2011 if drugs or alcohol played a role in the offense, he responded, "Me, no," but "I believe so, since Mr. Hitchcock was so drunk he walked up on somebody holding a pistol in their hand." He also stated that the shooting happened because he was "in a panic" over being beaten, and he felt that his current sentence was "[h]arsh, because ... there was never the intent to cause harm."

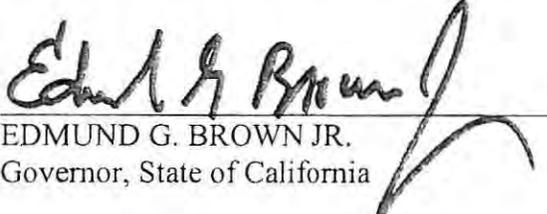
These remarks indicate to me that he continues to blame others—such as a "drunk" Mr. Hitchcock walking up to him or the group he was fighting—for the actions he took that caused the death of Mr. Hitchcock. It is difficult to believe that a person who went back to fetch his gun and shoot at a group of people never intended to cause any harm. As the psychologist found, "Mr. Johnson displayed an inadequate level of insight into all of the factors that contributed to his commission of the life crime" and he "minimizes his responsibility in the life crime."

The 2011 psychological evaluation also found that Mr. Johnson "has not been fully responsive to the treatment that has been available to him, as evidenced by his limited involvement in self-help activities or meaningful treatment during his incarceration." I agree. Although poor judgment, impulsivity, and an inability to control his anger played a significant role in Mr. Johnson's crime, he has participated in no self-help activity to address these issues. I note, for example, that Mr. Johnson has not participated in any anger management programs. Given the connection between these factors and the crime, and lingering doubts about his current insight into the crime and its causes, Mr. Johnson's failure to address these issues gives me further concern that he would be susceptible to similar violent conduct if here were to be released now.

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 I have discussed shows why he currently poses a danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Johnson.

Decision Date: March 30, 2012


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. Police arrested Mr. Davis on January 27, 1980.

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 Board of Parole Hearings found Mr. Davis suitable for parole based on his insight, self-help programming, psychological report, parole plans, and the absence of serious discipline over the last fifteen years of his incarceration.

I acknowledge Mr. Davis has made recent efforts to improve himself. He earned a GED, completed vocational training, and has held various institutional jobs. He has participated in self-help programming, including Alcoholics Anonymous, Anger Management, Cage Your Rage and Stress Management courses, and taken Bible correspondence classes for many years. He also co-founded the Straight Life program for at-risk youth at his institution. I commend Mr.

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

Mr. Davis's crime was callous and senseless. After attempting to rob two elderly victims, Mr. Davis shot and killed a defenseless stranger who had no money and was trying to run away from him. Mr. Davis's actions had a devastating and long-lasting impact on Mr. Knight's loved ones. I note that they have written me a heartfelt letter after the Board granted Mr. Davis's parole and have appeared at Mr. Davis's parole hearings expressing their loss.

Mr. Davis has a substantial history of violence and criminal activity while incarcerated. He was validated as a member of the Mexican Mafia prison gang in 1985 and has been disciplined for 23 serious infractions, including possession of inmate-manufactured stabbing weapons, assaults on other inmates, inciting others to force and violence, conspiring to assault correctional staff members, manufacturing and possessing inmate-manufactured alcohol, and possession of other dangerous materials. Confidential information in his file also indicates that Mr. Davis was involved in planning and facilitating assaults on other inmates, and discussions to kill inmates and other targets outside the prison. While I commend Mr. Davis for disavowing the Mexican Mafia in 1997 and remaining discipline-free since then, I cannot ignore evidence of his active involvement with a dangerous criminal organization for over a dozen years.

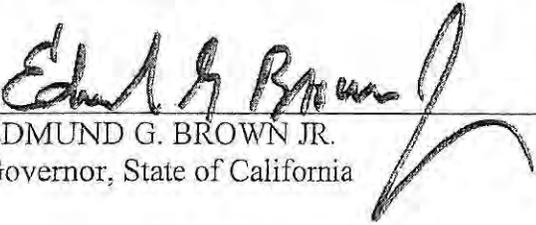
Evidence of recent illegal activity by Mr. Davis in prison also indicates that he has not been rehabilitated. His file contains ten confidential memoranda dating from 1998 through 2005 that indicate Mr. Davis has been involved in trafficking and transporting narcotics for yet another prison gang, while he remains in protective custody. Prison officials deemed the sources of the information in these memoranda reliable.

Mr. Davis's many years of gang participation and serious disciplinary infractions, added to his more recent misconduct, as documented in confidential memoranda, raise serious questions in my mind about his propensity for criminal behavior and current dangerousness.

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 I have discussed shows why he currently poses a danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Davis.

Decision Date: April 13, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DENNIS ANDERSON, D-18211
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Dennis Anderson married Karen Stoker in September 1984. On their honeymoon the following month, Ms. Stoker had a change of heart and told Mr. Anderson she wanted to end the marriage because she was still in love with her ex-boyfriend, Donald Mason. Mr. Anderson agreed to a divorce and he and Ms. Stoker met with an attorney after returning from their honeymoon. Two days later, Mr. Anderson went to Ms. Stoker's house to pick up his belongings. He found her there with Mr. Mason, her children, and her father. Mr. Anderson went to the laundry room, loaded his shotgun, and entered the kitchen and shot Mr. Mason at close range in the chest. Mr. Anderson then chased Ms. Stoker outside and knocked her to the ground. As her children and father looked on in horror, Mr. Anderson kicked her, beat her head with the butt of the shotgun, reloaded it with a spare shell he had placed in his pocket, and shot her in the back at close range as she lay unconscious in the driveway. Mr. Anderson fled but turned himself in later that day.

GOVERNING LAW

The question I must answer is whether Mr. Anderson 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. Anderson suitable for parole based on his psychological reports, insight, remorse, self-help, disciplinary history, and parole plans.

I acknowledge Mr. Anderson has made efforts to improve himself while incarcerated. He completed a vocation and has held several institutional jobs. He has only been disciplined once, in 1989. Mr. Anderson has also participated in self-help programming, including Alcoholics and Narcotics Anonymous, Celebrate Recovery, Life Skills Program, Manic-Depression Group, Stress and Anger Management Program, and received mental health treatment and individual therapy to address his bipolar disorder and past suicide attempts. He has also worked as a

Eucharistic minister, assisted inmates receiving hospice care, and helped prepare audio books for the blind. I commend Mr. Anderson for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Anderson viciously murdered his wife and her former boyfriend because he could not handle the stress and anger of her rejection of their marriage. His actions had a devastating and long-lasting impact on Ms. Stoker's and Mr. Mason's relatives. Ms. Stoker's father and children, in particular, endured the trauma of watching Ms. Stoker's violent death and the fear they would also be shot.

I am concerned about certain findings by the psychologist who evaluated Mr. Anderson in 2011. The psychologist found that he "displays only limited insight into personality factors and how these may have impacted his behavior," and is unaware of "his more subtle blaming of the victim for his actions and personality factors." The psychologist also found that Mr. Anderson blames his past alcohol use on uncontrolled psychiatric problems instead of accepting full responsibility for his choice to drink, and expressed concern that Mr. Anderson was "ambivalen[t] about whether he has an alcohol problem."

The psychologist also found that Mr. Anderson has not addressed how his personality disorder has contributed to the volatility in his prior relationships, and to past suicide attempts when he has experienced rejection. The psychologist warned that "introducing emotional content similar to the volatile relationship between Mr. Anderson and Ms. Stoker or with his girlfriend in college might once again be overwhelming and destabilizing." The psychologist concluded Mr. Anderson "will need to take a more probative look into the true mechanisms behind his behavior" if he hopes to remain violence-free, in part by "developing a greater understanding related to the motives behind retaliatory violence and the origins of his fears related to interpersonal rejection." I agree. Unless Mr. Anderson fully understands the causes of his crime and specifically plans ways to prevent similar violence in future romantic relationships, I cannot be assured it is safe to release him from prison.

CONCLUSION

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

Decision Date: April 25, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

BERT COLE, E-22785

First-degree murder

AFFIRM: _____

MODIFY: _____

 X

REVERSE: _____

STATEMENT OF FACTS

Bert Cole belonged to the Graveyard Crips gang. On May 30, 1991, Mr. Cole was a passenger in a car driven by fellow gang member Marcus Brown. Mr. Brown stopped his car in Santa Monica, territory of the Venice Shoreline Crips, a rival gang. Venice Shoreline Crips associates Cain Davis, Robert Williams, and James Scott were standing nearby. Mr. Williams wore gang attire. Mr. Cole yelled out "where you from?" Mr. Scott said they did not want a confrontation. Mr. Cole and Mr. Brown responded with disrespectful epithets. Mr. Cole told Mr. Davis, an acquaintance, to move out of the way, and fired his gun at Mr. Williams and Mr. Scott. Mr. Williams was hit in the head and killed.

GOVERNING LAW

The question I must answer is whether Mr. Cole 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. Cole suitable for parole based on his remorse, insight, subsequent psychological report, self-help, educational and vocational programming, lack of discipline, age, and parole plans. Upon finding Mr. Cole suitable for parole, the Board set a future release date of July 23, 2022.

Mr. Cole has had no serious discipline during over twenty years of incarceration. He has been working toward a college degree and has completed vocational training in Office Services and Related Technology and Business Education. He has routinely received above average to exceptional work ratings and correctional staff have praised him for acting as a role model, being respectful, cooperative, and diligent, and having a pro-social attitude. The Los Angeles Deputy District Attorney who attended the hearing said that he was "terrifically impressed" with Mr. Cole's progress in prison and added that Mr. Cole "impressed everybody in the room" at his

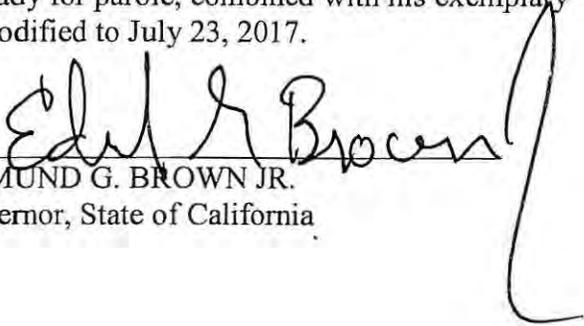
Bert Cole, E-22785
First-degree murder
Page 2

prior parole hearing. In the year since his last parole hearing, Mr. Cole has continued to participate in self-help covering a variety of topics, including substance abuse, gangs, and violence-prevention. The 2011 Board also commended Mr. Cole for developing a business plan to start a non-profit helping at-risk youth.

Mr. Cole's 2011 subsequent psychological report supports parole. The evaluator identified no salient risk factors that served to aggravate or increase Mr. Cole's risk of violence, and several factors that decreased Mr. Cole's risk of re-offending, including his continuing participation in programming, open and honest appraisal of his strengths and weaknesses, realistic parole plans, and commitment to continued self-help activities.

In light of the Board's finding that Mr. Cole is ready for parole, combined with his exemplary behavior while incarcerated, his release date is modified to July 23, 2017.

Decision Date: April 25, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

GERALD WILLIAMS, C-93300
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Gerald Williams received a less than honorable discharge from the United States Marine Corps in June 1985. Without a car or money to get home to Texas, he was invited to stay with a fellow Marine, Lance Corporal Willie Wheaton. Several days later, Mr. Wheaton's girlfriend, Sarah Elaine Young, and her three-year-old son Kevin also moved into the house. On July 15, 1983, Mr. Williams walked into the master bedroom where Mr. Wheaton and Ms. Young were asleep and began to beat the sleeping couple with a wooden hanger rod. When the rod broke, Mr. Wheaton retrieved a claw hammer and struck Ms. Young twice in the head. Mr. Wheaton ducked under the bed, then overturned the bed, trying to protect Ms. Young from further attack. He then jumped through the window, breaking the glass. Mr. Williams followed Mr. Wheaton outside, striking him several more times in the head with the claw hammer. Mr. Wheaton collapsed at a nearby intersection, and Mr. Williams dragged his body more than twenty feet to a vacant lot and covered the body with a blanket. Mr. Williams stole Mr. Wheaton's car, identification, and checkbook and drove East.

The crime was discovered by a neighbor the following day when she knocked on the door of the house to borrow a stamp. Three-year-old Kevin opened the door and led the neighbor to his mother's body, stating "she's sick." An autopsy determined that Mr. Wheaton and Ms. Young had died of massive head injuries. Mr. Wheaton suffered skull fractures, multiple contusions, and twenty-five lacerations to the scalp. Ms. Young sustained nineteen lacerations to the head and scalp. Mr. Williams was arrested in Bowie, Arizona, after attempting to purchase gasoline with Mr. Wheaton's stolen checks.

GOVERNING LAW

The question I must answer is whether Mr. Williams 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. Williams suitable for parole based on his remorse and improving insight, no prior criminal history, self-help, and parole plans.

I acknowledge Mr. Williams has made efforts to improve himself while incarcerated. He earned a GED, completed vocational training, and has held several institutional jobs. He has participated in some self-help programming, including Alcoholics and Narcotics Anonymous, Life Prisoner's support group, Managing Emotions group, and a Violence Prevention seminar. For several years Mr. Williams has volunteered as a companion to dying inmates in a hospice program. I commend Mr. Williams for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. William's crime was brutal and disturbing. He was invited into Mr. Wheaton's house because he had no money and no means of getting home to Texas. He had know Mr. Wheaton and Ms. Young for only a few weeks when he attacked them in the dead of night simply to steal Mr. Wheaton's car. He repeatedly struck the defenseless Ms. Young on the head with a claw hammer, then followed Mr. Wheaton outside and crushed his skull with twenty-five blows to the head. Three-year-old Kevin had to endure the trauma of witnessing his mother's violent death. The motivation for these murders, and the way they were carried out, demonstrate a callous disregard for human suffering.

I am troubled that Mr. Williams lacks insight for this crime. He told the psychologist who evaluated him in February 2011, that he killed Mr. Wheaton and Ms. Young because "I was feeling abandoned by my mother" and because "I was caught up in evil and darkness at that time in my life." The psychologist found that he displayed a "reduced level of insight into his life crime than what might be considered optimal." The psychologist noted, for example, that "it is not evident ... as to how his admittedly unmanageable life and sense of abandonment by his mother led him, as a functioning adult, to the assault and murder of two victims." I agree. Until Mr. Williams credibly explains why he murdered two people he barely knew and were willing to help him out, I am concerned that he will remain prone to violence if released from prison.

Mr. Williams's psychological assessments confirm my concerns about the threat to public safety he would pose if released from prison at this time. In 1993, he was diagnosed with probable paranoid disorder, and the psychologist concluded that "the inmate's potential for violence in an uncontrolled setting may be quite high." In 2003, Mr. Williams scored in the moderate to high risk range for risk to society, based on his limited insight and failure to express remorse for his actions or empathy for his victims. In 2008, the psychologist evaluating Mr. Williams concluded that he posed a moderate to high likelihood of becoming involved in a violent offense if released into free society. The 2011 evaluation scored Mr. Williams in the moderate range for risk of violent recidivism, based in part on his sub-optimal insight.

Lastly, I am concerned that Mr. Williams may not be telling the truth about his military service in order to claim that he suffered from Post Traumatic Stress Disorder (PTSD). PTSD is a

serious anxiety disorder that afflicts many combat veterans as a result of their wartime experiences. It is not at all clear, however, that Mr. Williams served in combat.

Mr. Williams served in the Marine Corps from 1980 to 1983, when he received a less than honorable discharge. At his 2008 Board hearing, Mr. Williams claimed he was “deployed to Bosnia” where, “during this particular war that we went through in Bosnia,” he “killed two people.” He was later asked by his attorney, “as a consequence of being in the war zone that you described,” did Mr. Williams believe that he “was suffering from Post Traumatic Stress Disorder?” Mr. Williams replied, “That could be a factor.”

Mr. Williams repeated the claim that he served combat in Bosnia at his 2011 Board hearing. He stated he was in Bosnia from 1981-82, and that after his discharge, he “needed psychological help” and “was always thinking about what happened in Bosnia.” When asked why he committed this terrible crime, he explained, “coming from the war, I didn’t know how to deal with that. I didn’t know how to take the visions out of my head that I experienced over there and I didn’t have the strength to say that I needed help.”

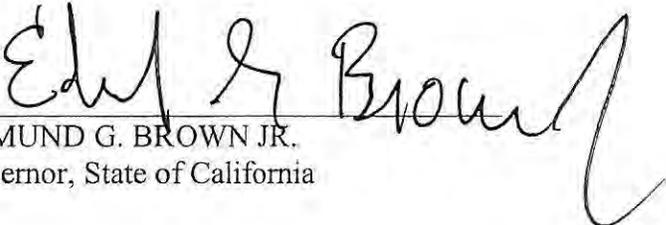
The problem with Mr. Williams’s claim is that the Department of Veterans Affairs has no record of combat operations in Bosnia in 1981-82. See <http://www.vetcenter.va.gov/Eligibility.asp> The fall of Yugoslavia precipitated a war in 1991, and U.S. forces became involved in that conflict in 1995. When asked at the hearing what was happening in Bosnia in 1981-82, Mr. Williams responded, “Lebanon crisis. That’s when the Marine Corps barracks got blown up, but it was before that.” As his story began to unravel, he later clarified that he had been in “Beirut, not Bosnia,” adding, “Did I say Bosnia or Beirut? I thought I said Beirut.”

I find Mr. Williams’s shifting story about his combat service to be suspect. He repeatedly asserted that he served in a war zone in Bosnia over two separate Board hearings. It is highly unusual that a person serving in a war would not remember where it took place and it was this experience that was the basis for his claim that PTSD might have contributed to his otherwise inexplicable crime. I am not convinced that Mr. Williams has adequately dealt with the issues that led to his violent crimes.

CONCLUSION

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

Decision Date: April 25, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

VICTOR BLANK, H-12070

Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

At about 7:00 p.m. on May 9, 1990, Victor Blank's wife Alena Blank left her three-year-old son Brandon with Mr. Blank while she went to buy cocaine. When she returned home at 7:30 p.m., Brandon was in bed and had blood on his mouth and nose. Brandon vomited several times later that evening. Early the next morning Mr. Blank called 911 to report that Brandon was not breathing. Emergency personnel responded and attempted CPR but Brandon was already dead.

An autopsy found that Brandon died between 8:00 p.m. and midnight. His death was caused by blunt trauma to the abdomen, including small contusions with hemorrhage and several lacerations of the liver. Brandon's injuries were inflicted on two occasions – 24 hours before death and two hours before death. Brandon also had extensive contusions and abrasions on his face, trunk, back, and extremities that varied in appearance and age. Brandon had lacerations on his upper and lower lip as well as contusions on his right arm, buttocks, mid back, lower abdomen, left leg, and naval. These injuries were consistent with striking or poking-type blows. Police arrested Mr. Blank three days after the murder. They found and photographed two clubs wrapped with tape that a doctor testified could have caused Brandon's injuries. Alena later threw them away. An investigation concluded that Mr. Blank and Alena had consistently abused Brandon from the time he was one year and 11 months old until the time of his death. This pattern of abuse coincided with the time that Mr. Blank started dating Alena.

GOVERNING LAW

The question I must answer is whether Mr. Blank 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. Blank suitable for parole based on his remorse, lack of discipline, self-help and vocational programming, parole plans, and the lack of opposition.

I acknowledge Mr. Blank has made efforts to improve himself while incarcerated. He became a certified optician and has held several institutional jobs. He has never received a serious disciplinary report. Mr. Blank has also participated in self-help programming, including Alcoholics and Narcotics Anonymous, Men's Violence Prevention Seminar, Conflict Management, Parenting courses, Stress Management, Relationship Awareness, and Anger Management. I commend Mr. Blank for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Blank brutally abused and killed his toddler stepson. Brandon was an innocent victim who did not pose a threat to Mr. Blank, given his age and size, and could not have fought back or summoned help. The severe abuse that caused Brandon's death was not an isolated incident. Mr. Blank physically abused Brandon on repeated occasions over an extended period.

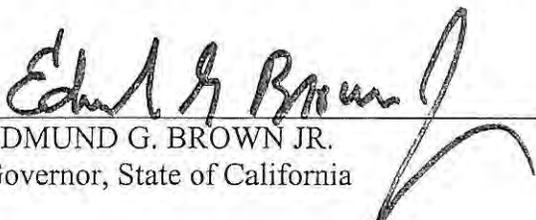
I am concerned that Mr. Blank has minimized the degree to which he abused Brandon. Though he told the 2010 Board that he abused Brandon over a period of 13 to 14 months, he followed up by stating that "it wasn't always abuse that happened to Brandon," and "some of the things that happened to Brandon happened to him when I wasn't there." I do not find this credible given the evidence that Brandon was abused regularly. Brandon had injuries throughout his body when he died, and on at least six earlier occasions he had injuries that led acquaintances and family members to contact authorities. These injuries included black eyes, a bruised inner ear, burned feet, and a broken arm. Upon questioning by the 2011 Board, Mr. Blank admitted without qualification that he abused his stepson. I agree with the psychologist who evaluated Mr. Blank in 2010 that though Mr. Blank has made "some incremental improvements" in minimizing his abuse of Brandon, "he could benefit from taking a more honest look as to why his stepson was the primary target for his frustration over an extended period of time."

I note the psychologist stated Mr. Blank "should take a more explorative look into the reasons behind his gross lack of judgment as it related to the treatment of his stepson versus his own child." The psychologist also found Mr. Blank "could benefit by examining the underlying psychological factors that allowed him to repeat abuse patterns within the context of a stepparent-stepchild relationship." Until Mr. Blank shows that he understands how and why he repeatedly abused his stepson to the point of death, I cannot be assured that it is safe to release him from prison.

CONCLUSION

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

Decision Date: April 26, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

RICHARD SENA, H-28161
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On the evening of October 30, 1990, Richard Sena, then seventeen, slashed and stabbed a former girlfriend, Rachel Cordova, 36 times and left her to die in the street. At the time of the murder, Ms. Cordova was fourteen years old and approximately fourteen weeks pregnant with his child. According to the autopsy report, she died due to the loss of blood from cuts, slashes, and stabs, primarily to her face, neck, and abdomen, one of which severed her spinal cord.

Mr. Sena and Ms. Cordova met that night at Ms. Cordova's insistence. Mr. Sena told her of his plans to marry another girlfriend who was five months pregnant with his child. Ms. Cordova threatened to tell Mr. Sena's girlfriend about her own pregnancy. According to Mr. Sena, Ms. Cordova made threats to harm his family and his girlfriend, and Ms. Cordova's friends had also called his home and made threats against his family. Their argument escalated and Mr. Sena pulled out a three-inch knife which he had been carrying and repeatedly stabbed Ms. Cordova. He then ran home, ditched the knife, and washed his clothes. Ms. Cordova bled to death.

GOVERNING LAW

The question I must answer is whether Mr. Sena 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. Sena suitable for parole based on his limited criminal history, remorse, educational, vocational, and self-help programming, lack of serious discipline, psychological report, and parole plans.

I acknowledge Mr. Sena has made efforts to improve himself while incarcerated. He has earned a high school diploma, completed vocational training, and held several institutional jobs. He has received only one serious disciplinary report in 1999, and he has only been counseled once for

minor misconduct, in 1999. Mr. Sena has also participated in self-help, including Alcoholics and Narcotics Anonymous, Substance Abuse Program, Anger Management, individual and group counseling, and a violence prevention seminar. I commend Mr. Sena for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Sena's crime was brutal and horrific. He slashed and stabbed a fourteen-year-old girl carrying his child 36 times and left her to die alone in the street. The stab wounds were so deep and varied that they severed Ms. Cordova's spinal cord and mutilated her face and body. Although Mr. Sena claims that he never intended to stab her, he summoned no medical assistance after the fact and instead walked home and washed his clothes to cover up the crime. Mr. Sena's actions had a devastating and long-lasting impact on Ms. Cordova's loved ones. I note that they have written me numerous heartfelt letters after the Board granted Mr. Sena parole urging me to reverse the Board's decision.

From the evidence, it seems reasonably clear that Mr. Sena is not revealing his actual state of mind that led up to his brutal stabbing of his ex-girlfriend, or he doesn't understand the dynamics underlying his behavior. At his 2008 and 2011 Board hearings, Mr. Sena asserted that he stabbed Ms. Cordova because he was afraid for his family. He claimed that Ms. Cordova and her friends had repeatedly harassed and threatened him, and threatened to kill his family and his girlfriend. When asked why he was receiving these threats, he explained in 2008 that "all it was, was they wanted me to hang out with them. They just wanted me to be out there with them. They just wanted me to continue to drink with them and to hang out." He stated at his 2011 hearing that he had been receiving threats from Ms. Cordova and her friends for five months.

I find Mr. Sena's explanation for why he committed this murder completely implausible. He does not explain why these former drinking friends would be so offended by his desire to stop hanging out with them that they would threaten to kill his family. He does not explain why, after receiving threats for several months, his fear suddenly intensified to the point that he would commit this violent murder. He admits that he never took Ms. Cordova's threats against him seriously, and that killing her would not protect his family. Moreover, he offers no explanation why horribly stabbing Ms. Cordova would deal with his fear that Ms. Cordova's friends would kill his family and his new girlfriend.

The 2008 Board concluded that Mr. Sena did not act out of fear, finding instead that "[t]his crime, by all accounts, appears to have all the elements of extreme rage and anger." But Mr. Sena in no way acknowledges this.

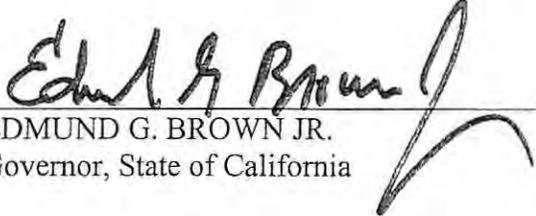
The probation officer's report indicates that Mr. Sena had urged Ms. Cordova to have an abortion and that Ms. Cordova threatened to tell Mr. Sena's girlfriend that she too was pregnant with his child. Mr. Sena claims that he wanted to get married with his girlfriend and to raise their child. He carried a three-inch knife with him when he went to meet Ms. Cordova. He knew that Ms. Cordova was pregnant, and yet he stabbed and slashed her 36 times, including several times in the abdomen, and left her to bleed to death. He later told the investigating officer that Ms. Cordova "drove him crazy" by constantly pursuing him.

At the 2011 hearing, Mr. Sena also offered the following explanation: "It happened because I was an immature person." Despite Mr. Sena's many years of self-help programming in anger management, violence prevention, and conflict resolution, he still appears unable to acknowledge the role that his narcissistic rage and anger contributed to this crime. Until he has sufficiently explored and worked through all this, I am concerned he will act out violently again if he encounters a stressful situation.

CONCLUSION

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

Decision Date: April 26, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

FRANK DELEO, H-73348
First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On December 17, 1991, sixteen year old Frank Deleo raped and strangled forty-four year old Marguerite Sims in her apartment. Mr. Deleo was attending a Christmas party at his mother's apartment complex when he met Ms. Sims. The two drank and danced throughout the evening. Mr. Deleo helped Ms. Sims to her apartment. Later that night, neighbors reported a violent struggle coming from within Ms. Sims's apartment and "screams of fear and despair." When police arrived, they encountered an apartment in disarray and Ms. Sims partially clothed with an electrical cord tied around her neck and mouth. Ms. Sims died of ligature strangulation and had injuries resulting from forced sexual intercourse. Mr. Deleo was found a short time later hiding in bushes near the apartment, with cuts and bruises on his face, hands and arms. In a taped interview with police, Mr. Deleo admitted that he had engaged in mutually consented sexual intercourse with Ms. Sims but denied that he raped her. He explained that Ms. Sims began hitting him and accused him of rape, at which point he panicked, hit her back, and strangled her with a lamp cord.

GOVERNING LAW

The question I must answer is whether Mr. Deleo 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. Deleo suitable for parole based on a limited criminal history, remorse and insight, educational, vocational, and self-help programming, psychological report, and parole plans.

I acknowledge Mr. Deleo has made efforts to improve himself while incarcerated. He has earned his GED, completed vocational training, and held several institutional jobs. Mr. Deleo has participated in self-help programs, including Alcoholics and Narcotics Anonymous, Substance Abuse Program, Alternatives to Violence, Creative Conflict Resolution, and Victim Recognition

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

Mr. Deleo's crime was brutal and disturbing, particularly for a sixteen year old to commit. He violently raped and attacked Ms. Sims when she was at her most vulnerable, and strangled her to death when she began to scream for help. The police found overturned and broken items strewn throughout the apartment and blood stains on the living room carpet and on walls in the bedroom, living room and entrance ways. The homicide investigator described the apartment as "one of the most violent crime scenes I'd ever seen."

I am troubled that Mr. Deleo has not fully realized or resolved his reasons for raping and killing Ms. Sims. Mr. Deleo claims that he was overcome by anger over the suicide of his father and other suppressed emotions. He killed Ms. Sims because he felt rejected by her when she decided she no longer wanted to have sex with him. The psychologist who evaluated him in 2011 found he demonstrated adequate insight into his behavior. I disagree. The explanation Mr. Deleo offers—anger over the loss of his father—does not adequately explain why he raped a forty-four year old stranger and then strangled her in her apartment. There were clearly deeper reasons at play that contributed to his sexual violence against an older woman.

The psychologist concluded that Mr. Deleo's "deviant violent sexual behavior appears better explained by emotional conflicts he experienced from his disruptive family environment" than by a propensity for sexual aggression. He pointed out that Mr. Deleo has had three long-term relationships with women since his crime, with no indication of violence or abuse. I find this evaluation unpersuasive, given that Mr. Deleo is serving a life sentence and has little occasion to demonstrate violent or abusive behavior in his relationships in a prison setting. And, despite these conclusions, the psychologist nevertheless recommended that Mr. Deleo "participate in counseling regarding sexual aggression in the community setting."

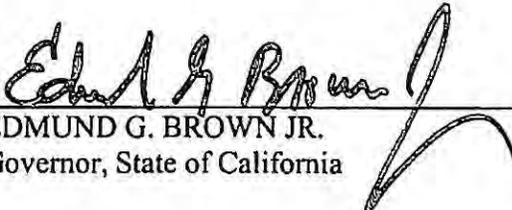
The Static-99R, a standardized test measuring deviant sexual behavior, confirms my concerns that Mr. Deleo would pose a threat to public safety if released at this time. This test recently rated Mr. Deleo as a high risk sex offender with a moderate-to-high risk of reoffending sexually in the future.

I am also troubled that Mr. Deleo remains unable to control his anger or abide by rules when he is refused something that he wants. In 2008, he was disciplined for fighting with another inmate over a seat to watch a Lakers basketball game. In 2009, Mr. Deleo was cited for manipulation for seeking a prison transfer by falsely claiming that he felt unsafe because a correctional lieutenant's mother had a conflict with his mother. In 2010, he was argumentative with a work supervisor and disobeyed a direct order because he disagreed with her assessment that he was out of bounds. Based on these recent incidents, it does not appear that Mr. Deleo is able to face rejection all that well. Until he demonstrates that he has internalized his anger management and conflict avoidance-related self-help, I find that there is not sufficient assurance that it is safe to release Mr. Deleo at this time.

CONCLUSION

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

Decision Date: May 17, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ALTON VILLAMAR, J-53515
First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

In 1991 and 1992, Alton Villamar participated in four robberies that resulted in the death of two people. On December 19, 1991, Mr. Villamar, Kevon Clardy, and Stanley Mayfield forced their way into federal bankruptcy judge James Dooley's home at gunpoint. The men awakened Mr. Dooley's wife, duct taped the couple's hands and feet, and covered their heads with pillow cases. They took money, jewelry, a fur coat, and electronics worth about \$20,000. They fired multiple rounds into the couple's television set and threw eggs onto the victims to make them believe they had been shot. Once Ms. Dooley knew the men had left, she crawled out of the back door and went to a neighbor's house for help.

On December 21, 1991, Mr. Villamar, Mr. Clardy, and Mr. Mayfield attempted to rob Nancy Kawata as she arrived home from her parents' house. Ms. Kawata got on her knees and began to pray. Mr. Clardy told her to stop but she would not. Mr. Clardy then wrapped a shirt from Ms. Kawata's laundry basket around the barrel of his gun and shot Ms. Kawata in the head at point-blank range.

On December 24, 1991, Cornell Washington and his daughter were returning to their Baldwin Hills home. As Mr. Washington's daughter entered the house, she heard her father call out behind her and then heard a splash in the pool. Mr. Washington had been approached by Mr. Villamar and a crime partner carrying guns. Mr. Washington fell into the pool. He did not how to swim. He suffered a heart attack and died. The men fled.

On January 18, 1992, Mr. Villamar, Mr. Clardy, and a third man robbed an Inglewood grocery store. Police arrested Mr. Villamar a month later.

GOVERNING LAW

The question I must answer is whether Mr. Villamar 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. Villamar suitable for parole based on his stable social history, remorse, age, parole plans, disassociation from gang activity, and self-help, vocational, and educational participation.

I acknowledge Mr. Villamar has made efforts to improve himself while incarcerated. He earned his GED, completed 33 community college credits, and received vocational training. He has been discipline-free since 2001. Mr. Villamar has also participated in self-help programming, including Alcoholics and Narcotics Anonymous, Criminals and Gang Members Anonymous, Anger Management, Parenting Program, and numerous Golden Hills Adult School courses. I commend Mr. Villamar for taking these positive steps. But they are outweighed by negative factors that show he remains unsuitable for parole.

Mr. Villamar actively participated in four violent robberies that caused two deaths, including the brutal killing of Ms. Kawata. These robberies terrorized the victims and their families, invaded their homes and place of business, and shattered their sense of safety on the eve of the holidays. I note that Mr. Villamar's decision to commit two more robberies *after* watching his crime partner murder Ms. Kawata, execution-style, demonstrates a callous disregard for the welfare of others.

I am concerned that Mr. Villamar continues to minimize his involvement in these crimes and his motivation for committing them. He explained that he participated in the robberies in order to obtain money for an abortion for his girlfriend. He also said he had no gun during the robberies and "just associated with" his crime partners, noting that his "co-defendant had a gun because he was a real gang banger." According to his psychological evaluation in 2011, Mr. Villamar indicated that he only took a passive role in these offenses.

The psychologist who interviewed Mr. Villamar concluded that he "minimized his role in the offense and generally did not appear accountable for his actions." I agree. Mr. Villamar's willing and repeated participation in planned, violent robberies belies his claim that he was just a "wannabe gangster" who passively went along. And, given evidence that he and his partners netted \$20,000 from the first home-invasion robbery alone, Mr. Villamar's statement that he only committed the robberies to raise money for his girlfriend's abortion lacks all credibility.

Mr. Villamar's recent psychological assessment scores confirm my concerns about the threat to public safety he would pose if released from prison at this time. He scored in the moderate range for psychopathy, moderate range for risk of violent recidivism, medium range for risk of general recidivism, and moderate range for overall risk to society.

I agree with the psychologist that Mr. Villamar would "benefit from focusing attention on identifying the motivating and causative factors of the life crime." Mr. Villamar has not adequately explored the reasons for his active participation in this violent crime spree and would present an unreasonable risk to public safety if released at this time.

Alton Villamar, J-53515
First-degree murder
Page 3

CONCLUSION

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

Decision Date: May 17, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ROBERT HANNA, C-52592
First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

 X

STATEMENT OF FACTS

In 1979, Robert Hanna was convicted in Virginia on two counts of rape, attempted rape, maiming, and abduction, and was sentenced to serve 55 years in prison. He escaped in March 1981 and began living in California under a false identity. At some point, Mr. Hanna began working for a moving company. On September 8, 1981, Mr. Hanna and two co-workers helped Robert Divine move from his house. The next day, Mr. Hanna returned to complete the move. Mr. Hanna and Mr. Divine got into an argument about missing items and Mr. Divine indicated he contacted the police. Mr. Hanna claims he tried to leave, but Mr. Divine would not let him. Mr. Hanna picked up a hammer and beat Mr. Divine to death. A neighbor reported hearing screams for help and a thumping sound that continued after the screaming had ceased. Mr. Divine died of cranio-cerebral trauma due to blunt force. Mr. Hanna stole Mr. Divine's wallet, a .25 caliber pistol, and his car. He fled to Hawaii and was arrested a few months later. He was sentenced to a term of 25 years-to-life for first degree murder, to run concurrently with his Virginia sentence. He has been serving his sentence in Virginia.

Mr. Hanna has an extensive history of violence. He confessed to kidnapping, maiming, and attempting to rape a woman in Virginia in 1979 as a seventeen year old. He approached the woman at a store and offered to change her flat tire. He then pulled a knife and forced her to get into the passenger seat. He drove to a secluded wooded area, held the knife to her throat, and ordered her to take her clothes off. She refused and grabbed the blade of the knife. Her hand was severely cut as they struggled for the knife. She managed to escape from the car and run into the woods. When Mr. Hanna drove away, she went to a nearby home where she received assistance and contacted the police.

Mr. Hanna was also convicted of two counts of rape in Virginia. In his most recent California parole board hearing, Mr. Hanna recounted that he raped a woman who was showing him a house for sale. He offered as explanation that he was angry at his pregnant fiancée and decided to take his anger out on the woman.

According to his pre-sentencing report in Virginia, Mr. Hanna admitted to committing at least nine other rapes in California for which he was never charged.

GOVERNING LAW

The question I must answer is whether Mr. Hanna 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. Hanna suitable for parole based on his age, remorse, insight, programming, lack of recent disciplinary action, and educational improvement.

I acknowledge Mr. Hanna has made efforts to improve himself while incarcerated. He has not been disciplined for misconduct in prison since 1998 and has received above average work evaluations. He earned an Associate's degree in 1989 and has participated in programs for sex offenders. I commend Mr. Hanna for taking these positive steps. But they are outweighed by other considerations that show he remains dangerous if released from prison now.

Mr. Hanna's murder was brutal and disturbing. He bludgeoned 55-year-old Mr. Divine to death and stole his wallet and car. The manner in which he committed this crime—crushing Mr. Divine's skull with repeated blows from a hammer—demonstrates a continuing and callous disregard for human suffering. I also note that he committed this murder while being an escaped felon for a 55-year sentence in Virginia.

I am troubled that Mr. Hanna minimizes the severity of these intentionally violent and serious crimes. He claims that the murder happened because Mr. Divine accused Mr. Hanna and his co-workers of stealing items the previous day. They began to fight when Mr. Divine grabbed him as he tried to leave. Mr. Hanna explained he used a hammer as a weapon because Mr. Divine was "getting some good punches in," and because he was losing and "Mr. Divine was a pretty big man." Mr. Hanna's version of the events is incomplete and totally overlooks the fact that he pursued Mr. Divine throughout the house and repeatedly struck him with a hammer.

At his 2011 Board hearing, he explained that he committed one rape because "I was angry with my fiancée but I mean, I couldn't hurt her. And what I did was, I took my anger out on the other women. I didn't beat them up or anything." In 2008, he testified, "[t]he lady was showing me around the house, and I just pushed her on the bed, and assaulted her. I didn't hurt her at all."

These statements by Mr. Hanna at his 2008 and 2011 Board hearings show me that he does not accept or even appreciate what he did. There is a profound disconnect between the nature of his criminal acts and the words he uses to describe them. In justification for what he did, he says he doesn't have a problem with women, in that he only raped his victims but didn't physically beat them up in addition. These explanations clearly demonstrate to me distorted and dangerous thinking.

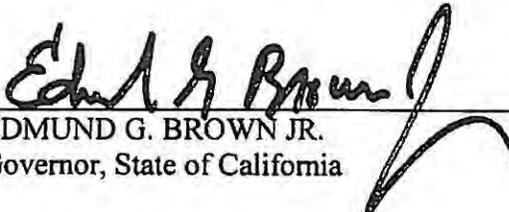
His account of the attempted rape, abduction, and maiming conviction reflects the same minimization. Mr. Hanna says, "once she cut her hand, I stopped everything, took her to the house, the first house we came to, and so she could get medical help." This explanation is contradicted by the official record which indicates that the woman struggled desperately with Mr. Hanna and grabbed the knife he had at her throat and then escaped, no thanks to Mr. Hanna who was already driving away.

In 2008, Virginia authorities performed the "Static-99 test," which measures deviant sexual behavior, and rated Mr. Hanna as a High Risk Sex Offender with a high risk of sexual recidivism. In 1992, a psychologist found that Mr. Hanna has "a well established sociopathic value system" and "a rather sophisticated ability to manipulate and make a good impression." The psychologist concluded that "[t]his inmate has not yet begun to incorporate the values and standards of society." None of his more recent psychological evaluations specifically talk about this issue. Given Mr. Hanna's recent remarks shifting blame and minimizing the impact of what he did to his victims, I conclude Mr. Hanna has not adequately dealt with the issues that gave rise to his violent behavior and that he would be an unreasonable risk to public safety if released at this time.

CONCLUSION

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

Decision Date: May 18, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

SERGIO STOPANI, C-30244
Second-degree murder

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

STATEMENT OF FACTS

On July 21, 1980, Ray Abeyta, a member of the Horseshoe gang, and Mike Gonzales, a member of the Jardin gang, got into a disagreement over a girl they were both dating. Sergio Stopani, known by fellow Jardin gang members as "Loco," told Mr. Gonzales to arrange a fight that evening. Mr. Abeyta agreed to fight Mr. Gonzales at a nearby elementary school "one-on-one." When Mr. Abeyta arrived at the schoolyard, Mr. Stopani stepped out from his hiding spot and shot Mr. Abeyta several times with a .22 caliber sawed-off rifle. Suspecting that Mr. Abeyta was being set up, his brother Genaro attempted to scale the wall of the schoolyard to help his brother. Genaro heard shots fired and witnessed several individuals hitting his brother's body lying on the ground. Mr. Stopani turned and fired several shots at Genaro, hitting the block wall four inches below him. Genaro was forced to run away. After Mr. Stopani left, Genaro and his mother returned and took Mr. Abeyta to the hospital. Mr. Abeyta died from the multiple gunshot wounds.

GOVERNING LAW

The question I must answer is whether Mr. Stopani 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. Stopani suitable for parole based on his remorse, age, parole plans, support in the community, and acceptance of responsibility for his crime.

I acknowledge Mr. Stopani has made recent efforts to improve himself while incarcerated. In 2011, he participated in Narcotics Anonymous and Alcoholics Anonymous, and attended a Gang Prevention Workshop, Victim Awareness seminar and Alternatives to Violence class. He has earned satisfactory and above average work evaluations, and has not been disciplined for serious

misconduct since 2005. These efforts are a step in the right direction, but they are outweighed by other considerations that show he remains dangerous if released from prison now.

Mr. Stopani's crime was calculated and vicious. He directed other gang members to lure an unarmed fifteen year old to an elementary school on the pretext of a "one-on-one" fight, and then ambushed Mr. Abeyta when he arrived. Mr. Stopani shot Mr. Abeyta several times with a sawed-off rifle, after which five or six others descended upon Mr. Abeyta, beating him on the ground. As Mr. Abeyta's brother witnessed the murder and tried to render assistance, Mr. Stopani tried to kill him too.

I am concerned that Mr. Stopani is still minimizing his responsibility for this crime. He denied any involvement in the murder as recently as his psychological evaluation in 2010. At his 2011 hearing, Mr. Stopani finally admitted to shooting Mr. Abeyta. However, his version of events notably omits the fact that the "set up" was his idea or that he was the leader of the group issuing orders to the others. The psychologist concluded: "While it was apparent Mr. Stopani had significant work ahead of him in order to honestly face, confront, and discuss the causative factors of the life crime, no less the fact of his involvement in the life crime, it did not appear he was particularly motivated to do so." Mr. Stopani's statements at the hearing are an improvement, but they also indicate that he has not accepted full responsibility for his actions and does not have an adequate understanding of why he committed this murder.

Mr. Stopani has also made inadequate efforts to address his extensive substance abuse problem. Despite a long history of abusing alcohol, marijuana and heroin, and receiving six disciplinary actions related to the use and possession of drugs and alcohol in prison, Mr. Stopani began attending Alcoholics Anonymous for the first time in 2011 and resumed participation in Narcotics Anonymous after a fifteen-year hiatus. He claims to have "no worries about issues of sobriety." The psychologist found that Mr. Stopani has taken "a laissez faire attitude toward substance abuse as a problem" and has failed to incorporate principles from substance abuse self-help groups in any meaningful manner. I find that his risk of violently reoffending is unacceptably high given his repeated failure to maintain sobriety or to acknowledge the severity of his drug problem.

Evidence of recent illegal activity by Mr. Stopani in prison also indicates that he has not been rehabilitated. His file contains confidential memoranda dating from 1985 through 2009 that indicate Mr. Stopani has been involved with a prison gang. In 2005, Mr. Stopani served a fourteen-month sentence in segregated housing for starting a prison riot by attacking another inmate with a razor blade. The fact that decades into his sentence, Mr. Stopani would commit what the Board described as "a crime that is similar in a lot of ways to the crime life [he] had on the streets" shows me that Mr. Stopani has not left behind his criminal and gang-related lifestyle and way of thinking.

I encourage Mr. Stopani to continue to participate in Alcoholics and Narcotics Anonymous as well as the other self-help groups he recently started. I believe these classes will help him address the issues I have discussed and will prepare him for a future release back into our community.

CONCLUSION

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

Decision Date: May 25, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

MICHAEL BRODHEIM, C-46663
First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Kristin Malmquist ended her romantic relationship with Michael Brodheim. Mr. Brodheim could not deal with the rejection. He began to stalk her and made several harassing telephone calls. In February 1981, he tried to purchase a gun to murder Ms. Malmquist. Because there was a waiting period for the gun, Mr. Brodheim bought a knife instead. On February 28, 1981, Mr. Brodheim gained entry into Ms. Malmquist's Berkeley home when he lied and said that his mother had died. After Mr. Brodheim drank a bottle of champagne he brought with him, he hit Ms. Malmquist over the head with the empty bottle and strangled her. Mr. Brodheim had sex with Ms. Malmquist's corpse. He then attempted to set her body on fire with lighter fluid. Later that evening, Mr. Brodheim tried to kill himself by slashing his wrists and jumping from a freeway overpass. He survived but suffered a fractured skull and broken collarbone. Police arrested Mr. Brodheim five days later.

Mr. Brodheim has a history of harassing ex-girlfriends. After a previous girlfriend broke up with him, he called her repeatedly, threatened her with death, and put up flyers on a college campus listing her telephone number and suggesting she be called for a good time.

GOVERNING LAW

The question I must answer is whether Mr. Brodheim 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. Brodheim suitable for parole based on his insight and remorse, prison disciplinary history, lack of criminal history, self-help, psychological report, parole plans, and age.

I acknowledge Mr. Brodheim has made significant efforts to improve himself while incarcerated. He earned a master's degree and a paralegal certificate, and has held several institutional jobs. He has only been disciplined one time, in 1997. He has participated in numerous self-help groups, including Alcoholics Anonymous, Alternatives to Violence Project, Anger Management, individual and group therapy, Long Term Commitment Group, Breaking Barriers, Victims/Offenders Reconciliation Group, Men's Violence Prevention Seminar, Parenting Program, and I Decide to Stop My Physical Violence class. Mr. Brodheim has also volunteered as a caregiver for inmates in hospice and a tutor, as well as assisted teachers in college-level math classes. I commend Mr. Brodheim for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Brodheim committed a truly abhorrent crime. He brutally murdered a promising young college student in her own home, where she expected to be safe. It gives me great concern that a person of such intelligence and superior education would decide to murder an ex-college girlfriend and then have sex with her corpse.

I find many aspects of Mr. Brodheim's intellectual explanations for this horrible murder either unconvincing or reflective of a lack of insight. First, he puts an inordinate amount of blame on unmet needs in his childhood. That is not a convincing explanation for a carefully planned and obsessive murder of a woman merely because she would not go out with him anymore. He also has rather selective memory. He says he doesn't remember having sex with the corpse, but that he does remember, thinking right before the killing of Ms. Malmquist, that he didn't know how to kill somebody.

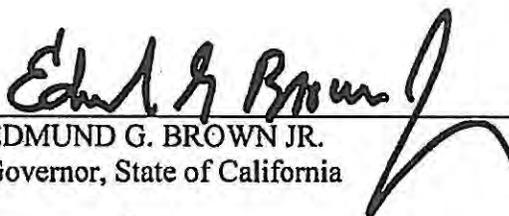
I am concerned Mr. Brodheim still exhibits traits that led him to murder Ms. Malmquist. He gained entry to Ms. Malmquist's home by exploiting his position of trust as her former romantic partner and telling her a lie that his mother had died. Mr. Brodheim admitted to his 2011 psychologist that he fabricated auditory hallucinations in order to get a transfer into another institution. Despite years of self-help classes, Mr. Brodheim remained capable of manipulating others by lying to get what he wanted. In 2009, Mr. Brodheim's psychologist found "some suggestion of narcissistic traits in [Mr. Brodheim's] current presentation." The psychologist concluded that Mr. Brodheim exhibited "glib/superficial charm, grandiose sense of self-worth, conning/ manipulative, lack of remorse or guilt, shallow affect, lack of empathy, poor behavioral controls, lack of realistic long-term goals, impulsivity, and failure to accept consequences for own actions." That Mr. Brodheim's manipulation, a key part of his crime, continued decades after he came to prison is very troubling, as is the fact that a psychologist recently identified similar traits in Mr. Brodheim.

CONCLUSION

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

Michael Brodheim, C-46663
First-degree murder
Page 3

Decision Date: June 8, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

TERRY HALE, K-99403
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Terry Hale and his girlfriend Bree Davis had a heated argument in their apartment. Ms. Davis told Mr. Hale to get his belongings and leave. Mr. Hale became upset and grabbed her hair and held her down for twenty to thirty minutes before allowing her to get up. Ms. Davis got dressed and left for school. Mr. Hale stayed behind with their fifteen-month-old son James. James had a diaper rash and would not stop crying. Mr. Hale took out his rage on the little boy. He punched and slapped James, whipped and shook him, struck James with a shoe, and bit him. Mr. Hale sensed something was wrong when James stopped crying, but rather than call for help, he left the apartment. When Ms. Davis came home several hours later, she found James unresponsive and rushed him to the hospital. Baby James suffered blunt force trauma to the head and abdomen and hemorrhage of the small bowel. He died at the hospital.

GOVERNING LAW

The question I must answer is whether Mr. Hale 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. Hale suitable for parole based on his remorse, insight into the reasons he committed the crime, self-help programming, institutional behavior, and realistic parole plans.

I acknowledge Mr. Hale has made efforts to improve himself while incarcerated. He earned a GED, completed several vocational training programs, and has held many institutional jobs. He has also participated in some self-help programming, including Alternatives To Violence, Anger Management and Parenting classes, and one year of Narcotics Anonymous. I commend Mr. Hale for taking these positive steps. But they are outweighed by other considerations that show he remains dangerous if released from prison now.

Mr. Hale's crime was appalling. When asked to tend to baby James who was crying, Mr. Hale responded by punching and slapping the child, then hitting him with a shoe and even biting him. Although Mr. Hale claims that he never intended to hurt his child, he summoned no medical assistance after the fact and instead abandoned him. Mr. Hale chose to unleash his rage on the most vulnerable and helpless of victims. The baby could not run from the attack. Nor could he defend himself in any way. And Mr. Hale attacked James for the most senseless of reasons—because he had a diaper rash and would not stop crying.

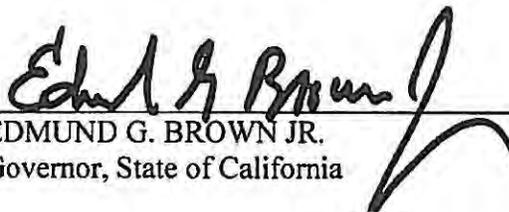
I am concerned that Mr. Hale does not adequately understand why he harbored such anger and rage that he would punch, slap and bite a helpless fifteen-month-old baby. He acknowledged he had an anger problem and would smoke marijuana every day to cope with his feelings of rage. He stated that he felt angry at his parents over his upbringing. I find this explanation inadequate. Mr. Hale does not credibly explain why anger at his parents would lead him to lash out in such a violent way at an innocent baby. He admitted as much at his Board hearing, stating, "I don't know what made me bite him," and "To this day, to tell you the truth, I don't know why it was him."

Mr. Hale also lacks insight into a clear pattern of domestic violence and abuse. He described one incident in which he struck Ms. Davis in the face and her head hit the wall during an argument. On the day of the life crime, he grabbed Ms. Davis by the hair and held her down for thirty minutes merely because she did not want to get up to go to school. Mr. Hale also admitted that he struck baby James several times with a shoe, "mostly at times when he'd be crying, times I'd be trying to feed him and he would cry, do something or tear the blinds down, you know, in the house. That would get me mad." Mr. Hale's claim that he was never angry at Ms. Davis or baby James, and never intended to hurt the boy, seems preposterous in light of these repeated displays of violence. Until Mr. Hale has sufficiently confronted and worked through his suppressed anger and resentment, I am concerned he will act out violently again if he encounters stressful family situations.

CONCLUSION

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

Decision Date: June 8, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DIANNE FELLMAN, W-21210
First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

Dianne Fellman and Elroy Fellman were married for ten years. They lived in an apartment above a commercial building they owned in Los Gatos, and Mrs. Fellman ran an adjacent barber shop. They also owned a mountain cabin. Mr. and Mrs. Fellman had several disagreements. Mr. Fellman wanted to have children while Mrs. Fellman did not. Mr. Fellman also limited the amount of money Mrs. Fellman spent. Mrs. Fellman thought Mr. Fellman was having an affair. She also told friends that caring for Mr. Fellman, who had multiple sclerosis, left her little time for herself.

On the weekend of January 1st, 1982, the couple drove up to their mountain cabin in their car. A neighbor witnessed Mrs. Fellman drive back by herself. Two days later, Mrs. Fellman reported her husband missing. She claimed she last saw him the previous morning when he left for work. According to Mr. Fellman's employer, however, Mr. Fellman was not supposed to work that day. Authorities and family members began searching for Mr. Fellman.

On February 10, 1983, a neighbor's guest discovered a half-buried skull and rib cage outside of the Fellman's cabin. The guest went back to the neighbor's house and then returned to the cabin. He saw Mrs. Fellman drive up and exit her car holding a shovel. She stayed for over an hour and left with a bag. When the guest returned with police the skeletal remains were gone. Ten days later, a human leg bone and attached foot were found buried near the cabin along with Mr. Fellman's weekend clothes. On March 12, 1983, Mr. Fellman's skull was unearthed. A total of 37 bones were found scattered throughout the area. The remains were identified as those of Mr. Fellman. Authorities determined that Mr. Fellman had been shot three times in the head and his body dismembered and burned.

Police searched Mrs. Fellman's barber shop on March 22, 1983. They located a .22-caliber Ruger pistol belonging to Mr. Fellman and two boxes of .22-caliber ammunition hidden in an enclosed area underneath a sink. Mrs. Fellman purchased these bullets several months before the murder. Police found four expended shell casings in the cabin that could only have been fired from the .22 Ruger pistol. The slugs found in Mr. Fellman's skull were too deformed for adequate analysis, but were consistent with having been fired from a Ruger pistol. Mrs. Fellman was arrested. At her trial, three women in custody with Mrs. Fellman testified that she had confessed to shooting her husband, cutting up his body, burying him and burning him. A

neighbor testified that on January 2, 1982, he saw Mrs. Fellman tending a fire outside the cabin. Other witnesses testified that Mrs. Fellman told many different and conflicting versions of what occurred the weekend of Mr. Fellman's disappearance. Although Mrs. Fellman claims she last saw her husband on his way to work, Mr. Fellman's watch, class ring, and work keys were found in the apartment, and Mr. Fellman was killed in thermal underwear and a flannel shirt, his weekend cabin clothes, and not his work clothes. Mrs. Fellman was convicted of first-degree murder. She has consistently maintained that she did not kill her husband.

GOVERNING LAW

The question I must answer is whether Mrs. Fellman 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 found Mrs. Fellman suitable for parole based on her lack of criminal history and prison discipline, age, stable social history, previous psychological reports, educational, self-help, and vocational programming, and parole plans.

I acknowledge Mrs. Fellman has made significant efforts to improve herself while incarcerated. She earned a college degree, completed two vocations, and has held several institutional jobs. Mrs. Fellman has never been disciplined, even for minor misconduct. She has participated in numerous self-help groups, including Alcoholics and Narcotics Anonymous, Life Plan for Recovery, Choice Theory and Addiction Coaching, Long Termers' Organization, Co-Dependency Anonymous, Anger Management, Parenting Program, Creative Conflict Resolution, Domestic Violence classes, Victim Impact seminar, Breaking Barriers, and group and individual psychotherapy. Mrs. Fellman started an organic garden project and a charity quilting group. She has been involved with the Prison Pup Program, created numerous pieces of art for use at the prison, and recorded audio books for the blind. In 1996 she performed the Heimlich maneuver to save a choking staff member's life. I commend Mrs. Fellman for taking these positive steps. But they are outweighed by negative factors that show she remains unsuitable for parole.

Mrs. Fellman's premeditated murder of her husband was horrific. After shooting Mr. Fellman in cold blood, Mrs. Fellman dismembered, burned, and buried him in an attempt to cover up this crime. I am troubled that Mrs. Fellman, a woman without any violent or criminal history, would commit such a heinous act simply to end her marriage.

I find Mrs. Fellman's denial of the murder utterly implausible given the extensive evidence showing her culpability. In order to conclude that Mrs. Fellman did not commit this crime, I would have to accept that someone else transported Mr. Fellman to his own cabin, shot and killed him with his own .22-caliber Ruger, dismembered, burned, and buried his body, and then

hid the gun in a secret recess of Mrs. Fellman's barber shop. I would also have to ignore evidence that Mrs. Fellman was seen burning something outside her cabin that weekend and leaving the cabin by herself, and that she was later seen returning with a shovel before the half-buried skeletal remains belonging to Mr. Fellman were dug up and reburied in another area near the cabin. This strains credulity. There is no evidence that someone else would have wanted to murder Mr. Fellman or that he was killed during a random act of violence such as a robbery. Even Mrs. Fellman says she has no idea why anyone would murder her husband.

I note that Mrs. Fellman has challenged her conviction without success in several courts. The Court of Appeal concluded in 1989 that there was "overwhelming evidence of defendant's guilt" presented at her trial. This evidence included testimony from three jailed inmates who said Mrs. Fellman had confessed to murdering her husband. In 2008, one of those witnesses recanted, claiming she had been pressured by the prosecutor to commit perjury. Mrs. Fellman filed a state court case seeking to overturn her conviction based on the witness's perjury. The superior court, appellate court, and California Supreme Court all denied relief. Mrs. Fellman raised the same claim in a federal court case in 2010. The federal court dismissed the petition and found that "considerable evidence existed to convict [Mrs.] Fellman apart from the impeached statements." Even without the questionable testimony by the jailhouse informant, I am persuaded that considerable evidence points to but one conclusion: Mrs. Fellman committed this crime.

The psychologist who interviewed Mrs. Fellman in 2011 found that Mrs. Fellman's denial of her guilt shows "pathological lying, lack of remorse or guilt, callous lack of empathy, and failure to accept responsibility for her actions." The psychologist also concluded that Mrs. Fellman's "denial has placed her in a position to never examine the internal or external factors that would allow a person with no prior deviance or violence, to commit a premeditated murder that included dismembering the victim's body, burning parts of it, and burying the rest." Despite her positive record in prison, the psychologist rated Mrs. Fellman a high risk of violence because of her failure to come to terms with her actions.

I discount prior psychological assessments that rated Mrs. Fellman a low risk for violence. A 2008 risk assessment was made without the benefit of an actual interview with Mrs. Fellman, leaving the psychologist to conclude that without her participation, "the complete picture of the inmate's potential for future violence is compromised." In 2005, the psychologist gave Mrs. Fellman a low risk score, but with the caveat that "[i]f it were somehow possible to demonstrate that [she] is, in fact, a woman who committed a murder and the associated mutilation of the body of her husband, this would change the risk assessment picture and indicate that her risk of future dangerousness should, obviously, be moderate or above."

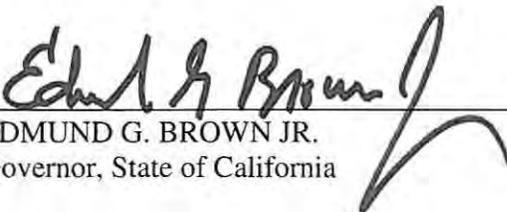
Mrs. Fellman is not required to admit guilt to be granted parole, but I am also not required to accept her claim of innocence in the face of overwhelming evidence establishing her guilt. Until she has sufficiently explored and worked through why she murdered her husband, I cannot be assured that it is safe to release her from prison at this time.

Diane Fellman, W-21210
First-degree murder
Page 4

CONCLUSION

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

Decision Date: June 18, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

FELIX AVLIOS, B-31474
First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Felix Avlios was an inmate at Duel Vocational Institute for vehicle theft for a term of six months to five years. On December 20, 1972, Mr. Avlios and Glen Holden stabbed fellow inmate Steven Hadley fourteen times with a steel rod and a weapon made of a piece of flat steel with a taped handle. The assault on Mr. Hadley was a gang reprisal by the Nuestra Familia prison gang against the Aryan Brotherhood prison gang.

After his conviction for the murder of Mr. Holden, Mr. Avlios continued his involvement in the Nuestra Familia prison gang and became a high-ranking member. He was later convicted of three additional counts of first degree murder for the killings of inmates Randy Roff, Robert Consol, and Daniel Melendez. Mr. Roff was murdered on June 8, 1974, upon orders from leaders of the Nuestra Familia because he was a rival gang member. Mr. Avlios personally ordered the killing of Mr. Consol and planned his October 21, 1975 murder by Nuestra Familia "soldiers." Mr. Consol's murder was in retaliation for an attack on a Nuestra Familia member in Fresno. On April 28, 1977, Mr. Melendez was killed for leaving the gang and trying to start a new rival gang. Mr. Avlios is currently serving five concurrent 7-years-to-life sentences.

GOVERNING LAW

The question I must answer is whether Mr. Avlios 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. Avlios suitable for parole based on his status as a gang dropout, efforts to program, eight disciplinary-free years, remorse, completion of vocational training, and age.

I acknowledge Mr. Avlios has made some efforts to improve himself while incarcerated. He dropped out of the Nuestra Familia prison gang, earned a GED in 2008, and has not been disciplined for institutional misconduct since 2004. He has attended Alcoholics Anonymous, Anger Management, Parenting Program, Category V program, and Creative Conflict Resolution. I commend Mr. Avlios for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Avlios's crimes were disturbing and senseless. He brutally stabbed another inmate to death and was closely tied to the highest levels of a prison gang. He contributed to escalating gang rivalry and violence within the prisons and was instrumental in the deaths of at least four people to further the gang's criminal objectives.

Mr. Avlios has shown that he still cannot avoid violence or abide by the rules. Even after dropping out of the prison gang in 1987, he has been disciplined five times for serious misconduct and twice for less serious offenses – twice for mutual combat, once for refusing an order, twice for inappropriate sexual relationships with correctional staff, once for using racial slurs toward staff, and once for possession of contraband. He fought with another inmate as recently as 2004. These transgressions are particularly significant in the context of his long incarceration and history of violent behavior. He has not behaved in a manner that assures me he has turned away from his criminal values and will not continue to act violently if released.

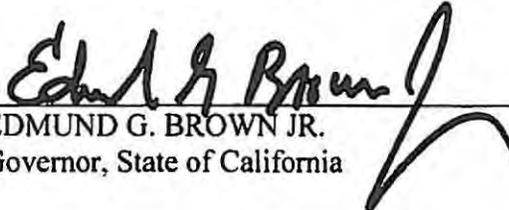
I am troubled by Mr. Avlios's attitude about the murders of Mr. Roff, Mr. Consol, and Mr. Melendez. He displays little remorse or empathy for his crimes. Despite his convictions for first degree murder for each of these three men, Mr. Avlios claims that he was not personally responsible for any of the murders. He acknowledged to the psychologist that the victims were not responsible for the crimes, but added that "they may have been responsible for the situation they got themselves in." A 2011 psychological evaluation confirmed that Mr. Avlios has limited empathy towards others and is a "possible risk of psychopathy."

Finally, Mr. Avlios has done little to work through his problems with anger and violence and substance abuse. Mr. Avlios has spent 46 of his 61 years in prison. In that time, the record indicates he has participated in a thirteen weeks of Alcoholics Anonymous in 2006, one anger management course, one parenting program, a conflict resolution class, and a program to decompress from a seventeen-year term in segregated housing. Because he has so deeply internalized the prison gang's code of conduct, Mr. Avlios needs to commit himself to learning the skills necessary to turn away from the violent lifestyle he has lived.

CONCLUSION

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

Decision Date: June 29, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

MARK BARROS, E-96869
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On July 6, 1990, Mark Barros and his sixteen-year-old girlfriend, Stacey Gilliam, were sitting in a van eating pizza and cake to celebrate his seventeenth birthday. As they discussed religion and other topics, Mr. Barros asked Ms. Gilliam if she was afraid to die. She indicated she was not afraid, but was not ready to die. Mr. Barros then said he was tired and asked Ms. Gilliam to drive. As she got into the driver's seat and fastened her seat belt, Mr. Barros pulled out his pocket knife and slashed Ms. Gilliam's throat. He slit her throat several more times and then stabbed her in the chest. Mr. Barros moved Ms. Gilliam's body to the floorboard and left the van. The next morning, he went to a police station and turned himself in. Mr. Barros told police that he had been thinking about murdering Ms. Gilliam for over a year.

GOVERNING LAW

The question I must answer is whether Mr. Barros 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. Barros suitable for parole based on his lack of criminal history, remorse and insight, educational, vocational, and self-help programming, lack of serious discipline, psychological reports, and parole plans.

I acknowledge Mr. Barros has made efforts to improve himself while incarcerated. He has completed several units toward a college degree, earned a GED and high school diploma, completed three computer-related vocations, and has held several institutional jobs. Mr. Barros has been disciplined only one time, in 2009. He has participated in numerous self-help groups and correspondence classes, including Anger Management, Victim Awareness Program, Life Management, Coping Skills, Anger and Communication, Thinking Errors, Human Needs and Social Relationships, and group and individual psychotherapy. I commend Mr. Barros for taking

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

Mr. Barros's crime was appalling. While celebrating his birthday and without any warning, he slashed Ms. Gilliam's throat and stabbed her in the chest with his pocket knife. He slashed her throat several more times to put her out of her misery. Ms. Gilliam was an innocent sixteen-year-old victim who did not deserve to die in this gruesome and unexpected manner.

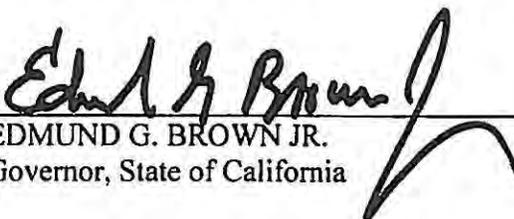
Mr. Barros explains to the psychologist that he committed this murder because he was lost, alienated, disoriented, clinging to Ms. Gilliam and her family, and was suffering severe depression at the time. Since then, he claims that after undergoing therapy for many years, he has identified and resolved the root causes of his depression. When asked how he might cope with future breakups, he told the Board, "because I have resolved all of these issues and because I no longer suffer from depression, it's going to be a completely different scenario."

The Board repeatedly questioned Mr. Barros about what he thought about therapy and if he could continue to benefit from it, and his response was "I don't have any issues with depression anymore," and "I've never had any kind of mental or emotional problems for the last 14, 15 years." These statements reflect an overconfidence that is not warranted and gives me great pause. I don't see that Mr. Barros has a realistic understanding of the factors and dynamics that led him to murder his girlfriend in such brutal fashion, or a solid grasp of the stresses he's bound to face upon release. Without a detailed plan of how he will respond to any future unbearable feelings of anger or abandonment that could put him in a state of mind similar to that which led to this murder, I am not prepared to release him.

CONCLUSION

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

Decision Date: June 29, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

RICHARD DAVIS, C-25049
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

In October 1979, Richard Davis moved in with Phyllis Stetson, and her two children, including 11-month-old Joseph. Mr. Davis cared for Joseph while Ms. Stetson was at work. Shortly after Mr. Davis moved in, Ms. Stetson and others began noticing bruises on Joseph's arms, legs, and buttocks. When Ms. Stetson got home from work on December 7, 1979, no one answered the door. She entered the house and started looking for Joseph. In the bathroom she found Joseph's pajamas stuffed with towels, covered in another towel. There was ketchup all over the floor. Ms. Stetson was scared that Joseph was hurt. Before Ms. Stetson could scream, Mr. Davis came into the bathroom, laughing, saying he wanted to scare her and that Joseph was asleep in the bedroom. That night Mr. Davis stayed up watching television with Joseph while Ms. Stetson went to bed.

The next day Mr. Davis cared for Joseph while Ms. Stetson was out. When Ms. Stetson returned home Mr. Davis was holding the child, who had bruises on his feet. Joseph's feet felt cold. Mr. Davis put Joseph to bed and he and Ms. Stetson ate. When Ms. Stetson went to check on her son she noticed his skin was gray, and he was making a wheezing sound and had his eyes partly open. An ambulance was called and Joseph was taken to the hospital where he was pronounced dead. A section of Joseph's small intestine had ruptured, causing internal bleeding. He also had bruises on his head, face, neck, chest, abdomen, ears, feet, and buttocks. Some of the bruises were fairly fresh, and only a severe blow could have ruptured part of Joseph's small intestine. Police arrested Mr. Davis about a week later.

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 Board of Parole Hearings found Mr. Davis suitable for parole based on his insight and remorse, disciplinary history, psychological reports, work record, age, parole plans, and self-help, educational, and vocational programming.

I acknowledge Mr. Davis has made efforts to improve himself while incarcerated. He took college classes, completed three vocations, and has held several institutional jobs. He has participated in self-help programming, including Alcoholics and Narcotics Anonymous, Alternatives to Violence, Personal Growth Seminars, Anger Management, Marriage Seminar, Communications Skills Training Group, Self-Esteem and Assertiveness Training Group, and individual and group psychotherapy. Mr. Davis has worked as an HIV educator and recreational therapist aide, and cared for inmates in hospice. In 1984 he helped an inmate who was choking. I commend Mr. Davis for taking these positive steps. But they are outweighed by negative factors that show he remains unsuitable for parole.

The senseless murder Mr. Davis committed is hard to fathom. He killed an 11-month-old child who depended on him for care and protection. Joseph was an innocent victim who did not pose a threat to Mr. Davis, given his age and size, and could not have fought back or summoned help. Mr. Davis's actions had a devastating and long-lasting impact on Joseph's family. I note that they wrote me a heartfelt letter after the Board granted Mr. Davis's parole and appeared at Mr. Davis's parole hearing expressing their loss.

I am concerned Mr. Davis has not adequately explored the reasons he repeatedly abused Joseph, culminating in Joseph's murder. At his 2007 psychological evaluation, the most recent one in which he participated, Mr. Davis stated that he slapped Joseph in the face in October 1979 because Joseph "got squirmy" while his diaper was being changed. The next month, when Joseph began to cry and squirm, Mr. Davis squeezed Joseph's hands and feet, covered his mouth, told him to shut up, and spanked him. The last time he abused Joseph was in December. Mr. Davis stated that he became angry when Joseph would not sit still, and he punched Joseph's stomach very hard. Mr. Davis told the psychologist that on each occasion, "I couldn't quit."

Mr. Davis's explanation for this pattern of violence is superficial. He claims that he murdered Joseph because he "made a bad choice to use drugs," "avoided responsibility," "alienated [himself] from people who cared," and that his "denial and drug abuse . . . amplified [his] character defects" which included an "anger problem" and "low frustration tolerance." Mr. Davis's anger and irresponsibility and drug abuse does not explain why he directed his rage at an 11-month-old baby and felt compelled to hurt Joseph.

Moreover, Mr. Davis has no explanation for the disturbing incident that occurred the day before Joseph's death. When asked why he would stuff Joseph's pajamas with towels and cover the floor with ketchup, Mr. Davis told the Board he "thought that would be a funny joke to scare [Ms. Stetson]," and that he "can't put into rational terms why [he] did it." Making a mother fear that her baby had been hurt is deplorable, and is all the more alarming when the baby is murdered the following day. Until Mr. Davis has sufficiently explored and worked through his

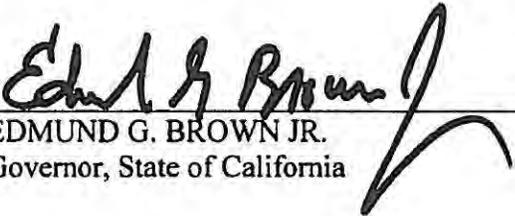
Richard Davis, C-25049
Second-degree murder
Page 3

reasons for directing his violence and emotional abuse at Joseph and his mother, I am concerned he will act out violently again if he encounters a stressful situation.

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 I have discussed shows why he currently poses a danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Davis.

Decision Date: June 29, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

TREVOR FREEMAN, H-02451
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Trevor Freeman and Joshua Martin were temporarily living in separate trailers on the property of Dennis Peterson. On February 11, 1990, Mr. Freeman, Mr. Martin, and Mr. Peterson's 15-year-old son Jessie were drinking all day in Mr. Peterson's home. As they were drinking, Mr. Martin claimed that he had slept with Mr. Peterson's wife and his 19-year-old daughter. Angered by Mr. Martin's claim, Mr. Peterson and Jessie placed Thorazine (a drug for treating schizophrenia) in Mr. Martin's drink, rendering Mr. Martin unconscious. Mr. Peterson and Jessie then began to choke Mr. Martin. They injected Mr. Martin with Thorazine to further immobilize him. Mr. Freeman and another friend Jason Franks restrained Mr. Martin on the couch while he was choked and injected.

Mr. Freeman put the unconscious Mr. Martin in the trunk of a car and drove into the desert. Mr. Freeman was accompanied by Mr. Franks, and Jessie Peterson. In the desert, they shot Mr. Martin twenty-three times in the groin, chest, and head with various guns and left his body. When they returned to Mr. Peterson's house, he instructed them to go back to the desert to make certain that Mr. Martin's body could not be identified. Mr. Freeman, Mr. Franks, and Jessie returned to the desert the next day and shot Mr. Martin's body several times more. They buried his body in a shallow grave dug by Mr. Freeman.

GOVERNING LAW

The question I must answer is whether Mr. Freeman 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. Freeman suitable for parole based on his remorse, lack of criminal history, age, vocational skills, recent disciplinary-free behavior, and participation in self-help programming.

I acknowledge Mr. Freeman has made efforts to improve himself while incarcerated. He has earned his GED, completed multiple vocational training programs, and held several institutional jobs. Mr. Freeman has also participated in some self-help programming, including Alcoholics Anonymous, Narcotics Anonymous, Conflict Management, Nonviolent Conflict Resolution, Emotional Awareness, A Man's Journey, and Partnership for Re-Entry Program. I commend Mr. Freeman for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Freeman actively participated in a murder that was senseless and appalling. Mr. Martin was drugged and ambushed by people he considered his friends over a trivial reason – a drunken claim that he had slept with two women of the Peterson family. Because of the Thorazine injection, Mr. Martin had no way to defend himself from this brutal attack.

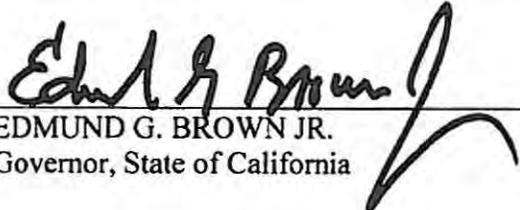
I am troubled that Mr. Freeman has not adequately explored the reasons he committed this crime. He claims he participated in the murder in order to gain Mr. Peterson's acceptance. But he also noted that he had known the Petersons for less than a week and was intimidated by them because of their violent reputation. He fails to explain why he would take part in such a violent crime on behalf of a family he barely knew and who in fact intimidated him. The psychologist who evaluated him in 2011 agreed, finding that Mr. Freeman has "only a cursory awareness of the underlying factors of this crime." By not understanding the motivations behind his violent behavior and how to prevent it in the future, I am concerned that he remains prone to violence.

Mr. Freeman also has minimal understanding of how his addictive patterns affected his behavior. He drank, smoked marijuana, and used methamphetamine two years before the crime, and continued abusing drugs and alcohol for the first ten years of his incarceration. Although Mr. Freeman participated in several years of Alcoholics Anonymous and Narcotics Anonymous, he claimed that using these substances never affected his thinking, emotions, or behavior. The psychologist found that he could not identify his triggers and warning signs or communicate what he learned during his self-help meetings. Until Mr. Freeman has confronted and worked through his addictive patterns and his motivations for violent behavior, I believe he poses an unreasonable risk of danger to the community if released.

CONCLUSION

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

Decision Date: June 29, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

GEORGE LUCAS, E-35603
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On December 23, 1988, George Lucas and his fiancée Geraldine Carter sat in a parked car after an office holiday party. Ms. Carter screamed and struggled with Mr. Lucas as she attempted to leave the car. After hearing the scream, Roger Grant approached the car and saw Mr. Lucas holding Ms. Carter by the neck. Mr. Grant removed Mr. Lucas's hand from Ms. Carter's neck and helped her get out of the car. Mr. Lucas pulled a handgun from a paper bag underneath the passenger seat, exited the car, and shot Ms. Carter. Mr. Grant backed away as Ms. Carter fell to her knees. Mr. Lucas grabbed Ms. Carter by the hair, shot her in the head, and then shot her in the head again after she fell on her face. Mr. Lucas then shot Ms. Carter twice more in the head. Mr. Lucas fled from the scene in his car. A witness followed Mr. Lucas's car until Mr. Lucas shot twice at the witness's car.

GOVERNING LAW

The question I must answer is whether Mr. Lucas 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. Lucas suitable for parole based on his institutional behavior, age, insight into his crime, psychological evaluation, vocational upgrade, and realistic parole plans.

I acknowledge Mr. Lucas has made efforts to improve himself while incarcerated. He completed one vocational training program and has taken a number of self-help courses including a recent domestic violence prevention course, an anger management course, a victim awareness course, and the Victim Recognition, Reflection, and Healing retreat. He has attended Alcoholics and Narcotics Anonymous, facilitates Narcotics Anonymous, and has served as the chair, co-chair, and secretary of his group. He has been disciplined for a serious rules violation only once. I

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

Mr. Lucas's crime was shocking and callous. He was so angry that he forced his fiancée to stay in the car by holding her by her neck. Even after a witness intervened and helped Ms. Carter escape the car, Mr. Lucas was so intent upon causing his fiancée harm that he retrieved a hidden weapon and shot her multiple times, execution-style. He held her up by the hair and shot her in the head. Once she fell, he shot her several more times in the head. When he fled the scene, he shot at an innocent witness to enable his escape. I note that this was not the first time Mr. Lucas was violent towards women. He also abused both of his former wives.

I am concerned that Mr. Lucas does not yet understand the dynamics underlying his murder of Ms. Carter. Mr. Lucas blamed his actions on having consumed three drinks at a holiday party and the fact that his father taught him how to "control your woman." But this does not justify shooting someone multiple times at point blank range. Mr. Lucas also blames growing up witnessing his father routinely beating his mother. But this is an exaggeration. His parents split up when he was four or five years old. While I do not doubt it made an impression, his exposure to his parents' episodes of domestic violence was limited. Mr. Lucas says he acted in extreme rage because he suspected Ms. Carter of cheating on him. But many people have been cheated on and do not end up brutally murdering their girlfriends. The explanations he offers are not convincing.

Mr. Lucas also minimizes his history of violence against the women in his life. He admitted in the Probation Officer's Report that his first marriage ended because of his anger and finances, and the second ended because they "couldn't get along." Now, he recalls only a single instance of violence against each of his wives. He claims that he hit his first wife once, giving her a black eye when he was stressed because he was unemployed and was drinking a lot. He claims the same thing happened with his second wife because he was stressed about having to support his three children from the prior marriage and being unemployed. He falsely denied that he had any prior convictions for domestic violence when specifically asked by the Board, and told the panel that he could not recall the circumstances surrounding his second conviction for assault. When the district attorney questioned him at the hearing, he finally admitted that he was sentenced to two years of probation for the assault against his second wife. This episode of domestic violence against his second wife in 1984 not only resulted in a conviction, two days in jail, and two years of probation, but also in couples counseling and receiving medication from a psychiatrist to suppress his violent tendencies. The psychologist who evaluated him in 2010 described Mr. Lucas as lacking "insight about his past pattern of domestic violence and the seriousness of his past actions. He appeared to have a difficult time discussing some of the factors that led to the life crime, as well as his perspective on his criminal history." He told the psychologist his "spiritual foundation will, and *has*, kept me from committing any crime." His spiritual foundation did not stop him from killing Ms. Carter. Based on his recent statements at his parole hearing and psychological evaluation, I believe the psychologist's assessment that Mr. Lucas has a difficult time discussing his criminal history and the factors that led to these crimes remains accurate. Mr. Lucas has not sufficiently accepted or examined his history of violence against women.

Finally, I am also troubled that Mr. Lucas has not assessed the extent of his alcohol problem. He has attended Alcoholics and Narcotics Anonymous fairly regularly since 1996 and has served as the chairman, co-chairman, and secretary of his Narcotics Anonymous group. Yet in his psychological evaluation, he was not sure whether he was an addict. He started drinking at six years old and blames this murder on alcohol. This lack of clarity into the nature of his past history of substance abuse concerned the psychologist. It concerns me as well. I agree with the psychologist that because Mr. Lucas is not sufficiently clear about the addictive patters that have shaped his life, he is less likely to accurately assess the nature of the support and treatment he needs in society.

CONCLUSION

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

Decision Date: July 6, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

KELLY GRAFF, D-11363

First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

In November 1983, Sheryll Graff separated from her husband Kelly due to his drinking, habitual lying, and drug abuse. Sheryll became romantically involved with Scott Peterson and moved into Mr. Peterson's residence with her two-year-old son Kevin.

On the afternoon of January 5, 1984, Mr. Graff picked up Kevin from the babysitter and drove to Mr. Peterson's home. He had spoken with Sheryll that day and knew she would not come home from work until the evening. Using a carpenter's hammer from his van, Mr. Graff broke into the Peterson residence and ransacked several rooms to make it appear as if there had been a burglary. When Sheryll came home, Mr. Graff attacked her with a steak knife from the kitchen. He slashed her throat and stabbed her multiple times in the neck, liver, and heart, leaving the knife buried in her chest. He then pulled the hood of her coat over her head and beat her head and face fourteen times with the hammer, crushing her skull. This violent attack occurred while Kevin was in the next room. Mr. Graff threw the hammer away and returned home with Kevin.

Mr. Graff took further steps to conceal his crime. That same evening, Mr. Graff called the Peterson residence asking for Sheryll and spoke to a deputy police officer. In the days following the murder, Mr. Graff sought comfort and solace from Sheryll's family, wondering aloud who could have committed this heinous act. He repeatedly lied to the police and finally confessed when he was confronted with fingerprint evidence tying him to the murder. Mr. Graff was convicted of first degree murder with a weapon enhancement and sentenced to 26 years-to-life.

GOVERNING LAW

The question I must answer is whether Mr. Graff 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. Graff suitable for parole based on the absence of any criminal history or prison discipline, his age, stable social history, remorse, self-help programming, and parole plans.

I acknowledge Mr. Graff has made efforts to improve himself while incarcerated. He has held several institutional jobs and has participated in self-help programming, including Alcoholics and Narcotics Anonymous, Anger Management, Coping with Anger, Insight, and Self-Control, Mind and Life Building classes. He co-founded a program called Creative Minds and volunteered in the Arts in Corrections program and Men's Advisory Council. I commend Mr. Graff for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Graff's premeditated murder of his estranged wife was brutal and disturbing. He broke into the Peterson residence and ransacked the house to fake a burglary, and then waited for Sheryll to come home. When she arrived, Mr. Graff slashed Sheryll's throat and stabbed her in the neck, chest and liver multiple times, and then crushed her skull with repeated hammer blows. Evidence in the record suggests that their two-year-old son Kevin may have witnessed this horrific crime. Mr. Graff's actions had a devastating and long-lasting impact on Sheryll's loved ones. I note that they have written numerous heartfelt letters opposing his parole and have appeared at Mr. Graff's parole hearings expressing their loss.

From the evidence, it seems reasonably clear that Mr. Graff is not revealing his actual state of mind that led up to his brutal stabbing and beating of his wife, or he doesn't understand the dynamics underlying his behavior. He told the psychologist who evaluated him in October 2011 that he made a spur-of-the-moment decision to ransack the Peterson residence in order to scare Sheryll into moving back with him. When she arrived home sooner than expected, he "lost it" and began beating her with the hammer and then stabbing her. Mr. Graff claims that he had no intention of harming his wife that night, but was overcome by a jealous rage over the fact that Sheryll had recently left him for another man.

I find Mr. Graff's explanation for why he committed this murder completely implausible. He does not explain why he would ransack Sheryll's home as a way to rekindle their relationship, only to viciously attack her when she discovered him in the house. He does not explain why, if he had no intention of harming his wife, he did not summon medical assistance after the fact but instead called the Peterson residence that evening to establish an alibi and repeatedly lied to the police and family in the days following. His assertion that he never planned to hurt his wife is also contradicted by evidence that in the weeks before the murder, Mr. Graff told a co-worker that he wanted to tamper with Sheryll's car so as to cause an accident, and that he was "five seconds away" from killing his wife because she was neglecting their son. As the appellate court found, the evidence at his trial "demonstrates a proclivity to tell calculated lies about critical facts while feigning honesty, sincerity, and innocence."

I am troubled that Mr. Graff is unable to explain why he felt such extreme anger and rage for his wife that would cause him to commit this brutal murder. At his recent parole hearing, Mr. Graff stated that he had introduced Sheryll to cocaine and that their relationship revolved around partying and the abuse of drugs. According to Mr. Graff, he quit using cocaine a few months before the murder and "my quitting maybe led to her sleeping with another supplier, which further damaged our relationship." When asked why he would blame Sheryll for leaving him when he had introduced her to drugs, all he could say was that he was selfish, possessive, and didn't know how to deal with her rejection of their marriage.

The psychologist who interviewed Mr. Graff concluded that "it does not appear that he has truly developed an emotional awareness as to the more deep-seated origins of his attitudes, feelings, and behaviors. He still tends to externalize and intellectualize (and thus distance himself from) the impetus for his violent behavior." I agree. The significant gaps in Mr. Graff's account of the murder and his reasons for committing it shows that he has thus far either been unwilling or unable to confront and deal with his true reasons for killing his estranged wife. Until he has sufficiently explored and worked through all this, I am concerned he will act out violently again if he encounters a stressful situation.

CONCLUSION

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

Decision Date: July 12, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

RAYMOND AGUILAR, H-31637
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

X

STATEMENT OF FACTS

On May 14, 1991, sixteen-year-old Raymond Aguilar rode up to Michael Berna on his bicycle and shot him. According to Mr. Aguilar, Mr. Berna had stolen his bicycle twice, sold his grandmother a stolen car for \$1000 that was impounded by police the next day, and robbed his grandmother of drugs and money. Mr. Berna reportedly bought drugs from Mr. Aguilar's mother and grandmother. A police officer witnessed the ride-by shooting and apprehended Mr. Aguilar. Mr. Berna died at the hospital.

GOVERNING LAW

The question I must answer is whether Mr. Aguilar 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. Aguilar suitable for parole based on his work record, participation in self-help programming, support in the community and parole plans, insight, and educational improvement.

I acknowledge Mr. Aguilar has made efforts to improve himself while incarcerated. He has participated in Criminals and Gang Members Anonymous and Alcoholics and Narcotics Anonymous and has taken a number of anger management classes. He has facilitated discussions in Victim's Impact Group and Preparative Re-Entry Program and has attended individual and group therapy. I commend Mr. Aguilar for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Aguilar's murder was senseless and impulsive. He decided to exact revenge on Mr. Berna for trivial reasons. Rather than report Mr. Berna's crimes to the authorities, Mr. Aguilar took matters into his own hands by borrowing a gun and shooting Mr. Berna in broad daylight.

Mr. Aguilar has a significant disciplinary record that demonstrates his inability to control his violent temper and abide by the rules. While in prison, he has been disciplined for serious misconduct 16 times and less serious misconduct 22 times. Six of the serious disciplinary actions were for violent behavior. The others were for refusing to follow orders, excessive contact with visitors in the visiting room, and other violations of the prison's rules. In 2007, Mr. Aguilar "suddenly and abruptly" became "very agitated" in the dining hall and threw his dinner tray against the back wall of the serving area. In 2006 after a disciplinary hearing for another incident, an officer ordered him not to exit the building. He responded by grabbing the door, slamming it open, and exiting the building. His actions required the officer to order all of the inmates on the yard to get down to the ground so that Mr. Aguilar could be restrained. After this incident, Mr. Aguilar was placed in a temporary holding cell where he hit and pounded on the cell door with his fists and yelled for approximately 20 minutes. He was treated by medical staff for injuries he sustained by striking the cell door. The Board appropriately characterized Mr. Aguilar's actions as "kind of severe" and "going to extremes to make your point."

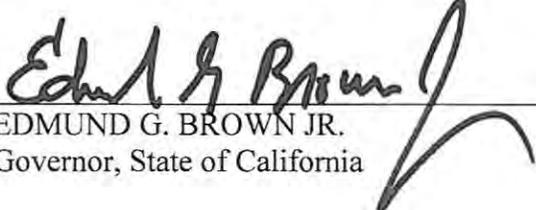
I am also troubled by some of Mr. Aguilar's behavior that did not merit disciplinary action. In 2009, correctional staff referred Mr. Aguilar for mental health treatment for unprovoked hostility or assaultiveness and exhibiting bizarre behavior when he became loud and hit his cell door with his hands. The records indicate he had two suicide attempts in prison and has been receiving mental health treatment since approximately 1994. I am concerned that this behavior may be indicative of an unstable mental condition.

Evidence of recent illegal activity by Mr. Aguilar in prison also indicates that he has not been rehabilitated. His file contains several confidential memoranda from various sources indicating that he has been trafficking in heroin, marijuana, and tobacco within the prison for over a decade, and as recently as 2008. Mr. Aguilar's participation in these illegal acts shows his propensity for criminal behavior has not changed. Based on this information, I am concerned that he remains prone to committing further illegal acts if released from prison.

CONCLUSION

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

Decision Date: July 20, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

INFINITY, C-27692
First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Over the span of several days in May 1980, Infinity beat his girlfriend, Jackie Schepis, to death.¹ On the night of May 7, 1980, a neighbor living above Infinity's apartment called the police and reported that for the past four days, between the hours of 11:30 p.m. and 3:00 a.m., she heard sounds of a woman screaming and being repeatedly struck and pushed against the walls of Infinity's apartment. The neighbor reported hearing a male voice stating, "get up and wash your face, you ain't dead yet." By the early morning hours of May 7th, the neighbor could only hear faint moaning coming from the apartment. Later that day, the neighbor saw Infinity carry a lumpy object wrapped in a bedspread to a U-Haul truck and then drive away. Officers entered Infinity's apartment and observed bloodstains on the carpeting, in the living room, on the floor of the kitchen, and the walls of the entire apartment.

The neighbor contacted police again when Infinity returned the next day. Police arrived and arrested Infinity. He eventually confessed to murdering Ms. Schepis and burying her body in a cotton field near Bakersfield. An autopsy report disclosed that Ms. Schepis died from multiple injuries, including a fractured skull, 21 rib fractures, two fractures to the sternum, and multiple bruising to her entire body caused by blunt force trauma.

GOVERNING LAW

The question I must answer is whether Infinity 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 Infinity suitable for parole based on his age, remorse and improving insight, disciplinary record, stable social history, self-help, and parole plans.

¹ In 1981, Infinity had his name legally changed from Frank Strong.

I acknowledge Infinity has made some efforts to improve himself while incarcerated. He completed vocational training in 1991, has held several institutional jobs, and has participated in Alcoholics and Narcotics Anonymous since 1991. I commend Mr. Infinity for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Infinity's crime was brutal and disturbing. He repeatedly beat Ms. Schepis for four days with his bare hand. These attacks resulted in a fractured skull, 21 rib fractures, two fractures to the sternum, heavy bruising throughout her body, culminating in her death. Police found blood stains on the carpeting, in the living room, on the floor of the kitchen, and the walls of the entire apartment. At his parole hearing, Infinity explained that after beating Ms. Schepis, he felt sleepy and so he tied her up and went to sleep. When he woke up, she was dead. Infinity's sustained beating of Ms. Schepis demonstrates a cruel and callous disregard for her suffering.

I am troubled that Infinity lacks insight for this crime. At his recent parole hearing, Infinity explained that he attacked Ms. Schepis because he "was just angry, angry at the system, angry." He elaborated that he was not angry with her, he was just frustrated over not making enough money in his job and frustrated that he wasn't doing the things in life he should be doing. When he discussed this crime with a psychologist in 2010, he explained that he became violent because he was under the influence of PCP. He claimed that it was the only time he had gotten violent, and that "[y]ou have to understand PCP. If rage was there, I wasn't aware of it. I wasn't mad at nobody. PCP brought out those rages."

Infinity's explanations reflect a superficial understanding of his actions. He does not explain why anger and frustration "at the system" would cause him to violently beat his girlfriend for hours at a time over the course of several nights. His assertion that he had never been violent before is contradicted by evidence that Infinity beat Ms. Schepis on several occasions when they lived together in Texas, according to family members who witnessed her bruises. When confronted with this evidence of prior domestic violence, Infinity admitted "it was possible" that these attacks had happened before but he had no recollection of those incidents either.

The psychologist found that Infinity "communicated little to no insight into his personality style, his history of criminal conduct, or the contributing factors for the life crime," and that his explanations "revealed little emotional depth." The psychologist concluded that "[d]espite Infinity's lengthy incarceration, it appeared he has significant work ahead of him in order to honestly face, confront, and discuss the causative factors of the life crime beyond a superficial and concrete attribution of the deleterious effects of PCP." I agree. Until Infinity credibly explains why he harbored such rage that he would beat his girlfriend to death, I am concerned that he will remain prone to violence if released from prison.

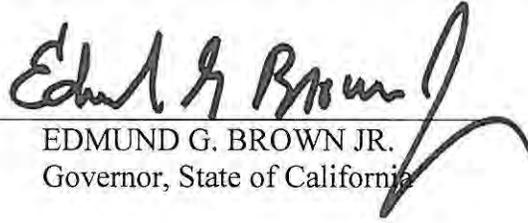
Infinity's recent psychological assessment scores support my concerns that he remains a threat to public safety if released from prison at this time. He scored in the moderate range for psychopathy, moderate range for risk of violent recidivism, medium range for risk of general recidivism, and low-moderate range for overall risk to society. Among other factors, these assessments are based on a reduced level of remorse, lack of insight, and Infinity's limited

participation in a broader range of self-help groups. I encourage Infinity to participate in self help programing to explore these issues.

CONCLUSION

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

Decision Date: July 27, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DALE LOZIER, H-20362

Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

X

STATEMENT OF FACTS

Dale Lozier and Gerald Keysecker bought and sold equipment and junk items together. On April 14, 1991, Mr. Lozier, his wife, and his friend Doug Curry went to Mr. Keysecker's property in Galt to take back \$30,000 worth of property that allegedly belonged to Mr. Lozier. According to Mr. Lozier, Mr. Keysecker and his dog confronted him. Mr. Lozier hit Mr. Keysecker several times with an axe handle and knocked him unconscious. Mr. Lozier then tied Mr. Keysecker's wrists with a dog leash and he and Mr. Curry dragged him across the property, placing him under a fence. Mr. Keysecker woke up. Mr. Lozier kicked him in the face until he was unconscious again. Mr. Lozier thought Mr. Keysecker was dead. He and Mr. Curry dragged Mr. Keysecker to a large metal box, placed him inside, and shut the lid. Mr. Keysecker suffocated.

The next day Mr. Lozier and Mr. Curry went back to Mr. Keysecker's property and placed batteries in the metal box, hoping battery acid would decompose the body. Two days later they returned and again tried to decompose the body, this time pouring two gallons of muriatic acid into the box. Mr. Lozier and Mr. Curry took property from the junk yard, and Mr. Lozier used Mr. Keysecker's ATM card to withdraw \$1,120. On April 19, 1991, Mr. Lozier returned to Mr. Keysecker's property alone. He loaded the box containing the body on to his truck, intending to drive to Mr. Keysecker's property in Napa and dismember and burn his body. Police arrested Mr. Lozier later that day when a neighbor saw Mr. Lozier sitting in his parked truck next to Mr. Keysecker's car. Mr. Keysecker's body was still in the metal box, unclothed from the waist down and severely burned from the acid.

GOVERNING LAW

The question I must answer is whether Mr. Lozier 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. Lozier suitable for parole based on his acceptance of responsibility, lack of discipline, favorable psychological reports, self-help and vocational programming, and age.

I acknowledge Mr. Lozier has made efforts to improve himself while incarcerated. He has never been disciplined for serious misconduct, and he was last counseled for minor misbehavior in 2003. He completed two vocations and has held several institutional jobs. He participated in self-help programming through 2009, including Alcoholics and Narcotics Anonymous, White Bison Wellbriety 12-Step Program, Creative Conflict Resolution, Anger Management, Stress Management, Victim Awareness, and Alternatives to Violence Project. I commend Mr. Lozier for taking these positive steps. But they are outweighed by negative factors that show he remains unsuitable for parole.

Mr. Lozier viciously killed Mr. Keysecker, his own friend, on his property. He assaulted Mr. Keysecker and then put him in a metal box, unconscious, where he suffocated.

I am concerned Mr. Lozier does not accept responsibility for murdering Mr. Keysecker. He told the psychologist who evaluated him in 2011 that Mr. Keysecker “was lying in wait, threatened to kill his wife, sicced his dog on him, and attempted to strike him with a flashlight.” Mr. Lozier’s explanations are not credible. Mr. Lozier and two other people trespassed on Mr. Keysecker’s property with the intent of stealing. Mr. Keysecker would have been justifiably scared and angry when he discovered Mr. Lozier and the others. Even if I accept that Mr. Lozier needed to defend himself by hitting Mr. Keysecker with an axe handle, Mr. Lozier was not defending himself when he tied up Mr. Keysecker, moved his body, kicked him unconscious, and put him in a metal box to which he later added two types of acid.

The psychologist found that Mr. Lozier’s “insight was replaced with rationalization,” noting that Mr. Lozier continues to attribute his actions to self-defense, and that “[i]n all likelihood, this stance has impeded development of further insight into the causal factors.” I agree. It is clear to me Mr. Lozier was angry at Mr. Keysecker, yet he only explains the crime as reacting to Mr. Keysecker’s provocation. I find it telling that Mr. Lozier described his indeterminate life sentence as unjust to his 2011 psychologist. This shows me that Mr. Lozier does not understand why he was convicted of murder and has not dealt with why he killed Mr. Keysecker.

I am also concerned that Mr. Lozier has not participated in any self-help programming, including for substance abuse, since 2009. The psychologist concluded that Mr. Lozier’s “history of methamphetamine and alcohol usage placed him at an uncertain risk of relapse,” noting “[t]his risk might be mitigated by ongoing participation in NA and/or AA meetings.” Mr. Lozier told his 2011 psychologist and the 2012 Board that he is currently on a waiting list for AA. I commend Mr. Lozier for trying to resume substance-related self-help, especially given that he was under the influence of methamphetamine when he murdered Mr. Keysecker. However, even if formal programming was unavailable during the past three years, Mr. Lozier could have

engaged in verifiable self-help such as reading books and writing book reports to show the Board.

Until Mr. Lozier articulates why he murdered Mr. Keysecker apart from defending himself from Mr. Keysecker's actions, and demonstrates consistent self-help participation, I cannot be assured it is safe to release him from prison at this time.

CONCLUSION

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

Decision Date: July 27, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ERNEST ROUX, D-05713

First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

X

STATEMENT OF FACTS

On October 6, 1983, Ernest Roux was drinking at a San Jose bar with his younger half-brother Carl Dill and Barbara Tyner, Mr. Dill's girlfriend. Mr. Roux met James Abbott at the bar. A few hours later Mr. Abbott gave a ride to Mr. Roux, Mr. Dill, and Ms. Tyner. Mr. Abbott took the group to Mr. Roux's mother's house, and then to an ATM. At some point, the car stopped and Mr. Dill grabbed Mr. Abbott and put him in a head lock while Mr. Roux hit Mr. Abbott several times in the chest. Mr. Abbott was also stabbed several times. Mr. Roux told police he stabbed Mr. Abbott because he realized he had given Mr. Abbott too much gas money and Mr. Abbott would not give some of the money back to him. Mr. Roux took Mr. Abbott's wallet and the group called a taxi at a nearby gas station. Mr. Abbott died of multiple stab wounds to the chest, stomach, and throat. His jugular vein was completely cut through, as was his abdominal wall. Mr. Abbot's bowel was exposed. Police arrested Mr. Roux on March 7, 1984.

GOVERNING LAW

The question I must answer is whether Mr. Roux 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. Roux suitable for parole based on his minimal criminal history, acceptance of responsibility, remorse, psychological reports, parole plans, and in-prison vocational, self-help, and educational record.

I acknowledge Mr. Roux has made efforts to improve himself while incarcerated. He has only been disciplined one time, in 2000. He completed several vocations and held numerous institutional jobs. He also participated in self-help programming, including Narcotics Anonymous, Substance Abuse Program, Beyond Anger Program, Victim Awareness, Parenting Program, Veterans Re-Entry Group, Timeless Lifer Support Group, Men's Advisory Council,

and about 50 independent study courses. I commend Mr. Roux for taking these positive steps. But they are outweighed by negative factors that show he remains unsuitable for parole.

Mr. Roux committed a brutal murder over a trivial sum of money. Mr. Roux repeatedly hit and stabbed Mr. Abbott simply because Mr. Abbott would not give a \$20 bill back to him. Mr. Abbott was a very intoxicated man who was only trying to help Mr. Roux and his companions by giving them a ride.

I am concerned Mr. Roux does not fully understand why he murdered Mr. Abbott. He told the 2011 psychologist that he stabbed Mr. Abbott because they fought after Mr. Abbott would not give him his money back and started driving in the wrong direction. Mr. Roux offered the same explanation to the 2012 Board, adding that Mr. Abbott tried to grab him, and that he felt obligated to protect his younger brother given that it was the middle of the night, everyone was drunk, and he was in an unfamiliar situation. But there is no evidence Mr. Abbott posed a threat to Mr. Dill or anyone else in the car. In fact Mr. Dill was able to put Mr. Abbott in a headlock before Mr. Roux hit and stabbed him. That Mr. Abbott would not return \$20 and drove in the wrong direction in no way explains or justifies Mr. Roux's vicious attack. I agree with the psychologist that Mr. Roux has "yet to delve deeply into his personality characteristics, his motivations, beliefs and attitudes to understand why he has engaged in such extraordinary violence in light of what appears to be a very trivial motive," and that "[i]t would benefit [Mr. Roux] to reflect in depth upon other contributing factors as well as his personality characteristics and his attitude and motivation and their impact upon his decisions and behaviors."

I am also concerned that Mr. Roux lacks insight into his substance abuse problem and does not appear to be prepared to avoid future substance abuse. Mr. Roux started drinking alcohol at age 12 or 13 and continued drinking until 1988 or 1989. He was charged with DUI in 1984. He first smoked marijuana at the same age he started drinking alcohol, and at age 17 he began using methamphetamine. He went on eight-day meth binges and last used the drug in 1988.

Yet Mr. Roux told the 2011 psychologist that he was never addicted to drugs or alcohol. The psychologist found this shows "using denial as a coping mechanism and as such, it may strongly impinge his success in the community." The psychologist also found Mr. Roux "failed to offer any insight concerning" AA and NA, "failed to tailor his prevention plan to his triggers and warning signs," and noted "[d]iscussion about his relapse prevention plan also evidenced lack of reflection and solid understanding of his addictive patterns." According to the psychologist Mr. Roux became defensive about feedback concerning his limited relapse prevention plan instead of reflecting upon it. Mr. Roux was also found to "have virtually no insight into the use of mood altering substances in connection with his emotions and possibly undiagnosed depression."

I am encouraged that Mr. Roux has since made some progress in understanding his substance abuse problem. In 2012 he admitted to the Board he abused drugs and alcohol and "did have addictive behaviors." But given Mr. Roux's only recent understanding he is an addict, extensive substance abuse history, and limited three-year participation in substance-related self-help, it seems to me that additional work is required in this area. I suggest Mr. Roux resume substance abuse treatment so that he can better understand his addictions. I also agree with the

Ernest Roux, D-05713

First-degree murder

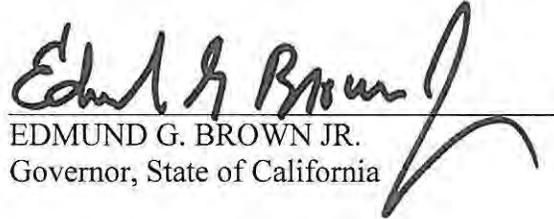
Page 3

psychologist that “[d]evelopment of a contingency plan, which includes presence of a solid support team in the community, is critical to prevent similar behaviors in the future.”

CONCLUSION

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

Decision Date: July 30, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

KEITH RENFROW, C-34360

Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

X

STATEMENT OF FACTS

On September 11, 1979, sixteen year old Keith Renfrow beat John Allen to death with an iron pipe. Mr. Renfrow had been living with twenty-two year old Sharon Kilgore for only a few days when they decided they needed money and would rob someone to obtain it. Ms. Kilgore went to a bar where she met Mr. Allen and invited him to return to her apartment. Once inside, Mr. Renfrow attacked Mr. Allen and repeatedly struck him in the head with an iron pipe. They placed Mr. Allen's body in the trunk of his car, drove it into the desert, and set the car on fire. The next day, they used Mr. Allen's credit card to purchase a television, stereo, and other household items. That night, Mr. Renfrow approached another victim outside a bar, displayed a cigarette lighter shaped like a pistol, and demanded his wallet. A short time later, he robbed yet another victim of her purse using the same pistol-shaped cigarette lighter. He was apprehended by police hours later.

GOVERNING LAW

The question I must answer is whether Mr. Renfrow 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. Renfrow suitable for parole based on his limited criminal history, remorse, educational, vocational, and self-help programming, lack of recent serious discipline, and parole plans.

I acknowledge Mr. Renfrow has made some efforts to improve himself while incarcerated. He has earned his GED and obtained an Associate of Arts degree in Bible studies, completed one vocation, and has held several institutional jobs. Mr. Renfrow also participated in Alcoholics Anonymous, group therapy for life skills and chemical abuse/addictions, and has volunteered as

a hospice caregiver. I commend Mr. Renfrow for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Renfrow's crime was senseless and brutal, particularly for a sixteen year old. He bludgeoned Mr. Allen to death with an iron pipe and then used his stolen credit card to purchase a television, stereo and other items. After disposing of Mr. Allen's body and setting his car on fire, Mr. Renfrow robbed two other people by force. That this crime spree followed a vicious murder demonstrates a callous disregard for human suffering.

I am concerned that Mr. Renfrow lacks insight into the circumstances of his actions. At his recent parole hearing, Mr. Renfrow stated that he committed these crimes at the behest of Ms. Kilgore, who exerted undue influence over him. He claims that it was Ms. Kilgore's idea to rob Mr. Allen and dispose of his body. Mr. Renfrow told a psychologist in 2011 that he panicked when Mr. Allen refused to turn over his wallet, and "without thinking, I hit him with the pipe and I kept hitting him and at some point I dropped the pipe and I kept hitting with my fists" until he stopped moving. When asked why he committed the murder, he explains that "I was under the influence of an adult," "I was a wayward youth," "I was immature," and "I got caught up in circumstances, circumstances got out of control."

I find Mr. Renfrow's explanations for why he committed this murder implausible and superficial. He does not explain why, if he panicked and killed Mr. Allen without thinking, he went shopping for a television and stereo with Mr. Allen's credit card the next day, and then committed two more robberies by threatening his victims with a pistol-shaped cigarette lighter. His claim that he robbed Mr. Allen only because of Ms. Kilgore's influence seems improbable given that he had already committed two burglaries before ever meeting her. His willingness to deflect much of the blame and responsibility on Ms. Kilgore suggests to me that he still finds it difficult to accept what he did and why. Moreover, he offers no explanation why he exhibited such explosive violence by repeatedly beating Mr. Allen with an iron pipe and then with his bare fists. A "lack of maturity" falls far short of explaining his actions.

Mr. Renfrow also shows a limited understanding of how his addictive patterns have affected his behavior. From the age of thirteen, he has abused alcohol, marijuana, methamphetamine, PCP and valium, and continued abusing drugs and alcohol in prison. Although Mr. Renfrow participated in several years of Alcoholics Anonymous, he told the psychologist that he was aware of the 12 steps but "I don't use them." His relapse prevention plan amounted to: "I practice telling people I can't drink, because I lose control; it is poison to me." The psychologist concluded that without a broad and comprehensive relapse prevention plan and better understanding of his thinking errors, risks, and coping strategies, Mr. Renfrow faces an uncertain risk of relapse.

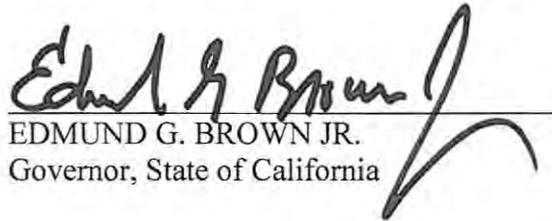
Mr. Renfrow's recent psychological assessment scores support my concerns that he remains a threat to public safety if released from prison at this time. He scored in the moderate range for overall risk of violence, based in part on his lack of insight, disciplinary history, and limited involvement in self-help and relapse prevention. The psychologist concluded that Mr. Renfrow "does not demonstrate understanding of his thoughts, feelings, and motives which drove and

directed his violence and thus does not have a level of self-awareness and insight which would be beneficial in preventing its recurrence in the future.” I agree. Until he has sufficiently explored and worked through all this, I am concerned he will act out violently again.

CONCLUSION

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

Decision Date: August 3, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

KENNETH BURNHAM, C-52135

Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On June 21, 1981, Kenneth Burnham was hitchhiking near Lake Tahoe when Ernest Puntorno picked him up. After some time, Mr. Puntorno suggested that they stop at a nearby river to take a swim and drink beer. Mr. Burnham fell asleep in the truck bed after drinking several beers and when he awoke, Mr. Puntorno was fondling his genitals. Mr. Burnham and Mr. Puntorno began to fight and Mr. Burnham picked up a knife and stabbed Mr. Puntorno once in the back and once in the chest, killing him. Mr. Burnham left Mr. Puntorno's body in a nearby corn field. He stole Mr. Puntorno's truck and used Mr. Puntorno's credit card to pay for hotels and gas in multiple states. Mr. Burnham was finally arrested in Kansas on July 11, 1981.

GOVERNING LAW

The question I must answer is whether Mr. Burnham 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. Burnham suitable for parole based on his remorse, insight, participation in vocational and self-help programs, time between disciplinary actions, family support, parole plans, lack of juvenile history, and age.

I acknowledge Mr. Burnham has made efforts to improve himself while incarcerated. He has participated in Alcoholics and Narcotics Anonymous and the Substance Abuse Program and has also attended a variety of classes in conflict resolution and anger management. He spent a number of years volunteering with Convicts Reaching Out to People and a Youth Diversion Program. I commend Mr. Burnham for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Burnham's crime was senseless and vicious. He stabbed an unarmed man to death, dumped his body in a field, and used his stolen truck and credit cards to travel through several states before he was finally arrested.

I am concerned by Mr. Burnham's recent relapse into heroin use after a lifelong struggle with drug addiction. He started drinking between the ages of ten and twelve and using LSD and marijuana daily at fifteen. He continued using cannabis regularly for about ten years in prison and admits to using heroin in the early 1990s, and again from 2001 to 2006. Mr. Burnham has incurred several drug abuse-related disciplinary infractions and in 2006, he admitted owing significant drug debts to other inmates. He relapsed despite six years of participation in Alcoholics Anonymous, two years of Narcotics Anonymous, substance abuse group therapy in 1996, and substance abuse programs in 1992, 1993, and 2000. I note that at the same time that he was abusing heroin in prison, he was serving as the vice-chair and chair of Narcotics Anonymous. This deceptive behavior troubles me and was in no way addressed by him at his parole hearing.

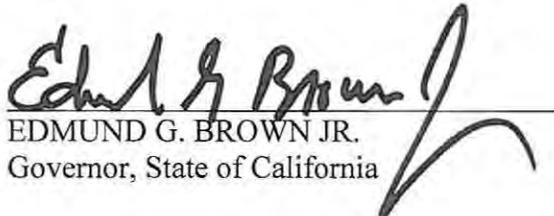
The psychologist who recently evaluated him indicated that Mr. Burnham's "extensive history of substance abuse and periodic relapses raised significant concern about his ability to maintain long-term sobriety." I agree. I am encouraged by Mr. Burnham's recent completion of the Substance Abuse Program and continued mentoring of other inmates in the program, but given his past relapse while participating in similar programming, I am not yet convinced that Mr. Burnham is committed to his sobriety.

Mr. Burnham's recent psychological assessment scores support my concerns that he remains a threat to public safety if released from prison at this time. He scored in the moderate to high range for psychopathy, medium range for risk of general recidivism, moderate range for risk of violence, and moderate overall risk to society. I note that Mr. Burnham received elevated risk ratings in his 2008 psychological evaluation as well. Until Mr. Burnham can demonstrate that he can safely transition to society without returning to drugs or alcohol, I am not prepared to release him.

CONCLUSION

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

Decision Date: August 24, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

EDWARD DANLEY, C-71245

Second-degree murder

AFFIRM:

MODIFY:

REVERSE:

 X

STATEMENT OF FACTS

On December 16, 1982, Edward Danley was at a bar drinking beer. He had used cocaine and taken Valium earlier that day. He and bar patron Sonny Fenstermaker fought three times and then settled their differences over a drink. Mr. Danley then started arguing with another bar patron, Hayse Johnny. The owner asked them to leave. Mr. Danley, Mr. Johnny, and Mr. Fenstermaker went outside. Mr. Danley left to retrieve his gun from his girlfriend's house. As Mr. Johnny, Mr. Fenstermaker, and others were standing outside the bar, Mr. Danley came around the corner of a building, yelled something, raised his gun in the direction of the crowd, and fired a single shot from about 38 feet away. Mr. Johnny was hit in the abdomen and died. Police arrested Mr. Danley a few hours later.

GOVERNING LAW

The question I must answer is whether Mr. Danley 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. Danley suitable for parole based on his lack of violent criminal and disciplinary history, remorse, insight, positive work reports, self-help, and age.

I acknowledge Mr. Danley has made some efforts to improve himself while incarcerated. He has been discipline-free since 2007. He completed numerous vocations, earned his GED, and has held several institutional jobs. He participated in self-help programming, including Alcoholics and Narcotics Anonymous, Alternatives to Violence Project, Conflict/Anger Lifelong Management, Inmate Employability Program, and Straight Life Program. I commend Mr. Danley for taking these positive steps. But they are outweighed by negative factors that show he remains unsuitable for parole.

I am concerned Mr. Danley minimizes his motivation for the crime. He told the 2012 Board he retrieved the gun from his girlfriend's house for protection before returning to the bar to escort her quadriplegic brother home. Mr. Danley denied he was angry at the victim, explaining he "felt it was acceptable . . . to take a gun and say look, no more fighting." Mr. Danley stated he reacted by firing his gun when he came around the corner at the same time Mr. Johnny and his friends left the bar.

Mr. Danley's explanation for his actions lacks all credibility. Mr. Danley's claim he reacted to encountering Mr. Johnny and his friends as they left the bar is contradicted by witness statements that he pointed his gun from a distance of 38 feet and shot Mr. Johnny. His claim he was not angry at Mr. Johnny is belied by evidence he later told an acquaintance: "some ass holes were fucking with me, so I shot the ass holes and took care of the problem." The psychologist who interviewed Mr. Danley concluded he "lacks insight into his personality dynamics[] as they apply to the life crime" and "needs to take a more probative look into the underlying causes" of the crime. I agree. Until Mr. Danley credibly explains why he committed this murder, I am concerned he will remain prone to violence if released from prison.

I am also concerned that Mr. Danley has not participated in any substance-related self-help for ten years. The psychologist concluded Mr. Danley lacks insight into his amphetamine and cannabis dependence and alcohol abuse, engaged superficially in AA and NA, and "needs to take a more probative look into . . . those factors which sustained his drug abuse and dependency." In 2012, he told the Board he no longer likes discussing drugs or alcohol and has heard the same stories repeatedly during twenty years of treatment. Mr. Danley said he gets more out of other types of self-help, but occasionally talks to older inmates about drug and alcohol abuse.

Mr. Danley has only participated in AA or NA for five of his almost 30 years in prison. Five of his nine disciplinary reports are for being under the influence of substances or refusing to submit to testing, including using methamphetamine in 2002. I note five confidential memoranda, as recently as 2002, implicate Mr. Danley in selling and using methamphetamine, heroin, and marijuana. This record indicates to me that Mr. Danley is not committed to staying sober. I encourage him to resume substance abuse self-help.

Mr. Danley's recent psychological assessment score supports my concerns that he remains a threat to public safety if released from prison at this time. He scored in the moderate range for overall risk to society, based in part on his lack of insight into the crime and his superficial approach to substance abuse self-help.

Edward Danley, C-71245

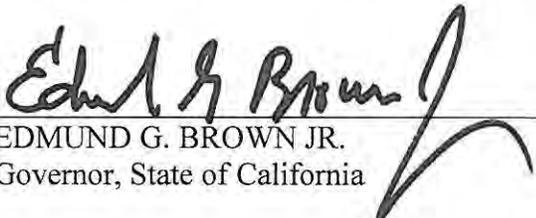
Second-degree murder

Page 3

CONCLUSION

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

Decision Date: August 24, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

LESLIE SILVA, E-17874

Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

Leslie Silva was drinking at a bar co-owned by Jeff Watson on the night of August 22, 1981. Mr. Silva occasionally worked as a bouncer for the bar. Another bar patron, Phillip Collett, was intoxicated and causing a scene. Mr. Watson asked Mr. Silva for help expelling Mr. Collett. Two witnesses saw Mr. Silva and Mr. Watson drag Mr. Collett into the back of a white van owned by Mr. Silva. One witness heard three voices from inside the van, two angry and one frightened, the frightened voice saying, "I'm sorry, I'm sorry, I didn't mean it." Mr. Watson struck Mr. Collett several times as Mr. Silva entered the van and drove away. At some point, Mr. Silva picked up a handgun and shot Mr. Collett in the neck at close range, severing his carotid artery. For the next ten minutes, Mr. Collett drove along various roads looking for a place to dispose the body. After reaching a remote area, Mr. Silva fired a second shot into Mr. Collett's right temple and dumped his body in an irrigation ditch. A pathologist concluded that death was caused by two gunshot wounds to Mr. Collett's neck and head, fired from a distance of no more than two inches.

GOVERNING LAW

The question I must answer is whether Mr. Silva 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. Silva suitable for parole based on his recent disciplinary-free history, remorse, insight, educational and vocational upgrades, positive work reports, self-help, and age.

I acknowledge Mr. Silva has made efforts to improve himself while incarcerated. He achieved an Associate of Arts degree in Business, completed three vocations, and has held several institutional jobs. Mr. Silva has participated in various self-help groups, including Alcoholics

and Narcotics Anonymous, Lifer Reintegration Program, Alternatives to Violence, and Celebrate Recovery. Mr. Silva has also attained certifications for water treatment plant operations and to be a paralegal. I commend Mr. Silva for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Silva's crime was brutal and senseless. He claims that Mr. Watson and Mr. Collett began to struggle in the back of the van, and after someone pulled on his hair, he blindly fired his gun over the shoulder to avoid crashing the van. But rather than seek medical assistance for Mr. Collett's gunshot wound, Mr. Silva drove to a secluded area and shot Mr. Collett in the head at point blank range. He admits he had no intention of taking Mr. Collett to a hospital, but explains "I didn't want to leave Mr. Collett suffering" and so "I shot him in the head to make sure." Even if I accepted Mr. Silva's version of events of a situation that went horribly awry, his decision to kill Mr. Collett rather than help him demonstrates a cruel and callous disregard for human suffering.

I am troubled that Mr. Silva lacks insight for his actions and minimizes his own culpability. He told the psychologist who evaluated him in November 2011 that he invited Mr. Collett to smoke a joint in the van, and that when he shot his gun, he intended to shoot through the roof of the van. After the shooting, Mr. Silva stated: "I was waiting for Jeff [Watson] to get his gun so I could turn into the police station," but they did not turn themselves in because Mr. Watson wanted to go home instead. Mr. Silva later indicated that he fired his gun because he was angry at Mr. Collett for refusing to leave the bar, and because his hair was pulled in the van.

I find Mr. Silva's explanations implausible and contradictory. Two witnesses saw Mr. Silva and Mr. Watson forcefully carrying Mr. Collett into the van against his will. Mr. Silva's assertion that he tried to shoot through the roof of the van is contradicted by autopsy evidence showing that the gun was fired two inches from Mr. Collett's neck. Mr. Silva also fails to explain why he would risk killing his own friend by blindly firing his gun in the van. Mr. Silva's claim that he was going to turn himself over to authorities lacks all credibility, given that moments later he shot Mr. Collett in the head, dumped the body in a ditch, and cleaned the van of all evidence. Finally, the suggestion that he shot Mr. Collett in anger is contradicted by his own statements that he blindly fired his gun to avoid a car crash, and the second time did so to end Mr. Collett's suffering.

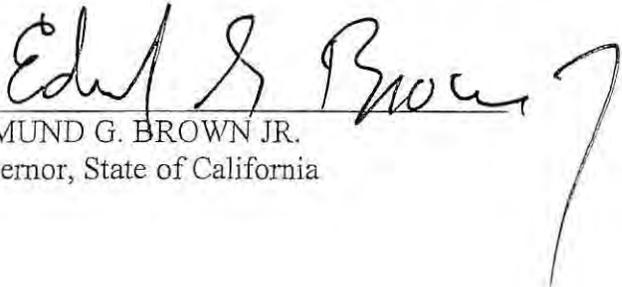
A 2009 comprehensive risk assessment noted that Mr. Silva exhibited conning and manipulative behavior, pathological lying, a failure to accept responsibility and a lack of empathy, and found that he scored in the medium range for psychopathy. At his recent parole hearing, the deputy commissioner noted similar concerns when she remarked, "Mr. Silva, I am disturbed by your demeanor when you were describing the events in the life crime. For me it felt like you were relating a scene out of Pulp Fiction, almost in a well-rehearsed, almost comical way." It seems clear from Mr. Silva's confusing and contradictory explanations, his attempts to blame Mr. Watson for his actions, and his seemingly rehearsed statements, that Mr. Silva is not telling the truth or has not adequately explored the reasons for his violent behavior that night.

I am also concerned by Mr. Silva's recent discipline in May 2012 for possession of a drug syringe, particularly in light of his lifelong struggle with drug addiction. He started drinking and using marijuana at age fourteen, and abusing prescription pills, methamphetamine, and heroin at age nineteen. He continued to use drugs and alcohol in prison, and has incurred five drug-abuse related disciplinary infractions as well as four disciplinary infractions for violence. Due to a longstanding back injury, Mr. Silva has been prescribed morphine for his pain. Given his history of dependence on pain medication, the psychologist concluded that Mr. Silva's "ability to remain clean and sober in the future is likely to remain a risk factor." I agree, and find that risk substantially augmented by Mr. Silva's recent discipline. Until Mr. Silva can demonstrate that he is committed to his sobriety, I am not prepared to release him from prison at this time.

CONCLUSION

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

Decision Date: August 31, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ROGER MOORE, C-38192
First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

X

STATEMENT OF FACTS

On March 6, 1981, Roger Moore and Charles Williams argued with Paul Ward, who was a 68-year-old amputee confined to a wheelchair. Mr. Moore and Mr. Williams beat Mr. Ward to death. The motive for the beating is unclear, but it may have been a robbery gone wrong or because Mr. Moore believed Mr. Ward made a comment about his deformed left arm. Mr. Ward's body was discovered the following day nude from the waist down. His pants were eight feet away. Mr. Ward's wheelchair was folded and lying on its side near the body.

GOVERNING LAW

The question I must answer is whether Mr. Moore 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. Moore suitable for parole based on his remorse, acceptance of responsibility for the crime, age, vocational and work ratings, disciplinary-free time, and psychological evaluation.

I acknowledge Mr. Moore has made efforts to improve himself while incarcerated. He has served over 31 years in prison and has not been disciplined for serious misconduct since 1995. He has completed multiple vocational programs and participated in Alcoholics and Narcotics Anonymous, the Dual Diagnosis Chemical Dependency Treatment Program, therapy groups, and other self-help classes. I commend Mr. Moore for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

The cruelty and violence of Mr. Moore's crime is disturbing. Without provocation, Mr. Moore and Mr. Williams senselessly beat an elderly wheelchair-bound amputee to death.

Mr. Moore does not adequately understand the reasons he committed this terrible crime. He vaguely explains that his rage built up over time because he was bullied and teased by kids as he was growing up because of his physical disability. Mr. Moore further explains that he felt abandoned by his birth parents because he was adopted. The psychologist who recently evaluated him said "his reliance on his physical condition and having been put up for adoption as causative factors for his actions in the life crime is limiting and superficial." I agree. Childhood bullying does not explain the considerable rage Mr. Moore exhibited by brutally beating a 68-year-old to death. Nor does being adopted as a child. I don't find his attempts to explain his crime very persuasive.

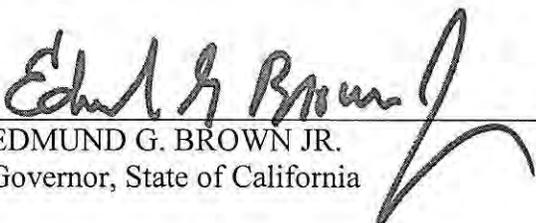
I am also troubled by Mr. Moore's uncertain psychological state. At his parole hearing, Mr. Moore indicated he was taking medication "for the voices, worried about people jumping on me." His central file shows that he has received psychological treatment in prison for the past 17 years because of depression, borderline personality disorder, suicide attempts, and sexual issues. The 2008 psychological evaluation indicates that Mr. Moore started hearing voices in childhood. The psychologist who assessed him in 1999 described that at least one year before the crime, Mr. Moore began to have paranoid and delusional thoughts that others were talking about him, laughing about him, or trying to hurt him, and opined that Mr. Moore's paranoia and failure to take his prescribed psychotropic medication that day contributed to his crime. Despite this extensive mental health history, Mr. Moore could not name his current medication at the hearing. He said he was only taking one drug. At the end of the hearing, his attorney listed three medications Mr. Moore was presently taking. These drugs are commonly used to treat schizophrenia, bipolar disorder, mania, and anxiety, among other issues. Because Mr. Moore does not have a firm understanding of his required mental health treatment and because of the extent of his mental health issues and their connection to the murder, I am not prepared to release him.

Mr. Moore's recent psychological assessment makes no mention of auditory hallucinations despite his long history of hearing voices. I direct the Board to complete a new psychological evaluation before Mr. Moore's next hearing that includes a comprehensive description of the extent of Mr. Moore's mental health issues, his treatment needs, prognosis, and impact of his mental state on his propensity for violence.

CONCLUSION

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

Decision Date: September 14, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

TANNIEHILL, HORACE, D-31883

Second-degree murder

AFFIRM:

MODIFY:

REVERSE:

 X

STATEMENT OF FACTS

On July 7, 1985, Horace Tanniehill gunned down his estranged wife Frances in front of her home as she pleaded for her life. Mr. Tanniehill and Frances were separated and sharing joint custody of their one-year-old son Adam. At six o'clock that evening, Mr. Tanniehill dropped Adam off at Frances's residence. He returned at 10:25 pm—in violation of a temporary restraining order—and was seen waiting outside the apartment complex where Frances lived. Frances, holding Adam, went outside to confront Mr. Tanniehill. Mr. Tanniehill instructed Frances to "put the baby down." When she hesitated, he drew a pistol and held it to her head. Mr. Tanniehill struck Frances with the butt of his gun and kicked her in the ribs. Frances was hysterical and begging for her life. She fled through the apartment complex with Mr. Tanniehill in pursuit. Frances grabbed a woman passing by and hid behind her. Mr. Tanniehill pointed the gun at both women and pulled the trigger twice, but the gun failed to fire. The woman pulled herself free and ran away. Frances asked a neighbor to let her into his apartment but he refused. Mr. Tanniehill dragged Frances to her own apartment. She pleaded with him not to shoot. Mr. Tanniehill pointed the pistol at her head and pulled the trigger twice but the gun did not fire. He dragged Frances to the carport as she begged for mercy. Mr. Tanniehill shot her and she fell. As Frances tried to crawl under a car, Mr. Tanniehill stood over her and fired five more rounds into her chest. He reloaded his weapon and fled on foot. Police apprehended Mr. Tanniehill in a nearby park where he had inadvertently shot himself in the abdomen.

This murder was the culmination of several domestic incidents between Mr. Tannehill and Francis. Frances moved out of their residence on May 16, 1985 and filed for dissolution of their marriage that same month. On May 28, 1985, Frances filed for a temporary restraining order, asserting that Mr. Tanniehill had threatened her life several times, beaten her, spit on her, berated and mentally abused her. Other witnesses confirmed that Mr. Tanniehill had made threats against Frances and that she feared for her safety. Police were summoned on two occasions to mediate disputes between them. On June 15, 1985, Mr. Tanniehill purchased the gun that was used to kill Frances. On July 2, 1985, Mr. Tannehill and Frances had a violent argument in the parking lot of a Marine Corps nursing care center. Mr. Tanniehill was convicted by a jury of second-degree murder and assault with the use of a firearm.

GOVERNING LAW

The question I must answer is whether Mr. Tanniehill 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. Tanniehill suitable for parole based on his disciplinary record, remorse, insight, educational and vocational upgrades, positive work reports, psychological evaluation, self-help, and parole plans.

I acknowledge Mr. Tanniehill has made efforts to improve himself while incarcerated. He has taken several college courses toward an Associate of Arts degree, completed three vocations, and has held several institutional jobs. Mr. Tanniehill has participated in various self-help groups, including Alcoholics and Narcotics Anonymous, Alternatives to Violence and other anger management programs, C.H.A.N.G.E. program, and Veterans Outreach Group. I commend Mr. Tanniehill for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Tanniehill's crime was horrific. Despite repeated pleas by Frances to spare her life, Mr. Tanniehill hunted her down, dragged her to a carport, and shot her six times. That Mr. Tanniehill began this violence in front of his own infant son and sought to shoot an innocent bystander to get to his wife demonstrates a cruel and callous disregard for human suffering. His actions had a devastating and long-lasting impact on his son and Frances's family.

From the evidence, it seems reasonably clear that Mr. Tanniehill is not revealing his actual state of mind that led up to his brutal murder of his wife, or he doesn't understand the dynamics underlying his behavior. When interviewed by a psychologist in 2011, Mr. Tanniehill stated he felt betrayed and jealous of Frances, who he suspected of being unfaithful to him. He explained that when he dropped his son off at Frances' apartment, he believed his wife was cheating on him because she was "dressed in a robe." At his parole hearing, he stated that he became enraged and chased his wife with the gun and shot her six times, but that he didn't intend to kill her; he just wanted to hurt her. Finally, he claimed that the gun just happened to be in his bag that day and explains that he had purchased the gun *for* Frances because she wanted it.

I find Mr. Tanniehill explanation for why he committed this murder completely implausible. His insistence that he did not intend for Frances to die flies in the face of evidence that he repeatedly pointed his gun at Frances and pulled the trigger, and ultimately fired six shots into Frances's body at close range. Mr. Tanniehill purchased the gun only weeks before the murder—while he was subject to the temporary restraining order. The assertion that he bought the gun at Frances's

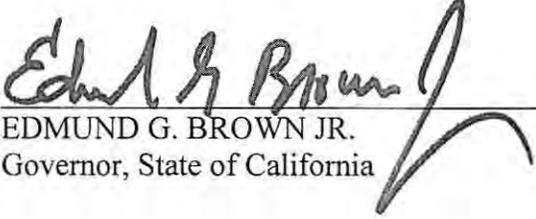
request and just happened to have it in his bag when he returned to her house that night lacks credibility.

I am also concerned that Mr. Tannehill minimizes responsibility for his actions by blaming his former wife for his violent conduct. Despite the fact that Frances filed for divorce in May 1985 and sought a temporary restraining order against him because he had beaten and threatened her life, Mr. Tannehill blames Frances for supposedly "cheating" on him during their separation. Mr. Tannehill told the Board that although they had been separated for several months, it was "wrong" of Frances to date other people. It is telling that Mr. Tannehill fails to recognize the pattern of violence and intimidation he inflicted on Frances, and his desire to control her even after their separation. I note that Mr. Tannehill has never sought any domestic violence counseling to address this pattern of behavior. Until Mr. Tannehill develops an adequate understanding of this factor, I am concerned he will remain prone to violence if released from prison.

CONCLUSION

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

Decision Date: September 14, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JUAN GONZALEZ, H-40663
Second-degree murder

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

STATEMENT OF FACTS

On December 10, 1991, Juan Gonzalez stabbed his former girlfriend Lucianna Aguilar twenty-three times, killing her. Mr. Gonzalez had physically assaulted Ms. Aguilar on several occasions and she was preparing to leave Mr. Gonzalez when he was deported to Mexico. From Mexico, Mr. Gonzalez called Ms. Aguilar demanding money so that he could return to the United States. Ms. Aguilar refused. Several days later, Mr. Gonzalez reentered the United States, broke into Ms. Aguilar's apartment at two o'clock in the morning, hit her, dragged her by the hair, and forced her to give him money. Mr. Gonzalez left for Washington State to pick apples. Weeks later, Mr. Gonzalez returned from Washington and began sleeping in a van near Ms. Aguilar's apartment. One morning, Mr. Gonzalez woke up and went to a canal behind the apartments. From a bank near the canal, he could see Ms. Aguilar alone in her backyard. Without any warning, he jumped over the fence into the backyard and attacked her with a knife. Mr. Gonzalez stabbed Ms. Aguilar to death. He then stabbed himself in the chest and abdomen.

This murder was the culmination of many violent incidents by Mr. Gonzalez. One time, Mr. Gonzalez slapped Ms. Aguilar because she had not washed his shoes. On another occasion, Mr. Gonzalez recalls violently shaking Ms. Aguilar until she "became unconscious"—but cannot remember why he did so. Ms. Aguilar's sister witnessed Mr. Gonzalez strike Ms. Aguilar three separate instances and recalls having to revive Ms. Aguilar after she had passed out from these assaults. The physical and verbal confrontations were the result of Ms. Aguilar's attempts to send money to her children in Mexico and write to the children's father.

GOVERNING LAW

The question I must answer is whether Mr. Gonzalez 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. Gonzalez suitable for parole based on his lack of criminal history, minimal disciplinary actions in prison, remorse, efforts to change, low overall risk rating, work ratings, and participation in self-help classes.

I acknowledge Mr. Gonzalez has made efforts to improve himself while incarcerated. He has been disciplined for serious misconduct in prison only one time, earned a high school equivalency diploma, and has participated in a number of self-help programs including Alcoholics Anonymous, the Substance Abuse Program, anger management courses, and victim awareness workshops. I commend Mr. Gonzalez for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Gonzalez's crime was senseless and disturbing. Without provocation or warning, he jumped over Ms. Aguilar's fence and brutally stabbed her twenty-three times. This was the final act in a series of violent attacks on Ms. Aguilar. This murder and the other episodes of domestic violence demonstrate Mr. Gonzalez's explosive anger and need to control his former girlfriend.

Mr. Gonzalez downplays the extent of his prior violence against Ms. Aguilar. When asked at his hearing about his relationship, he said "I thought everything was perfect, was fine. The relationship was happy and we were together, you know, with no problems." When asked about his earlier attacks on Ms. Aguilar, he admitted slapping her once and shaking her until she fainted. He omitted his menacing phone call, breaking into her apartment in the middle of the night, and beating her until she gave him money. I find Mr. Gonzalez's description of his relationship with Ms. Aguilar lacks any connection to reality. Far from being "fine" and "perfect," he repeatedly struck, shook, and terrorized her for wanting to send money to her children in Mexico, for failing to wash his shoes, and for other unexplained reasons.

It is clear that Mr. Gonzalez does not understand why he murdered Ms. Aguilar. When asked about the crime, he said, "I wanted to speak to her about our situation in a peaceful way. So I jumped over the fence and she got surprised. She didn't speak up. And I hugged her... So when I was hugging her, she say what do you want. And we fell to the ground." Mr. Gonzalez added that he was controlling and insecure in his relationship and that his anger toward Ms. Aguilar just exploded. The assertion that he jumped the fence to peacefully hug Ms. Aguilar just prior to stabbing her twenty-three times is absurd. He indicates that his anger just exploded, but he fails to explain why he harbored such explosive rage and how his inability to accept the end of their relationship could lead to such violence. And, he fails to make any connection to the ease with which he attacked and abused Ms. Aguilar before. Until he has sufficiently explored and worked through all this, I am not prepared to release him.

Mr. Gonzalez has begun to explore his emotional state during the murder and episodes of domestic violence. I urge him to continue to explore his reasons for committing these crimes on his own and by seeking out any available individual or group counseling, domestic violence classes, victim awareness groups, or other self-help groups dedicated to helping inmates understand why they committed their crimes.

CONCLUSION

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

Decision Date: September 21, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

LYLE HOOD, C-10256

Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On April 25, 1979, Lyle Hood, Mitchell Smiley, and Dale Bretches were sitting at a bar when Carlos Gonzales, a member of the Axemen Motorcycle Club, came in and ordered a beer. One of Mr. Hood's companions made a remark directed at Mr. Gonzales. Mr. Gonzales then hit Mr. Hood and a fight ensued, which moved outside the bar. Mr. Hood, Mr. Smiley, and Mr. Bretches collectively beat Mr. Gonzales. During the fight, Mr. Gonzales was stabbed eight times, once in the neck and seven times in the back. He was left to bleed to death on the sidewalk.

GOVERNING LAW

The question I must answer is whether Mr. Hood 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. Hood suitable for parole based on his remorse, insight into his crime, behavior in the last 12 years, participation in Alcoholics and Narcotics Anonymous and an anger management group, age, and testimony at his parole hearing.

I acknowledge Mr. Hood has made some efforts to improve himself while incarcerated. He earned a high school equivalency diploma, completed four vocational programs, dropped out of his prison gang and testified against gang members, and has participated in Alcoholics and Narcotics Anonymous. He has routinely received satisfactory and above average work evaluations. I commend Mr. Hood for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Hood's crime was senseless and callous. Mr. Hood and his two friends instigated a fight and ganged up on Mr. Gonzales because he was a member of a rival motorcycle gang. They brutally beat him and stabbed him eight separate times in the neck and back before they fled.

I am troubled by Mr. Hood's attitude about his involvement in a dangerous prison gang. After being incarcerated for the murder of Mr. Gonzales, he joined the Aryan Brotherhood. At his hearing, he told the Board that he joined the prison gang out of self-preservation, because he was scared of the other inmates. He maintains that he was forced to either join the gang or do their bidding. Yet, confidential records reveal that his actions went well beyond being a follower in the gang. He stabbed six inmates and killed at least one for which he has never been charged, manufactured weapons and bombs used to harm correctional officers and other inmates, and ordered the stabbing of at least two inmates. He describes that he became a "feared member" and rose in the ranks of the prison gang. I applaud Mr. Hood for dropping out of the gang in 1991 and for testifying against other gang members. But, given this remarkably violent history, I am skeptical of Mr. Hood's assertion that he committed these acts simply out of fear and self-preservation.

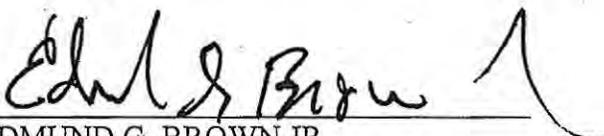
Mr. Hood's conduct in prison also demonstrates an inability to control his temper and abide by the rules. He has been disciplined for serious misconduct 27 times and less serious misconduct 17 times. Eight of the serious disciplinary actions were for violent behavior including stabbing another inmate in the chest, fighting with other inmates, possession of weapons and hacksaw blades, assaulting and battering correctional officers, and providing other inmates weapons. Another eight were for possession of inmate-manufactured alcohol. Since he disassociated from the gang, he has been disciplined for possession of inmate-manufactured alcohol and threatening staff.

Mr. Hood has done little to work through his anger, criminal lifestyle, and violence. At the hearing, the Commissioners described Mr. Hood as having dug himself into a deep hole because of his conduct and participation in the Aryan Brotherhood. They commended him on his rehabilitative efforts. I agree that his conduct has improved. But, I find that Mr. Hood must do more to demonstrate that he is ready to live a different life than he has in the past. He has spent over 33 years in prison for this crime. In that time, the record indicates he has participated in only Alcoholics and Narcotics Anonymous and one anger management group in 2000. I encourage Mr. Hood to engage in available programs that focus on re-entry, anger and stress management, victim awareness, and turning away from a criminal lifestyle.

CONCLUSION

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

Decision Date: September 21, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

LAWRENCE OWENS, J-51508

First-degree murder

AFFIRM: _____

MODIFY: _____ **X** _____

REVERSE: _____

STATEMENT OF FACTS

Lawrence Owens lent \$20 to Dwayne Johnson for Mr. Johnson to purchase drugs. Mr. Owens became upset when Mr. Johnson took a long time to repay the debt in an incremental manner. Mr. Owens's anger increased when Mr. Johnson allegedly made a derogatory comment about Mr. Owens's mother. On the night of September 4, 1993, Mr. Johnson gave Mr. Owens a \$20 bill and asked for change, as only \$7 was owed at that point. Mr. Owens took the money but refused to provide the change. An argument ensued, and Mr. Owens began to kick and strike Mr. Johnson. Mr. Johnson ran away with Mr. Owens in pursuit, and the fighting continued. Mr. Owens's crime partner, Victor Mapp, picked up a tree limb and hit Mr. Johnson over the head. When Mr. Johnson fell to the ground, Mr. Mapp picked up a slab of concrete and threw it down on Mr. Johnson. Mr. Owens panicked and ran away. Mr. Johnson died from severe trauma to the head.

GOVERNING LAW

The question I must answer is whether Mr. Owens 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. Owens suitable for parole based on his remorse, insight, psychological report, self-help, educational and vocational programming, disciplinary record, criminal history, and parole plans. Upon finding Mr. Owens suitable for parole, the Board set a future release date of February 15, 2021.

Mr. Owens has had only one serious discipline during nineteen years of incarceration, in 1995. He has been working toward a college degree in Business Administration and has attained a general business certificate from Coastline Community College. He has worked continuously since 1995 in various positions and routinely receives exceptional work ratings. His television

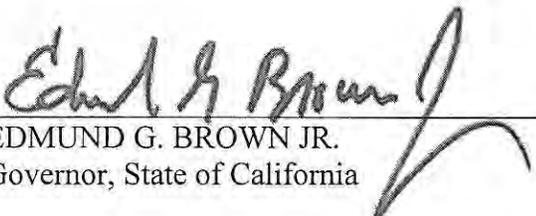
production supervisor indicated that he has mastered the technical skills necessary to find a job as a video production assistant. A Muslim chaplain, writing to support his release, conveyed that Mr. Owens is a “poster boy” for rehabilitation, and a Jewish Rabbi wrote that he is a “diamond in the rough” who stands out among his peers.

The Contra Costa Deputy District Attorney who attended the hearing said that Mr. Owens has “turned his life around” and will be a “positive force” in the community. At his parole hearing, the Board commented that “this Panel strongly feels that you have made a significant turnaround from what we saw when you first came in, but it started when you first got here.” The Board found that Mr. Owens had participated in a range of self-help programs, including Alcoholics Anonymous, victim’s awareness, alternatives to violence and anger management, and courses on leadership, decision-making and problem solving, effective communication, and motivational development group.

Mr. Owens’s 2011 comprehensive risk assessment supports parole. The evaluator found that Mr. Owens has “worked to develop his personal insight and his understanding of factors that have contributed to his violent behavior in the past.” The evaluator determined that Mr. Owens posed a low risk of violence in the community, due in part to his “very positive work record,” positive disciplinary history, continuing sobriety, completion of a wide range of self-help programs, pursuit of a college education, and his ability to articulate sound coping and anger management skills that he has learned and implemented over the years.

In light of the Board’s finding that Mr. Owens is ready for parole, combined with his exemplary behavior while incarcerated, his release date is modified to August 15, 2016.

Decision Date: September 21, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ANTHONY DELACRUZ, J-80696
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Anthony Delacruz, Toen Bun, and Raymond Mo were members of the West Side Islanders street gang. Mr. Bun believed that a rival gang had broken the window of his girlfriend's car. They drove to Bovary Chhun's home, where they mistakenly believed rival gang members lived. Ms. Chhun was asleep in her bed when Mr. Delacruz and Mr. Bun fired at least 17 rounds at the house with an automatic handgun and rifle. Ms. Chhun died from gunshot wounds to the head and breast

GOVERNING LAW

The question I must answer is whether Mr. Delacruz 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. Delacruz suitable for parole based on his insight, taking responsibility for the crime, increased communication skills, lack of violent misconduct in prison, belief that he has integrated the twelve steps into his life, participation in self-help classes, realistic parole plans, educational improvements, and family support.

I acknowledge Mr. Delacruz has made efforts to improve himself while incarcerated. He earned his GED in 2011, has completed three different vocational programs, has earned above average work reports, and has participated in self-help programs including Alcoholics and Narcotics Anonymous, Celebrate Recovery, and The Most Excellent Way. I commend Mr. Delacruz for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Delacruz's crime was senseless. He planned and participated in this violent attack over a trivial matter that did not concern him. He showed poor judgment and callousness in deciding to

shoot up a house over broken car windows. His actions resulted in the tragic loss of an innocent girl's life.

I am troubled by Mr. Delacruz's recent alcohol relapses after struggling with substance addiction. At the time of the murder, Mr. Delacruz had severe and longstanding problems with alcohol and drugs. Mr. Delacruz started drinking at fourteen. He reports that he used cannabis three to four times a week from thirteen until he was arrested for murder at seventeen. He started using methamphetamine at sixteen and describes his methamphetamine habit as "out of control." He experimented with LSD and cocaine. On the evening of the murder, he was drunk and had been using methamphetamine for four days. Since his incarceration in 1994, Mr. Delacruz has been disciplined five times for serious misconduct; the four most recent disciplinary actions were for possession of inmate-manufactured alcohol. He was caught hiding a plastic bag of alcohol tied to the corner of his bunk and the wall in 2004, one gallon of alcohol under his mattress in 2005, a liter of alcohol under his desk in April of 2006, and five gallons of alcohol under his bunk in November of 2006. These relapses occurred at the same time he was participating in Alcoholics and Narcotics Anonymous in 2000, 2002, 2004, and 2006. I am encouraged by Mr. Delacruz's recent participation in Narcotics Anonymous, Celebrate Recovery, and The Most Excellent Way in 2011. But given his relapses while participating in similar programming, I am not yet convinced that Mr. Delacruz is committed to safely transitioning to society without returning to drugs or alcohol.

CONCLUSION

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

Decision Date: September 28, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

NETTIE REAY, W-76460
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On August 16, 1993, law enforcement officers discovered the body of Angel Dixon in a field near the Sacramento Airport. Ms. Dixon had been stabbed more than fifty times, with a dozen stab wounds to her face and chest and five fatal stab wounds to her neck and lungs. The case remained unsolved for more than three years. In October 1996, homicide detectives received a telephone call from Nettie Reay's mother implicating Nettie, her husband Travis, and their friend Scott DeGraff in the murder of Ms. Dixon.

Mr. DeGraff testified for the prosecution in exchange for immunity. According to his testimony and evidence from the police investigations, Mr. DeGraff and Ms. Dixon visited Nettie and Travis Reay on August 15, 1993. Nettie became upset when she found out that Ms. Dixon had been using drugs in front of Travis's nephew. Ms. Dixon tried to leave but was knocked down by Nettie and struck ten or eleven times, breaking her nose and cutting her face. Travis retrieved a pair of handcuffs and cuffed Ms. Dixon's hands behind her back and gagged her mouth with a sock. Fearing that Ms. Dixon would retaliate against them through her alleged connections with a motorcycle gang, they took Ms. Dixon to Mr. DeGraff's car and drove to a remote field. Nettie struck Ms. Dixon several more times. Nettie and Travis dragged Ms. Dixon to some bushes where they held her down and stabbed her multiple times. As Nettie and Travis returned to the car, Ms. Dixon got up and ran toward the car, pleading for Mr. DeGraff to help her. Nettie remarked: "I don't think she's dead." Travis and Nettie dragged Ms. Dixon back to the bushes where they repeatedly stabbed her. After the murder, they drove to Nettie's mother's house to clean the car of blood stains. Later that night, Nettie became upset and asked Travis "why did you do it?" Travis responded by striking her in the nose and in the stomach, causing her to drop to her knees. Nettie testified at trial that she participated in the crime out of fear of what Travis would do to her if she disobeyed.

GOVERNING LAW

The question I must answer is whether Ms. Reay 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. Reay suitable for parole based on her educational and vocational upgrades and self-help programming, positive work reports, lack of a violent criminal history or juvenile record, remorse and insight, age, disciplinary record, psychological evaluation, and parole plans.

I acknowledge Ms. Reay has made some efforts to improve herself while incarcerated. She earned her GED in 2006 and high school diploma in 2007, completed four vocational programs, and has participated in self-help programs including Alcoholics and Narcotics Anonymous, Freedom to Choose workshop, and Domestic Violence and Post Traumatic Stress Disorder groups. I commend Ms. Reay for taking these positive steps. But they are outweighed by negative factors that demonstrate she remains unsuitable for parole.

Ms. Reay's crime was brutal and inexplicable. Ms. Dixon was 4'10" tall and weighed 102 pounds. She posed no danger to Ms. Reay and was trying to extricate herself from a fight that Ms. Reay started. She was handcuffed and gagged, dragged to a remote field, and stabbed over fifty times and left to die alone. Although Ms. Reay claims she was only following Travis's orders, she summoned no medical assistance after the fact, helped cover up the crime, and took no responsibility for her actions for over three years until she was turned in by her mother. Her actions that night evidenced a cruel and callous disregard for human suffering.

I am concerned that Ms. Reay minimizes her involvement in the murder and lacks insight into her propensity for violence. When asked by the Board why she committed this crime, she stated that she was following Travis's orders out of fear of what he might do to her, noting that Travis had beaten her after the crime. Ms. Reay added that her drug abuse and her anger at Ms. Dixon were other contributing factors. The psychologist who evaluated Ms. Reay in 2011 found that "Ms. Reay described herself as a more passive participant in the offense as compared to Scott DeGraff's account of the extent of her participation." The record corroborates this observation. Ms. Reay first attacked and beat Ms. Dixon on her own accord, she helped drag Ms. Dixon into the bushes and held her down, and she stabbed Ms. Dixon multiple times. At her trial, Ms. Reay admitted she had previously told investigators she did not feel forced to participate in the crime and that she wanted to accompany Travis to make sure he did not engage in sexual conduct with Ms. Dixon.

The psychologist concluded that Ms. Reay had difficulty acknowledging that she is "capable of being violent in her own right." I agree. Before meeting Travis, Ms. Reay was convicted of battery and was twice arrested for carrying concealed weapons. During her jail incarceration for this crime, she received major disciplinary reports for assault/battery (twice), possession of contraband, insubordination, and vandalism. In prison, she has received serious disciplinary reports for a fist fight with another inmate and participating in a riot, among others. It is clear that Ms. Reay has been victimized by domestic violence in her past relationships and witnessed

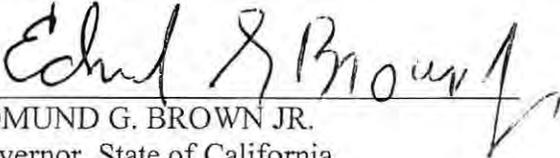
violence in her home as a child. Perhaps these experiences contributed to her own violent behavior. But Ms. Reay would also stand to benefit from further exploration of her own anger and aggression issues, what role they played in the death of Ms. Dixon, and how she would control her anger in the future.

Ms. Reay's psychological assessment score supports my concerns. Ms. Reay scored in the moderate range for risk of violence, based in part on her level of insight into the life crime and her history of violence, her limited self help participation outside of substance abuse programming, and her disciplinary record which includes a recent report in 2008 for possession of pornography. I encourage Ms. Reay to participate in anger management and violence prevention-related programs to address these remaining concerns.

CONCLUSION

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

Decision Date: September 28, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

KEVIN TAYLOR, D-03165
First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On the morning of May 29, 1984, 16-year-old Kevin Taylor entered a donut shop armed with a handgun. He demanded money from the cashier, Soon Hur. Ms. Hur refused and tried to leave the store. Mr. Taylor shot her in the chest, killing her. He then fled. Police arrested Mr. Taylor about a month later when he was in county jail awaiting adjudication for an unrelated assault charge. After Mr. Taylor left the donut shop he reportedly told his friend he “shot the bitch” and “shot her in the mother fuckin’ membrane.”

At the time of the murder, Mr. Taylor had already accumulated an extensive and violent criminal history starting as a 12 year old. He joined a gang at age 14 and was convicted for assault with a deadly weapon, assault and battery, battery, car theft, vandalism, and running away from several group homes. In separate incidents Mr. Taylor hit a school peer and struck and bit his mother when she came to school to get him, pushed a bus driver and hit and threatened another student with a knife, hit his cousin with a hammer in the head and neck, and threw a piece of asphalt at a teacher and a police officer.

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 decade of discipline-free behavior, age, insight, self-help, and parole plans.

I acknowledge Mr. Taylor has made limited efforts to improve himself while incarcerated. He has not received a serious disciplinary report since 2002. He earned a high school diploma in 2011 and held several institutional jobs. Mr. Taylor has also participated in some self-help

programming, including attending Alcoholics Anonymous meetings and administering a weekly self-test when meetings were unavailable, as well as a Parenting Program, Anger and Stress Management classes, and Bible-based classes. I commend Mr. Taylor for taking these positive steps. But they are outweighed by negative factors that show he remains unsuitable for parole.

Mr. Taylor shockingly and callously murdered an innocent woman in her place of business during early morning hours when such violence is unexpected. Ms. Hur posed no threat to Mr. Taylor and was understandably trying to escape having a gun pointed at her. Mr. Taylor killed Ms. Hur for a very trivial reason – because he was on probation and did not want to be identified. After the murder Mr. Taylor went to a friend’s house and then to a party.

I am troubled not only by the viciousness of the unprovoked murder of Ms. Hur, but by the fact that Mr. Taylor’s significant and violent criminal history started at such a young age. I am also concerned that Mr. Taylor continued his antisocial acts for the first 17 years he was in prison. During that time he received 14 serious disciplinary reports, including for possessing an inmate-manufactured stabbing weapon, stabbing another inmate, fighting with another inmate, and using drugs. As recently as 2002 Mr. Taylor was disciplined for conspiring to escape and for conspiring to introduce marijuana for distribution.

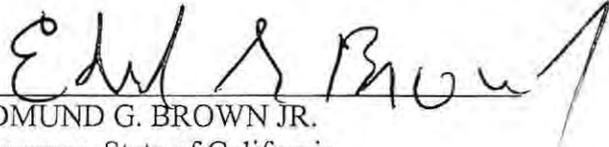
Since I reviewed this case last year Mr. Taylor has taken two anger management correspondence courses and a stress management correspondence course. He has also administered weekly self-study Alcoholics Anonymous quizzes. I am encouraged by this progress. However, given that Mr. Taylor’s extensive and violent criminal conduct started at age 12 and continued for almost two decades in prison, I am not convinced it is safe to release him at this time.

In 2010 a psychologist found Mr. Taylor to be an overall moderate risk of violence, a high risk of general recidivism, a moderate risk of violent recidivism, and in the moderate range for psychopathy. In 2011 a different psychologist noted Mr. Taylor’s “sustained prosocial behavior” since then, and opined that Mr. Taylor’s violence risk was the same as in 2010 or reduced. The 2011 psychologist also found Mr. Taylor only knew three of the 12 steps and “has not adequately participated in substance abuse treatment.” Given Mr. Taylor’s history and that the bulk of his self-help is very recent, I am not prepared to release him without assurance that his risk of violence is no longer elevated. Between now and Mr. Taylor’s next parole hearing he should remain free of serious or minor discipline and continue participating in available self-help.

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 I have discussed shows why he currently poses a danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Taylor.

Decision Date: September 28, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

RUBEN ZARAGOZA, K-30879
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On February 25, 1995, Ruben Zaragoza and his girlfriend came across his next-door-neighbor, Jose Diaz, in the carport of their apartment complex. Mr. Diaz grabbed Mr. Zaragoza's hands and verbally accosted him. Mr. Zaragoza returned to his apartment and later returned to the carport with his friends and a knife. Mr. Diaz tried to grab his hands again and Mr. Zaragoza and Mr. Diaz got into a physical altercation. Mr. Diaz fell onto his back and Mr. Zaragoza repeatedly "punched" Mr. Diaz with a knife. Mr. Diaz was stabbed twelve times in his throat and abdomen, exposing his internal organs. He died from his injuries.

GOVERNING LAW

The question I must answer is whether Mr. Zaragoza 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. Zaragoza suitable for parole based on his insight, honesty, participation in self-help programs, and educational and vocational improvement.

I acknowledge Mr. Zaragoza has made efforts to improve himself while incarcerated. He decided to discontinue his decades-long affiliation with the El Monte Flores gang and Sureños prison gang in 2006 and began participating in self-help programming including Alcoholics and Narcotics Anonymous and Alternatives to Violence. He earned a GED in 2002 and has completed some vocational training. I commend Mr. Zaragoza for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Zaragoza viciously murdered his next-door-neighbor because a couple of months earlier Mr. Diaz had borrowed his mother's car without permission and taken money from her. He apparently felt disrespected by these actions and by comments Mr. Diaz made towards his

girlfriend earlier in the evening. When a fellow gang member asked Mr. Zaragoza what he was going to do about Mr. Diaz, Mr. Zaragoza donned gloves, got the biggest knife he could find, and approached the heavily intoxicated Mr. Diaz. After he was stabbed once, Mr. Diaz ran away from Mr. Zaragoza and pled for his life. Mr. Zaragoza gave chase and brutally slashed Mr. Diaz's throat and abdomen multiple times. He then left Mr. Diaz to bleed to death in the street.

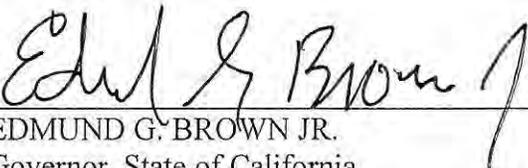
I am troubled that Mr. Zaragoza continues to attempt to justify the murder by explaining that he thought Mr. Diaz was reaching for a gun or that someone in the apartment complex was preparing to shoot at him. Mr. Zaragoza's decision to put on gloves, find a knife, and chase and stab a heavily intoxicated man who was alone and pleading for his life are not actions taken in self-defense. At his hearing, he acknowledged that these reasons were not legitimate and that he was "just giving myself an excuse to stab the guy." I believe Mr. Zaragoza may be holding onto these excuses because he does not yet understand why he violently killed Mr. Diaz. Although Mr. Zaragoza has identified that intense rage played a part in the murder, he has not yet explained the cause of his anger in any meaningful way. The psychologist who recently evaluated him shared this concern. He said, "While Mr. Zaragoza appears interested in gaining greater self insight, he appears unaware of how his continued blaming of the victim presents as a clear obstacle for him to meet this goal. If he hopes to remain violent-free, he will need to take a more probative look into the true mechanisms of his behavior." Based in part on his minimization, the psychologist concluded that Mr. Zaragoza represents a moderate risk of violence.

Mr. Zaragoza has made progress since he turned away from his gang lifestyle in 2006. I encourage him to continue to maintain his independence from his former gang, remain focused on working through his substance abuse issues, and learn the skills necessary to successfully re-enter the community. But until he takes full responsibility for this murder and is able to explain the root of his rage and his willingness to act so violently, I am not prepared to release him.

CONCLUSION

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

Decision Date: September 28, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ALEX PINERA, K-02799
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On October 20, 1995, Nolan Smith was standing outside of the pizza parlor near Bakersfield where he worked, talking with friends. Alex Pinera and two girls drove into the parking lot. Mr. Smith commented to one of his friends that Mr. Pinera was a “white-powered Mexican,” in reference to the fact that Mr. Pinera associated with members of the Skinheads gang. One of the girls in Mr. Pinera’s car recognized Mr. Smith and got out of the car to talk to him. After a couple of minutes, Mr. Pinera got out of the car with a hunting knife and approached Mr. Smith. The two men started to fight. During the altercation, Mr. Pinera stabbed Mr. Smith 5 to 6 times in the chest, stomach, and neck. Mr. Pinera then stepped away from Mr. Smith, held the knife up, walked to his car, and quickly drove away. Mr. Smith died due to blood loss from the multiple stab wounds.

GOVERNING LAW

The question I must answer is whether Mr. Pinera 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. Pinera suitable for parole based on his adequate insight to the crime, involvement in self-help programs, and educational improvement.

I acknowledge Mr. Pinera has made efforts to improve himself while incarcerated. He obtained his GED in 1997 and an Associate of Arts degree in 2008, along with some vocational training courses. In addition, Mr. Pinera has been in Narcotics Anonymous since 2006 and has participated in Anger Management and Alternatives to Violence programs. I commend Mr. Pinera for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Pinera's crime was vicious and callous. He had not seen Mr. Smith for nine months, yet became so enraged when he spotted Mr. Smith that he pulled out his knife, initiated a confrontation, and violently stabbed Mr. Smith to death.

I am troubled that Mr. Pinera does not yet understand the root of the intense rage that led him to kill Mr. Smith. He has identified that he felt rage towards Mr. Smith based on a long-standing feud between the two, and that they had gotten into arguments in the past. He blames his rage and violence on the fact that he did not talk through his emotions with his parents or friends and saw peers employ violence. He has explained that he was angered by comments made by Mr. Smith, both in the parking lot and in previous confrontations. Teenagers often experience difficulty communicating with their parents and have trouble dealing with their emotions or cruel comments by their peers, but most teens do not resort to carrying knives or choosing to use them to kill those who insult them. The psychologist who recently evaluated Mr. Pinera said that "he tends to identify the provocation with the victim as justification for his actions" and that he has "some continued deficits in his full insight into the dynamics of his violence and aggression." I am not satisfied by Mr. Pinera's superficial explanation of why he was able to act with such violence towards Mr. Smith. Until he has better explained this, I am not prepared to release him.

CONCLUSION

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

Decision Date: October 5, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JOSEPH VIALPANDO, H-77342

Second-degree murder

AFFIRM:

MODIFY:

REVERSE:

 X

STATEMENT OF FACTS

On July 27, 1991, Joseph Vialpando and a friend were trying to collect money for a drug deal. They caused a disturbance that Robert Fuentes noticed from across the street. Mr. Fuentes called out to ask what was going on because he recognized Mr. Vialpando and his friend. Mr. Vialpando approached the car Mr. Fuentes, his mother Juanita Fuentes, and his grandmother Luisa Martínez were sitting in. Mr. Vialpando, who had been robbed and assaulted the previous week by a teenager known as “Bam Bam,” told Mr. Fuentes they didn’t like him hanging out with “Bam Bam.” Mr. Vialpando’s friend started to encourage him to shoot and kill Mr. Fuentes. Mr. Vialpando fired his gun six times at Mr. Fuentes’s feet as Mr. Fuentes hopped around to dodge the bullets. Ms. Fuentes tried to intercede by stepping in front of her son. Mr. Vialpando fired one more shot at Mr. Fuentes. The bullet sailed wide and struck Ms. Martinez, who was sleeping in the front seat of the car, and killed her.

GOVERNING LAW

The question I must answer is whether Mr. Vialpando will pose a current danger to the public if released from prison. In answering this question, I must adhere to the same legal standards as the Board of Parole Hearings. 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. Vialpando suitable for parole based on his insight, substance abuse and other programming while incarcerated, lack of serious disciplinary action since 2006, vocations and marketable skills, age, parole plans, and family support.

I acknowledge Mr. Vialpando has made efforts to improve himself in prison. He has participated in a number of self-help groups and classes related to substance abuse, anger management, gang violence prevention, and relapse prevention. Mr. Vialpando earned a high school equivalency diploma and has held several institutional jobs. I commend Mr. Vialpando for taking these

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

Mr. Vialpando's crime was senseless and callous. He opened fire on Mr. Fuentes for no apparent reason other than that he was egged on by his friend. His irresponsible actions resulted in the tragic death of Mr. Fuentes's sleeping grandmother.

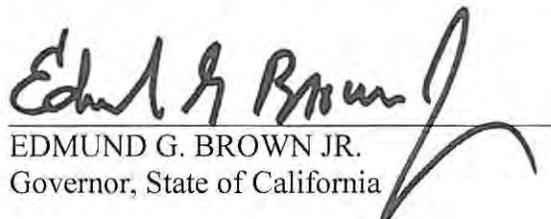
I am concerned that Mr. Vialpando has not yet overcome his long history of substance abuse. He began using drugs daily at thirteen, supported himself by selling drugs, and began drinking at age fourteen. He was using methamphetamine daily by age sixteen and using PCP at eighteen. Four months before the murder, Mr. Vialpando's girlfriend convinced him to get sober for the sake of their daughter. He relapsed days before the crime after his assault by "Bam Bam." He had been drinking and using methamphetamine for several days when he committed this murder. His substance abuse continued well into his prison stay. Mr. Vialpando has been disciplined six times for alcohol and drug-related misconduct – twice for refusing to submit to urinalysis testing in 1998 and 1999, once for being under the influence of inmate-manufactured alcohol in 2000, and three times for possession of inmate-manufactured alcohol in 1999, 2001, and 2006. It is only within the past few years that Mr. Vialpando has begun to address his addictions. He participated in Alcoholics and Narcotics Anonymous in 2007-2008 and 2011. In 2011, he also attended Pathways to Sobriety, Celebrate Recovery, and a twelve step focus group. In 2012, he participated in the Substance Abuse Program.

While I am encouraged that Mr. Vialpando has begun to establish a commitment to sobriety, I am not yet convinced that his recent gains are sustainable. The psychologist who interviewed Mr. Vialpando in 2012 stated that "based on his long term use, which extended well into his prison term, Mr. Vialpando is still considered at an increased risk for relapse." Between now and Mr. Vialpando's next parole hearing he should remain free of serious or minor discipline and continue participating in available self-help.

CONCLUSION

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

Decision Date: October 5, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

EARLY BLACK, H-25299

Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

X

STATEMENT OF FACTS

On April 21, 1990, Clara Johnson purchased \$20 worth of cocaine from Early Black but did not pay the full amount she owed. Ms. Johnson later told her brother that someone may come looking for her because she cheated a man out of \$20 of rock cocaine. A short time later Lannas Bryant and Mr. Black arrived at Ms. Johnson's residence. Despite her reluctance, Ms. Johnson agreed to go for a drive with Mr. Bryant and Mr. Black. They parked the car and began smoking cocaine. Mr. Black shot Ms. Johnson four times in the head and fled. Police arrested Mr. Black the following afternoon.

GOVERNING LAW

The question I must answer is whether Mr. Black 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. Black suitable for parole based on his lack of violent history, age at the time of the murder, remorse, disciplinary history, parole plans, and educational, vocational, and self-help programming.

I acknowledge Mr. Black has made efforts to improve himself while incarcerated. He has only been disciplined once, in 1993 when he was serving the beginning of his sentence in the California Youth Authority. He has completed three vocations, held several institutional jobs, and is only two classes away from earning a college degree. Mr. Black has also participated in self-help programs, including Alcoholics and Narcotics Anonymous, Celebrate Recovery, Life Without a Crutch, Substance Abuse Counseling, Victims Awareness, Alternatives to Violence Project, Anger Management, Cage Your Rage, and a parenting class. I commend Mr. Black for take these positive steps. But they are outweighed by negative factors that show he remains unsuitable for parole.

Mr. Black's crime was callous and trivial. Without any provocation or warning, he shot Ms. Johnson four times in the head over a \$20 drug debt. Mr. Black deceived Ms. Johnson into thinking she was not in danger by assuring her everything was fine between them. He repaid her trust with violence.

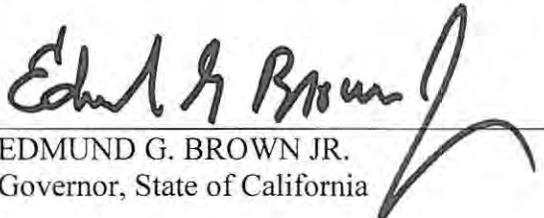
Mr. Black has not explained why he murdered Ms. Johnson. In 2011 he told a psychologist he did not know why he shot Ms. Johnson, but did not think it had to do with the money she owed. Mr. Black told the parole board he "really can't explain it" and "just know[s] what happened." He thinks he may have shot Ms. Johnson because he was angry over being ripped off and due to childhood insecurities and low self-esteem. The psychologist concluded Mr. Black has not shown he has "come to terms with the underlying causes of his antisocial behavior" and noted that pro-social activities and greater introspection will help Mr. Black "formulat[e] better insight into his past choices." I agree. Until Mr. Black develops a better understanding of his actions, I cannot be assured he no longer poses a risk to society at this time.

I am also concerned Mr. Black has not sufficiently addressed his serious substance abuse problem. Mr. Black was a cocaine dealer who was under the influence of alcohol, cocaine, and marijuana when he murdered one of his customers. Despite participating in substance-related programming since 1997, however, he was unable to name a single one of the 12 steps. The psychologist found that Mr. Black "has not adequately participated in substance abuse treatment while incarcerated" and "has not integrated the 12-Step program into his daily routine in a credible manner as a means of preventing future difficulties with intoxicating substances." It is encouraging that Mr. Black could discuss a few steps with the 2012 Board, but it is clear Mr. Black needs to continue his substance abuse programming and to demonstrate a firm commitment to his sobriety.

CONCLUSION

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

Decision Date: October 19, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

MICHAEL PALUZZI, C-22662
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

 X

STATEMENT OF FACTS

On May 2, 1980, Albert Subt was working on his car at a gas station. His wife sat in the passenger seat. Michael Paluzzi drove into the gas station and began pumping gas. Mr. Paluzzi took a rifle out of his car, placed it on the roof of his vehicle, aimed in Mr. Subt's direction, and fired one shot. The bullet struck Mr. Subt in the head. Mr. Paluzzi put the rifle back in his car, finished filling up his gas tank, and drove away. Mr. Subt died. Police arrested Mr. Paluzzi the next day.

GOVERNING LAW

The question I must answer is whether Mr. Paluzzi 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. Paluzzi suitable for parole based on his lack of violence, stable social history, remorse, acceptance of responsibility, age, and parole plans.

I acknowledge Mr. Paluzzi has made efforts to improve himself while incarcerated. He has been discipline-free since 2006. He has completed six vocations, earned his GED, and has held several institutional jobs. He has participated in self-help programming, including Alcoholics and Narcotics Anonymous, Substance Abuse Therapy Group, Alternatives to Violence Project, Anger Control Group, Anger Management, Cage Your Rage, Stress Management, Rational Behavior Training Group, Reality and Decision Making Group, Self-Esteem and Assertiveness Training Group, and individual therapy. I commend Mr. Paluzzi for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Paluzzi calmly and callously murdered an innocent man at a gas station where such violence is unexpected. He acted entirely without provocation and killed Mr. Subt for no reason. He

committed this shocking violence in front of Mr. Subt's wife, placing her in danger and inflicting lasting emotional trauma.

Mr. Paluzzi has not adequately or genuinely explained why he killed Mr. Subt. He told the 2012 Board he shot Mr. Subt because he swallowed a large quantity of methamphetamine during an arrest the day before. Mr. Paluzzi said he thought Mr. Subt "was part of some invading force that was going to . . . poison the children." In 2011 he told the psychologist he thought he needed to round up horses, including the victim's Ford Mustang, to protect them from a nuclear attack. Mr. Paluzzi admits no drugs were found in his system when he was arrested the next day.

The psychologist found Mr. Paluzzi's drug-induced psychotic state "appears psychiatrically plausible," but noted "it is difficult to determine whether Mr. Paluzzi [is] being honest." I am not convinced. The record discloses that there were no drugs in Mr. Paluzzi's system the day after he claims he was so intoxicated he shot a man because of a drug-related delusion. Furthermore, drug use alone does not explain Mr. Paluzzi's crime. Mr. Paluzzi has provided no reasons for shooting an innocent man other than to say he was selfish, stupid, dangerous, delusional, and indifferent to the lives of others. He accurately describes his behavior but fails to show he understands why it happened to assure me it will not be repeated. I believe Mr. Paluzzi requires more introspection about why he committed this crime.

I am also concerned about Mr. Paluzzi's commitment to sobriety. Mr. Paluzzi drank alcohol daily by age 13. He started taking drugs in ninth grade and eventually progressed to using methamphetamine every day. Mr. Paluzzi has numerous drug- and alcohol-related convictions, including twice as a juvenile for marijuana possession and as an adult for amphetamine possession, marijuana possession twice, and driving while intoxicated three times. He was disciplined in prison for sniffing paint thinner in 1981 and as recently as 2004 for possessing a gallon-and-a-half of inmate-made alcohol. I note that Mr. Paluzzi was making alcohol at the same time he was attending Alcoholics Anonymous. Though the officer who testified at Mr. Paluzzi's 2004 disciplinary hearing stated Mr. Paluzzi admitted the alcohol was his and asked not to be written up because he is a lifer, Mr. Paluzzi recently told the Board he was only making alcohol for his cellmate to wean him off of drugs. I do not believe him. Mr. Paluzzi's current failure to accept responsibility for his most recent alcohol relapse, coupled with his extensive alcohol and drug history and the fact that drug use is his only explanation for the crime, calls into serious question whether Mr. Paluzzi can remain sober outside of a structured environment.

Mr. Paluzzi's elevated risk scores support my concerns. In 2009 his psychologist rated him an overall moderate to low risk of violence, a medium risk of general recidivism, and in the moderate range of violent recidivism. I note that the clinician who evaluated Mr. Paluzzi two years later did not indicate that these elevated risk findings are no longer applicable.

CONCLUSION

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

Michael Paluzzi, C-22662
Second-degree murder
Page 3

currently poses a danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Paluzzi.

Decision Date: October 19, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ROBERT SOLORIO, E-17818

First-degree murder

AFFIRM:

MODIFY:

REVERSE:

 X

STATEMENT OF FACTS

Robert Solorio had been living with his girlfriend, Delia Ortiz, for about 18 months. On the afternoon of October 28, 1988, they drank with friends. Mr. Solorio left for work later that night and Ms. Ortiz went to several bars with a friend. Mr. Solorio left work in the early hours of October 29, to find Ms. Ortiz. He found her at a friend's apartment. He was angry and forced her to leave with him. He drove away and later stabbed Ms. Ortiz more than 20 times, beat her with a pipe-like object, and pushed her body into a canal. Her body was found that morning, beaten so badly that she could not be identified without dental records.

This murder was the culmination of several violent incidents by Mr. Solario. He was arrested in December 1987 for punching Ms. Ortiz two to three times, giving her a black eye because he was angry at her behavior at a Christmas party. When questioned by police, he reported another incident in which he pushed Ms. Ortiz into a wall so forcefully that it left a hole in the wall. On the night of the murder, Ms. Ortiz's friends indicated to police that she had recently broken up with Mr. Solario.

GOVERNING LAW

The question I must answer is whether Mr. Solorio 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 Hearing found Mr. Solorio suitable for parole based on his lack of significant history of violent crime, remorse, acceptance of responsibility for the crime, his age, vocational achievements in prison, participation in self-help, understanding of the 12 steps, minimal disciplinary history in prison, realistic parole plans, and supportive family.

I acknowledge Mr. Solorio has made efforts to improve himself while incarcerated. He has been disciplined for serious misconduct only once and has routinely received exceptional work ratings. He has participated in some anger management and substance abuse self-help programs. I commend Mr. Solorio for making these positive strides. However, they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Solorio's crime was horrific. He stabbed Ms. Ortiz over twenty times in the face, torso, chest, hands and legs, and then repeatedly beat her with a pipe, crushing and caving in her face and skull. Ms. Ortiz was so brutalized that her family could not identify her without her dental records. This was the final act in a series of violent attacks against Ms. Ortiz.

I am troubled by Mr. Solorio's minimization of this murder. At his parole hearing, Mr. Solorio stated he forced Ms. Ortiz to leave with him by threatening her because he did not want to embarrass her in front of friends. He described stabbing and striking Ms. Ortiz with a tire iron "several" times, and referred to the murder as an "act of stupidity." He said that Delia "couldn't help what she was doing" and explained that when he left work to look for her, he wanted to protect her from "getting taken advantage of because she's intoxicated."

Mr. Solorio's benevolent and altruistic depiction of his actions has no connection to reality. His claim that he threatened and forced Ms. Ortiz out of the house only to save her from embarrassment and protect her from others is belied what he did shortly thereafter—when he repeatedly stabbed and bludgeoned her to death and dumped her body in a canal. He did not just attack Ms. Ortiz "several" times; this brutal attack mutilated her body and rendered it unrecognizable to her own family members. Calling this an "act of stupidity" reveals little understanding for the gravity of his actions.

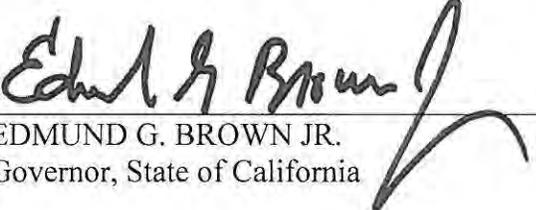
Mr. Solorio also attempts to shift the blame for the murder onto Ms. Ortiz. He told the psychologist who evaluated him in 2009 that he became jealous and angry because of Ms. Ortiz's "free spirit," his poor self-esteem, and the fact that Ms. Ortiz would not listen to his suggestions. When asked about his current feelings toward Ms. Ortiz, he stated: "I have no anger toward Delia." Mr. Solorio appears unable to recognize his escalating pattern of violence and need to control Ms. Ortiz.

Mr. Solorio's elevated psychological risk scores support my concerns. He scored in the moderate range for risk of violent recidivism in intimate partner relationships, and in the moderate range for overall risk to society. The 2009 psychologist concluded that he "clinically appears to require further successful participation in anger management therapy groups with some focus upon domestic violence to better develop adequate cognitive skills to reliably self-monitor and control his behavior in intimate partner relationships." The 2011 psychologist found that Mr. Solorio "needs to better develop his understanding of the contributing factors to his life crime" and noted that Mr. Solorio has not adequately addressed his substance abuse and anger problems. I encourage Mr. Solorio to continue his recent involvement in self-help programming to address these concerns.

CONCLUSION

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

Decision Date: October 19, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

STEVEN DUBY, E-03764
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Steven Duby and his estranged wife Margie were in the process of reconciling when Douglas Clark informed Margie about Mr. Duby's infidelities and drug dealing. Margie ended their relationship. Mr. Duby, who already harbored grievances against Douglas, decided to take revenge. On June 19, 1988, Mr. Duby and two associates, Wendell Wood and Brint Clark, went to Douglas's trailer home. They woke Douglas from his sleep, handcuffed his wrists, and dragged him outside dressed only in his underwear. They drove him to the desert and ordered him out of the car. Douglas was uncuffed and beaten by Mr. Duby. Douglas was then placed face down in the dirt and a rope was tied around his ankles and the other end tied around his neck. He was kicked, punched, pushed, and dragged in the dirt and then shot three times in the head. Douglas's body was found a week later.

GOVERNING LAW

The question I must answer is whether Mr. Duby 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. Duby suitable for parole based on his remorse, insight, minimal criminal and prison disciplinary record, educational and vocational upgrades, self-help programming, age, and parole plans.

I acknowledge Mr. Duby has made efforts to improve himself while incarcerated. He earned two college degrees, became a Braille transcriber and certified drug treatment counselor, and completed several other vocations. Mr. Duby has also participated in or facilitated several self-help programs, including Alcoholics and Narcotics Anonymous, Alternatives to Violence, Lifer's Group, and anger management courses. He has volunteered as an inmate peer health educator and supported charities through a veteran's group. I commend Mr. Duby for taking

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

Mr. Duby participated in the brutal and callous murder of his former friend. Mr. Clark was kidnapped and brought to the desert in his underwear, hog-tied, beaten, and dragged to a ravine where he was executed. Although Mr. Duby claims he never intended for Mr. Clark to be killed, he summoned no medical assistance after the fact and instead fled to a casino to establish an alibi for the crime. Mr. Duby's actions had a devastated and long-lasting impact on Mr. Clark's loved ones.

I am concerned that Mr. Duby is not revealing his actual state of mind that led up to this brutal execution of Douglas, or he does not understand the dynamics underlying his behavior. When Mr. Duby was interviewed by police following the murder, Mr. Duby stated that he and his crime partners had talked about killing Douglas, but Mr. Duby did not think they would really do it. Mr. Duby was also aware that Mr. Wood had brought a handgun in a duffle bag along with nylon rope and gloves to Mr. Clark's trailer home, and their plan had been to kidnap Mr. Clark and drive him into the desert. At his recent parole hearing, Mr. Duby explained that "My intention was to go there, confront Doug and then it started to turn into this whole ordeal of well, let's do this. Let's get him and we'll take him, we'll scare him. And I went along with it."

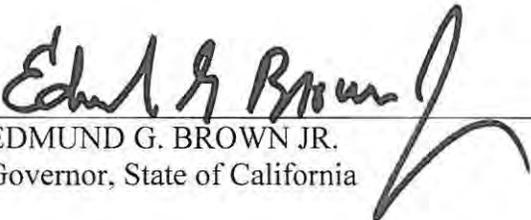
I find Mr. Duby's explanations completely lacking. He does not explain why, if he only intended to confront or scare Mr. Clark, he brought two men with him, one of whom had a gun and nylon rope. He says that the situation turned into an "ordeal" of "let's get him and we'll take him" and "scare him," but by his own admission, that had been the plan all along. To suggest that he only went along with it—when Mr. Duby recruited his two crime partners, discussed killing Mr. Clark at some point, and set the events in motion—shows me that he continues to deflect responsibility for his actions.

There are other holes in Mr. Duby's story. Mr. Duby told the Board that after he beat up Mr. Clark, he walked away and sat in the car and did not witness the execution. But Mr. Duby does not offer a plausible explanation why two complete strangers would agree to help beat up or scare Mr. Clark, and then murder him for no apparent reason. His claim that he did not know his crime partners would kill Mr. Clark is contradicted by his statements to police admitting they had discussed the possibility. Finally, he does not explain why he was afraid his crime partners might kill him next if they had been acting on his behalf. The significant gaps in Mr. Duby's account of the murder and his reasons for committing it shows he has thus far been unwilling or unable to confront and deal with his true reasons for killing his former friend. Until he has sufficiently explored and worked through all this, I am not prepared to release him at this time.

CONCLUSION

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

Decision Date: October 26, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

EDWARD JENKINS, E-60350

Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Edward Jenkins and Erwin Von Scheppenburg worked together cleaning carpets. Mr. Von Scheppenburg owed Mr. Jenkins money for his work. On April 13, 1989, the men were drinking alcohol in Mr. Von Scheppenburg's apartment. According to Mr. Jenkins he slapped Mr. Von Scheppenburg after Mr. Von Scheppenburg propositioned him sexually. Mr. Jenkins claims Mr. Von Scheppenburg hit him over the head with a vodka bottle and stabbed him with a knife. Mr. Jenkins shoved Mr. Von Scheppenburg, who fell and hit his head. Mr. Jenkins then stabbed Mr. Von Scheppenburg numerous times with a butcher knife and two large barbecue forks. Before Mr. Von Scheppenburg was dead Mr. Jenkins cut off his penis and one of his testicles and threw them against the wall. When police arrived they found Mr. Von Scheppenburg's body face down in a courtyard outside the door to the apartment. Mr. Jenkins was still inside. He had lacerations on his arm and wrist. There was blood throughout the apartment. Mr. Von Scheppenburg's penis and testicle were on the floor below a bloody penis print on the wall.

Mr. Von Scheppenburg's murder is not the only time Mr. Jenkins stabbed someone to death. Though he was not convicted of a crime, Mr. Jenkins admitted he previously fatally stabbed two men who tried to rob him in the Arizona desert.

GOVERNING LAW

The question I must answer is whether Mr. Jenkins 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. Jenkins suitable for parole based on his remorse, insight, the significant stress he experienced at the time of the crime, his current age, prison disciplinary record, and educational, self-help, and vocational programming.

I acknowledge Mr. Jenkins has made efforts to improve himself while incarcerated. He has not been disciplined since 2006, and none of his infractions were violent. He has completed numerous vocations, held several institutional jobs, earned his GED, and taken college classes. Mr. Jenkins has also participated in self-help programming, including Narcotics Anonymous, White Bison 12-Step Program, Alternatives to Violence Project, Anger Management, and the Inmate Peer Education Program. I commend Mr. Jenkins for taking these positive steps. But they are outweighed by negative factors that show he remains unsuitable for parole.

Mr. Jenkins's crime was utterly horrific. He not only stabbed an intoxicated man in his own home, but he mutilated Mr. Von Scheppenburg's body by cutting off his genitals before he was dead. This level of violence was an extreme overreaction to an unwanted sexual advance and being owed money. Mr. Jenkins's mutilation of an already injured man served absolutely no purpose and is highly disturbing. It is also troubling that this was the third time Mr. Jenkins stabbed a person to death.

I am concerned that Mr. Jenkins does not adequately understand the reasons for his actions. He told the psychologist who evaluated him in 2009 that he never intended to kill Mr. Von Scheppenburg. But the autopsy report discloses numerous stab, puncture, and cutting wounds to Mr. Von Scheppenburg's face, head, and torso. If Mr. Jenkins had no intention of killing Mr. Von Scheppenburg, he would have sought medical help after Mr. Von Scheppenburg fell and hit his head—instead of stabbing him multiple times and mutilating his body.

Mr. Jenkins's explanation for cutting off Mr. Von Scheppenburg's penis and testicle is unsettling. He told the 2009 psychologist "the Indian in me came out" and he mutilated Mr. Von Scheppenburg so that Mr. Von Scheppenburg would go to hell as a less-than-whole person. Mr. Jenkins told the Board he felt slighted and disrespected by Mr. Von Scheppenburg and was angry at him for creating the situation. It is obvious that extreme rage toward Mr. Von Scheppenburg caused Mr. Jenkins to commit such an abhorrent act, but he fails to explain why he harbored such violent anger in that uncomfortable situation. I believe Mr. Jenkins requires more introspection about why he committed this crime.

CONCLUSION

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

Decision Date: October 26, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

PHILLIP ANDERSON, J-00778
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Phillip Anderson lived at a motel with his wife Rebecca Anderson and their children. He and Rebecca used methamphetamine regularly. They were friends with fellow motel residents Frank Dines and his girlfriend Joyce Deane. On Saturday, July 31, 1993, Rebecca went to the swap meet with Frank and Joyce. After the swap meet Rebecca did not want to go home. She worried that Mr. Anderson would beat her up for being late and complained that she was tired of Mr. Anderson beating her up all the time. She rented a room at another motel, as did Frank and Joyce. Mr. Anderson came by the motel looking for Rebecca. She hid in the bathroom while Frank and Joyce told Mr. Anderson she was not there.

Early the next morning Mr. Anderson came to Frank and Joyce's motel room. He had a knife and was yelling for Rebecca. He kicked open the door and then left. Frank and Joyce went back to the first motel to retrieve their belongings. Mr. Anderson went to Joyce's room. He had a butcher knife and claw hammer and asked for Frank. He tried to push his way into the room but Joyce blocked his way. Mr. Anderson hit Joyce on the side of the head with the hammer and they fought. Mr. Anderson left. Later, as Frank and Joyce were loading their things into a car, Mr. Anderson appeared with a revolver. He fired several shots at Frank. A bullet hit Frank in the head and he fell to the ground. When Joyce went to help him, Mr. Anderson said he would shoot her unless she left. Joyce ran to call the police and Mr. Anderson fled. Frank died from his gunshot wound.

GOVERNING LAW

The question I must answer is whether Mr. Anderson 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. Anderson suitable for parole based on his remorse, acceptance of responsibility, lack of criminal history and prison discipline, self-help and vocational programming, psychological report, age, and parole plans.

I acknowledge Mr. Anderson has made efforts to improve himself while incarcerated. He has never received a serious disciplinary report, and he was last counseled for minor misbehavior over thirteen years ago. He completed a vocation and held several institutional jobs. Mr. Anderson has also participated in self-help programming, including the Substance Abuse Program, Alcoholics and Narcotics Anonymous, Life Plan for Recovery Substance Abuse Education, Alternatives to Violence, the Impact program, and classes on drug addiction, conflict management, and domestic violence. I commend Mr. Anderson for taking these positive steps. But they are outweighed by negative factors that show he remains unsuitable for parole.

Mr. Anderson's crime was callous and brutal. Without provocation or warning, he shot and killed Frank Dines in front of Frank's girlfriend Joyce and his own children. When Joyce sought to help Frank, he threatened to kill her as well. Mr. Anderson exploded in violence simply because he believed Mr. Dines was keeping him away from his wife. Yet Ms. Anderson only wanted to escape her husband's abuse, and Mr. Dines understandably tried to help his friend.

I am concerned Mr. Anderson minimizes his responsibility and does not understand why he committed this crime. According to the revised 2010 psychological report, he told the psychologist that his assault on Joyce with a claw hammer was in self-defense, said Frank had pulled knives on him previously, and claimed he retrieved and pulled out his gun because he was told that Frank would kill him and says he saw Frank holding a gun in his hands. Mr. Anderson also categorically denied ever beating his wife.

These statements are self-serving and differ significantly from other witness accounts. Rebecca told her friends that she was tired of Mr. Anderson assaulting her all the time, and she sought to flee from his attacks by hiding in another motel. Mr. Anderson kicked down a motel room looking for his wife, assaulted Joyce Dean with a claw hammer, and shot Mr. Dines. In view of this escalating violence and rage, Mr. Anderson's claim that he never beat his wife is simply not credible. Mr. Anderson's self-defense claim is equally implausible. The record discloses that he initiated the violence each step of the way. The psychologist found that Mr. Anderson has a limited understanding of his "narcissistic personality issues," continues to blame the victims and his wife for his actions, and has not examined "how control issues might have resulted in relationship problems." I agree. Until Mr. Anderson shows he has an adequate understanding of these issues, I find that he continues to pose a risk of further violence if released on parole.

I am also concerned about Mr. Anderson's commitment to sobriety. Mr. Anderson used methamphetamine for 10 or 11 years before the murder, up to several times per day. But he has only participated in substance-related self-help for five of his 20 years in prison. In prior psychological evaluations he had admitted to selling drugs to supplement his income, but in the 2010 evaluation he downplayed his drug dealing by claiming he sold drugs not for profit but only

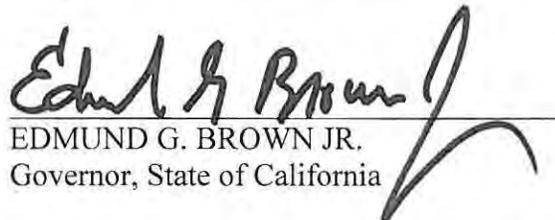
“to friends who asked.” Mr. Anderson also told the psychologist he would not relapse as long as he avoided the drug “lifestyle” and “people who think it’s okay to use drugs.” The psychologist concluded “Mr. Anderson has not yet examined why he began using methamphetamines, and what needs . . . this drug fulfilled,” and noted he “is unwilling to entertain the possibility of a substance use relapse.” I am encouraged that Mr. Anderson prepared a relapse prevention plan for the Board. But his sparse substance abuse self-help participation and lack of candor about selling drugs call into question whether he can remain sober outside of prison.

Mr. Anderson’s elevated risk scores support my concerns. In 2010 his psychologist rated him in the moderate range of violent recidivism and an overall low-moderate risk of violence. These scores were elevated in part because of Mr. Anderson’s lack of insight and limited self-help.

CONCLUSION

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

Decision Date: November 2, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

MICHAEL DEBAETS, H-79204

Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Michael DeBaets and his wife came home to find their newspaper wet and surmised that their next door neighbor's dog had urinated on it. Mrs. DeBaets put the urine-soaked paper on the front seat of their neighbor Martin Myslinski's convertible. Mr. Myslinski went outside to clean the car and threw the paper on the DeBaets's yard, scattering the pages. Mrs. DeBaets and Mr. Myslinski were arguing over the matter when Mr. DeBaets walked out of his house with a loaded .38 revolver, pushed his wife aside, and shot Mr. Myslinski in the chest, killing him.

GOVERNING LAW

The question I must answer is whether Mr. DeBaets 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. DeBaets suitable for parole based on his lack of criminal history, age, insight, recent programming, lack of violent disciplinary actions, and parole plans.

I acknowledge Mr. DeBaets has made efforts to improve himself while incarcerated. He has taken a number of self-help classes related to anger management and has not been disciplined for any violent behavior. I commend Mr. DeBaets for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

This murder was senseless and trivial. Mr. DeBaets killed his neighbor because he believed the neighbor's dog urinated on his newspaper. It was the culmination of a long-running feud over pets, parking, and noise. Prior to this crime, Mr. DeBaets had completed a bachelor's degree in physics and math and had conducted advanced research on semi-conductors, infrared lasers,

silicone and light-emitting diodes. It is remarkable that a person of such intelligence and education would decide to murder his neighbor for such a silly reason.

I am troubled that Mr. DeBaets minimizes his responsibility for the murder. He claims he did not pull the trigger and calls this murder an "accident." He justifies killing his neighbor because of the feud that had endured for years and says he believed his wife was in "mortal danger." He also blames his wife's behavior, saying, "I don't know why she was out there. I told her he was looking for a fight, but she had to go pick a fight." Mr. DeBaets told the psychologist he committed this crime because he was "afraid of him and of my heart condition." He cites having had two heart attacks and being told that he needed open-heart surgery and needed to minimize the stress in his life. He also blames the wine he drank earlier in the evening and his sensitivity to alcohol because his great grandmother was "full blooded Cherokee."

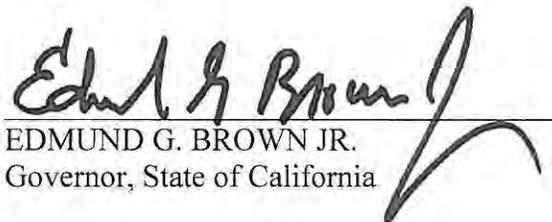
Mr. DeBaets's continued insistence that he did not pull the trigger and the gun discharged accidentally strains credulity and defies the laws of physics. He harbored a deep-seated grudge against his neighbors, and has accused Mr. Myslinski of being a bully and drug dealer, of poisoning his dog, following his daughter to and from school, and trying to run over Mr. DeBaets with his car. It is difficult to believe that after retrieving his loaded revolver and pointing it at Mr. Myslinski, he did not in fact fire the weapon by his own volition. Mr. DeBaets casts about for other excuses, such as the wine he drank and his heart condition. But the record discloses that he was not intoxicated, and shooting your neighbor to relieve stress makes little sense. These self-serving explanations indicate to me that he seeks to deflect any blame and wrongdoing from himself.

It is clear that Mr. DeBaets does not yet understand how he became so enraged over a wet newspaper that he killed his neighbor. The psychologist who evaluated Mr. DeBaets concluded he is "remarkably unsophisticated about his psychological issues," has "only limited insight into his anger, which is generally over-controlled" and "little insight into how his beliefs (which have a clear paranoid lean) impacted his emotional experiences (fear as well as anger) and led to the commitment offense." I agree. Until Mr. DeBaets has sufficiently explored and worked through all this, I am concerned he will act out violently again if he encounters a stressful situation.

CONCLUSION

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

Decision Date: November 2, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

MARSHALL FIELD, C-13607

Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

X

STATEMENT OF FACTS

On November 15, 1979, Marshall Field met his ex-girlfriend, Sarah Preuitt, and her friend, Leslie Freitas, in a parking lot. Mr. Field and Ms. Preuitt spoke briefly, and Ms. Preuitt got into her car to drive away. Mr. Field maneuvered his pickup so that his driver's door was next to Ms. Preuitt's door, got out of his truck, and told her that he was going to kill himself. She told him he was being foolish and put her keys in the ignition to leave. Mr. Field retrieved a hunting rifle from under the seat of his truck and used it to motion for Ms. Preuitt to get out of her car. She ran into the middle of the parking lot, and attempted to wave down a passing car. Mr. Field motioned with his rifle for the car to keep moving, and it drove on. Ms. Preuitt then turned to Mr. Field and said, "If you are going to shoot me, go ahead." Mr. Field raised the rifle to his shoulder and shot Ms. Preuitt twice in the chest. He approached Ms. Freitas, who was still in the car, and said, "I did it because I love her," and left.

Mr. Field committed a similar crime just four years earlier. In May 1975, he got a revolver, walked into to a different ex-girlfriend's high school art class, and told her get outside or he would blow her brains out. When the teacher intervened, Mr. Field pointed the gun at him and told him he would blow his brains out. Mr. Field then forcibly took his ex-girlfriend out of the classroom where they encountered the principal and another teacher, who tried to reason with Mr. Field. In response, Mr. Field pointed his gun at them and continued to the parking lot. In the parking lot, he pulled his ex-girlfriend by her hair and forced a student at gunpoint to get out of his car. The police arrived, and he brandished his gun at them. When his ex-girlfriend pushed his gun away, a struggle ensued. Mr. Field pointed the gun at her torso and pulled the trigger. Thankfully, the gun malfunctioned and did not fire. Mr. Field pled guilty to kidnapping and spent three years in prison. He was paroled in June of 1978. Before murdering Ms. Preuitt the following year, he beat her several times and threatened her family, including two toddlers.

GOVERNING LAW

The question I must answer is whether Mr. Field 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. Field suitable for parole based on his institutional programming, length of time since the offense, psychological evaluation, age, and parole plans.

I acknowledge Mr. Field has made efforts to improve himself while incarcerated. He earned a General Business Certificate, completed vocational programs, and earned satisfactory to exceptional work reports. He has participated in self-help programs related to substance abuse and anger management. I commend Mr. Field for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

The murder Mr. Field committed was senseless and disturbing. He ordered his girlfriend out of her car at gun point. Panicked, she sought assistance from a passing car, but Mr. Field prevented them from stopping by threatening them with his rifle. He then shot his unarmed girlfriend twice at close range, killing her. This murder is even more disturbing because it was not an isolated event. His attempt to kill his previous girlfriend and his abuse of Ms. Preuitt before the murder demonstrate a pattern of serious violence against women.

Mr. Field minimizes the extent of his abusive and violent behavior. He told the Board that he never hit his girlfriends. He said that during his relationship with Ms. Preuitt, the most he did was grab her arm and that both of them threw things. He told the Board that he was not a jealous person and wasn't angry at Ms. Preuitt. He said he wanted her to settle down so they could have a traditional household, but that she was not following his "leadership." He claims that he will no longer be controlling and now knows that "this isn't the 1800s where women need a protector." He told the Board that he did not intend to kill his first girlfriend, but that he only wanted to talk to her parents, who had told authorities of his substance abuse, resulting in a parole violation. These claims are not credible. Multiple witnesses reported that Mr. Field beat Ms. Preuitt on several occasions and threatened her family. Mr. Field's statements also indicate that he has not gained a sufficient understanding of the personal problems that contributed towards his repeated violence against women.

The psychologist who recently evaluated him observed, "Mr. Field clearly had significant interpersonal problems in society, and issues with power, control, and dependency. His willingness to use force and violence in intimate relationships is obvious. What is less clear is how he will handle rejection, frustration, and relationship demands in the future." I agree. The fact that he was driven to carry out the same type of crime twice in four years indicates deep problems with anger and control in relationships. The fact that he does not understand the extent of his domestic violence in those relationships does not instill confidence that he has overcome the issues that led to Ms. Preuitt's murder.

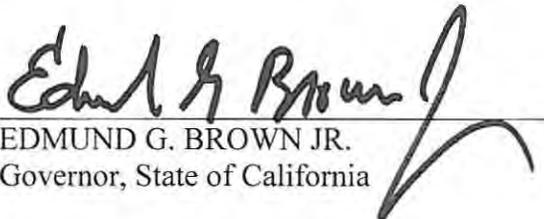
I am also troubled by Mr. Field's recent disciplinary action. He has been disciplined for serious misconduct six times in the past decade. He was disciplined in 2005 for secreting two razor blades in a belt buckle and received five serious disciplinary actions in 2003 for refusing housing

assignment changes and refusing to lock up for count. His explained that his misconduct was due to his complacency and health problems. But medical issues and complacency do not explain these actions. This misconduct indicates that Mr. Field still has a problem with authority and is still willing to break the rules when he feels he is entitled to something.

CONCLUSION

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

Decision Date: November 2, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JEFFREY INGLETT, C-61771

First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On April 8, 1982, Jeffrey Inglett and Dennis Marsh entered the home of 86-year-old Anna Weerts to steal money, after a night of partying. When confronted by Ms. Weerts, Mr. Inglett grabbed her and told her not to scream. Ms. Weerts screamed and in response, Mr. Inglett slit her throat. Mr. Inglett also struck her in the head with a hammer and then Mr. Inglett and Mr. Marsh stabbed Ms. Weerts more than 90 times. After placing Ms. Weerts on her couch, Mr. Inglett set fire to her hair. He also set fire to the house when they left.

GOVERNING LAW

The question I must answer is whether Mr. Inglett 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. Inglett suitable for parole based on his participation in self-help and vocational training, age, parole plans, and psychological evaluation.

I acknowledge Mr. Inglett has made efforts to improve himself while incarcerated. His work record in the Prison Industry Authority is extensive and he has completed some self-help programming. He earned his high school equivalency certificate and a paralegal certificate in prison. He dropped out of a prison gang and has not been disciplined for serious misconduct since 1995. I commend Mr. Inglett for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

It is difficult to imagine a more callous and disturbing crime than Mr. Inglett's. He viciously attacked a harmless and vulnerable 86-year-old woman in her own home while he was trying to rob her. He grabbed her, slit her throat, hit her head, and then stabbed her many times. He also

insisted that Mr. Marsh stab the dead body. Once they had finished stabbing Ms. Weeks over 90 times, Mr. Inglett lit her body on fire and burned the home.

Mr. Inglett has not adequately explained his reasons for carrying out this vicious crime. Mr. Inglett told the Board that he committed the murder because he did not want to be stopped in his robbery attempt, wanted validation from his friends, didn't care about himself or others, and was motivated by peer pressure. He claims that he stabbed Ms. Weeks so many times because he was "ashamed of finding myself in that position of committing another crime" and "projected" the "shock and anger" of being involved in another crime and getting into trouble again on Ms. Weeks. These reasons do not adequately explain the unnecessary and extreme rage and violence he unleashed against Ms. Weeks. Mr. Inglett did far more than simply incapacitate her during the robbery. Mr. Inglett was not motivated to kill Ms. Weeks out of peer pressure or encouraged to do so by his friend. In fact, it was Mr. Inglett who forced Mr. Marsh to participate in the stabbing. And the fact that Mr. Inglett was upset with himself for committing another robbery does not explain why he stabbed Ms. Weeks over 90 times. Mr. Inglett's simplistic and incomplete reasons for the murder lead me to believe he does not fully grasp the severity of his violent actions or the reasons behind them. Until he shows he shows an adequate understanding of these issues, I find that he continues to pose a risk of further violence if released on parole.

CONCLUSION

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

Decision Date: November 2, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

RICHARD MACKENZIE, J-76688
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On October 8, 1993, twenty-two year old Richard MacKenzie and a friend met two fifteen year old girls, Patricia Montalvo and Brenda Arellano, and invited them on a double date. The date did not go well. Mr. MacKenzie had been drinking and trying to impress the girls by displaying his gun. Ms. Montalvo and Ms. Arellano decided to leave. As they walked home, Mr. MacKenzie apologized and offered to drive the girls home. Inside the van, Mr. MacKenzie became hostile and repeatedly accused Ms. Arellano of ignoring him. She repeatedly denied it and finally responded, "I am not ignoring your fucking ass." Mr. MacKenzie demanded that his friend pull over to the curb and ordered the girls out of the van. As they exited, he spat on Ms. Arellano, called them "bitches" and stated he did not like to be ignored. Ms. Montalvo said "fuck you guys," and Mr. MacKenzie responded, "shut up you short bitch before I cap you in the head." The two girls walked away. As the van pulled away, Mr. MacKenzie fired four to five times at the two girls. Ms. Montalvo was struck in the back of the head and back. She died from her gunshot wounds. Ms. Arellano was not struck by any bullets.

GOVERNING LAW

The question I must answer is whether Mr. MacKenzie 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

At a Board hearing held on June 6, 2012, the panel issued a split decision. One panel member voted to deny parole based on Mr. MacKenzie's canned and rehearsed responses conveying an artificial affect, a lack of conscience, insincere remorse, and limited insight. The other panel member found Mr. MacKenzie suitable for parole based on his insight and remorse, discipline-free prison record, vocational upgrades and self-help programming, mental health treatment, positive psychological reports, and parole plans. Mr. MacKenzie was found suitable for parole following a vote of the full Board on July 17, 2012.

I acknowledge Mr. MacKenzie has made efforts to improve himself while incarcerated. He completed three vocations and has never been disciplined. He has participated in several self-help groups, including Alcoholics Anonymous, Alternatives to Violence Project, Anger Management, Long Term Commitment Group, and Breaking Barriers. He participated in mental health services from 1996 through December 2009 and reportedly no longer experiences psychiatric or depressive symptoms. Mr. MacKenzie has also volunteered as a caregiver for inmates in hospice. I commend Mr. MacKenzie for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. MacKenzie committed a truly abhorrent crime. He brutally murdered a promising young student and nearly killed her friend because he did not like being ignored by them. The girls posed no threat whatsoever and indeed sought to get away several times. As he explained to the Board, "I wanted them to feel all the pain, all the frustration, my anger, and in essence, I wanted to show that I was somebody and they were the ones that didn't matter." He described feeling "shocked" and "relie[ved]" after pulling the trigger. I am troubled that he would unleash such explosive and senseless rage for such a trivial reason.

It is evident that Mr. MacKenzie has not fully realized or resolved his reasons for committing this murder. He claims he was unhappy in his marriage because his wife did not appreciate and admire him, and he responded by straying outside the marriage and drinking. He flew into a rage when he didn't receive admiration and respect from Ms. Montalvo and Ms. Arellano either. He told a psychologist in 2012 that "all was ok in life as long as I got what I wanted. I was only concerned about me." The psychologist who evaluated him found he demonstrated adequate insight into his behavior. I disagree.

Mr. MacKenzie readily acknowledges that he was selfish, immature, and cared only about his wants and needs, but he is unable to explain why it was so important for him to impress two fifteen year old girls, and why he was willing to lash out with deadly violence after he did not get his way. He claims he harbored suppressed feelings of frustration and anger from his failing marriage and earlier childhood experiences, but that does not explain why he would direct his rage at these two young ladies. Until Mr. MacKenzie has sufficiently explored and worked through all this, I am concerned he will act out violently again the next time he encounters rejection or feels insecure or disrespected.

Mr. MacKenzie has suffered from serious mental health issues. He attempted suicide in jail and was hospitalized for several years due to paranoid delusions, auditory hallucinations, and depression. He was diagnosed with a psychotic disorder and at one point believed that Ms. Montalvo had been a gang member and that other gang members were threatening to kill him in retaliation for his crime. He reported to a psychologist in 2010 feeling paranoid around the time of the crime. He believed that a rival newspaper vendor was trying to kill him because he had reported to police that the rival vendor was stealing news racks. Doctors now indicate he has made significant progress and no longer experiences psychiatric or depressive symptoms. But at his Board hearing, Mr. MacKenzie described once again that he had received death threats from a rival news vendor and that he carried a loaded handgun for protection because police were

unable to help him. It is troubling that Mr. MacKenzie still believes in paranoid delusions from his past. Mr. MacKenzie also seemed hostile to taking psychiatric medications, claiming that “I was using the psychiatric meds as a form of self-medication, just like alcohol” and that “I was trying to numb myself ... to avoid dealing with the issues at hand.” I note that in 2006, Mr. MacKenzie tried to discontinue these medications, but the paranoia and hallucinations returned. He resumed taking these medications until September 2009. Mr. MacKenzie’s statements raise concerns about his current mental state and his willingness to abide by appropriate mental health treatment.

CONCLUSION

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

Decision Date: November 2, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ANTONIO PEREZ, D-66866

First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Carlos Porras was last seen alive on January 4, 1986. Three days later, a witness saw Antonio Perez parking Mr. Porras's car. The next day Mr. Perez, Stella Gomez, and a third person went to Mr. Porras's house. Using Ms. Gomez as a translator, Mr. Perez told Mr. Porras's neighbor that Mr. Porras was in a Mexican jail on drug charges. Mr. Perez later contacted Mr. Porras's neighbor several times asking for \$1,500 in exchange for getting Mr. Porras's car back from Mexico. Later that month, police found Mr. Porras's car where Mr. Perez parked it. Mr. Porras's wallet and identification were inside. Police arranged a meeting between Ms. Gomez and Mr. Porras's neighbor. Ms. Gomez was detained and she told police where to find Mr. Perez. Mr. Perez gave conflicting explanations for having Mr. Porras's car. He was arrested on immigration charges and deported, but returned to the United States. On February 25, 1986, authorities found Mr. Porras's decomposed body in a canal. He died of injuries consistent with blows to the head. A month later police arrested Mr. Perez for murder. He was the only person convicted of the crime. Mr. Perez maintains his innocence.

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.)

DECISION

The Board of Parole Hearings found Mr. Perez suitable for parole based on his criminal history, stable social history, lack of in-prison discipline for violence, employment in prison, age, parole plans, and the presence of some remorse, acceptance of responsibility, and self-help classes.

I acknowledge Mr. Perez has made some efforts to improve himself while incarcerated. He has not received a serious disciplinary report since 1999, and none of his infractions were violent. He has held several institutional jobs and taken basic education classes. Mr. Perez has also

participated in self-help programming, including Alcoholics and Narcotics Anonymous and three health classes. I commend Mr. Perez for taking these positive steps. But they are outweighed by negative factors that show he remains unsuitable for parole.

Mr. Perez committed a brutal murder for unclear reasons. The autopsy report shows the victim had head lacerations and several compound fractures.

Mr. Perez told the psychologist who evaluated him in 2010 that Mr. Porras died of a heroin overdose and he only “cover[ed] up for [his] friends.” In 2012, he told the Board he was an “accomplice” who “wanted to do the right thing with [Mr. Perez],” his friend. This is not credible. Mr. Perez has not explained what specifically he did as an “accomplice.” I do not believe he is being honest about what he knows about Mr. Porras’s murder. Even if I accept his dubious claim that Mr. Porras died of a heroin overdose and that he did not witness Mr. Porras’s death, it is not plausible Mr. Perez would get involved in such a serious situation without knowing how and why Mr. Porras was beaten and dumped in a canal. I also do not believe Mr. Perez when he says he did not try extract money from Mr. Porras’s neighbor because it contradicts eyewitness and police accounts.

The psychologist opined Mr. Perez lacks insight into the causes of the crime, noting that his elevated overall risk of violence score may be reduced when he decides “to fully disclose what he knows about the homicide and acknowledge[s] his responsibility, [and] by his development of insight into his antisocial behavior.” I agree. I also note Mr. Perez was found to be in the moderate range of psychopathy and violent recidivism, and in the medium range for general recidivism. Two of these elevated scores resulted partly from Mr. Perez’s lack of insight. I cannot be assured it is safe to release him until he shows that he understands and has addressed the issues that caused him to commit this crime.

I am troubled by Mr. Perez’s minimal self-help programming during his 25 years in prison. He has only attended a combined Alcoholics and Narcotics Anonymous class for four months in 2011, and taken three health classes in 1998 and 1999. I find his failure to participate in more self-help courses indicates that he is not committed to learning about who he is and how he needs to change given his murder conviction. I acknowledge Mr. Perez required a Spanish language interpreter during meetings with his psychologist and the Board. However, he took literacy classes for about two years and in 2002 he tested above the fifth-grade level in reading, above the ninth-grade level in language, and above the sixth-grade level overall. I concur with the psychologist that Mr. Perez’s “development of basic English skills suggests that he is capable of participating in self-help programming at least to a minimal degree.”

Antonio Perez, D-66866

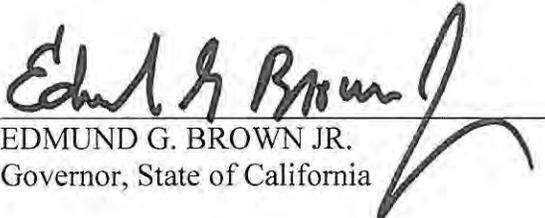
First-degree murder

Page 3

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 I have discussed shows why he currently poses a danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Perez.

Decision Date: November 2, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

THOMAS OWEN, D-14332
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On May 15, 1983, Thomas Owen and Arthur Jacobs entered the home of Jean Shingrin. They found Ms. Shingrin's 20-year-old daughter, Lise, in the den. Ms. Shingrin was woken by screams from Lise for the men to leave her alone and get away from her. Ms. Shingrin went to help her daughter but was grabbed by Mr. Jacobs before she could get there. She broke away from Mr. Jacobs and ran into the den. There, she saw Mr. Owen beating Lise with a shotgun. Ms. Shingrin spread her body over Lise and was stuck by Mr. Owen eight to ten times. Ms. Shingrin was flailing and kicking at Mr. Owen from the floor when Mr. Owen shot Lise twice, blowing off the top of her head and killing her. Mr. Owen and Mr. Jacobs fled. Ms. Shingrin lost consciousness after they left the home, but survived. Her neighbor was alerted of the ruckus by his son-in-law. While the neighbor came to check on the Shingrins, his son-in-law followed Mr. Owen and Mr. Jacobs in his vehicle and clearly saw one of the men in his headlights.

Ms. Shingrin was later able to identify both men. Her neighbor's son-in-law worked with a sketch artist to prepare of the composite of the man he had seen in his headlights that closely resembled Mr. Jacobs, and later identified Mr. Owen in a photographic lineup. A friend of Lise testified that she recognized Mr. Jacobs as someone who frequented bars with Lise. A couple testified that they had seen Lise, Mr. Owen, and Mr. Jacobs at the home of Mr. Jacobs's mother and saw Lise's car at the house quite often. Mr. Owen also made incriminating statements to his cellmates while he was in jail awaiting trial. Mr. Owens told one he planned to use a false alibi, claiming that he was at work on an offshore oil platform the entire day. But he divulged that it was really quite simple to come and go from the platform to the mainland. Mr. Owen confessed to the same inmate that Mr. Jacobs picked him up and they went to Lise's home to talk with her. He reported that he took a shotgun to scare her, but a fracas ensued when Lise became hysterical and her mother came running into the room. He said that they ran from the house, but were followed and "hollered at," and Mr. Jacobs took him back to work. Mr. Owen's supervisor testified that company records indicated that Mr. Owen was at work when the crime occurred. Mr. Owen told another inmate a similar story and implied that the visit to Lise was drug-related.

GOVERNING LAW

The question I must answer is whether Mr. Owen 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. Owen suitable for parole based on his age, insight, institutional work record, parole plans, and lack of violent history.

I acknowledge Mr. Owen has made efforts to improve himself while incarcerated. He earned an associate's degree in 2007. He has participated in self-help programming related to substance abuse and anger management. He was named Clerk of the Year in 2000 and has earned positive work evaluations. He has not been disciplined for serious misconduct in over nine years. I commend Mr. Owen for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Owen's crime was senseless and vicious. After invading the Shingrin home, Mr. Owen cruelly beat Lise with his shotgun. When her mother flung herself over her daughter to protect her, Mr. Owen beat her too and then shot Lise twice in the head.

I find Mr. Owen's denial of the murder unbelievable given the evidence showing his culpability. Mr. Owen challenged his conviction without success. The Court of Appeal concluded in 1987 that the evidence of Mr. Owen's guilt was "overwhelming." Mr. Owen's denial has placed him in a position to never examine the factors that led to his violent behavior. The psychologist who evaluated Mr. Owen in 2009 found his answers "rehearsed" and his understanding of himself to be "extremely superficial." She indicated that, "he appears to be hiding himself from the examiners and presenting what he believes to be an acceptable façade." She continued, "there is no discernible depth of insight or remediation of distorted ways of thinking and behaving."

Despite his positive record in prison, Mr. Owen still has a moderate risk of violence because of his failure to come to terms with his actions. Mr. Owen's insight has not progressed since the Board's last denial of parole, which the Court of Appeal found was supported by evidence in 2010. The Board's decision was upheld in part because of Mr. Owen's "absence of insight as illustrated by the inmate speaking out of both sides of his mouth—claiming moral anguish from his misdeed while at the same time claiming he never committed the killing, aggravated assault and firearm use."

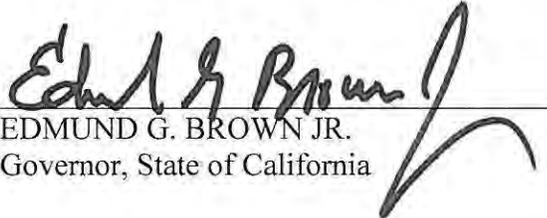
Despite Mr. Owen's extensive history of substance abuse and his participation in substance abuse programming in prison, he has yet to articulate a significant understanding of why he started drinking and using drugs so young. He started drinking at the age of twelve and soon started smoking marijuana. His drinking escalated to six beers and hard alcohol on a daily basis. He tried methamphetamine and used cocaine regularly, and even sold cocaine to support his habit. He blames low self-esteem in childhood on his mother yelling at him because she was hormonal. At his hearing, he blamed his drug use on his lack of parental supervision. I agree with the psychologist's observation that "he doesn't know, or will not discuss, why he disliked

himself as a child.” He makes little effort to better understand what led him to start abusing substances in the first place. His deficient understanding of the reasons behind his alcohol and substance abuse gives me further concern that he would not be safe for release at this time.

CONCLUSION

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

Decision Date: November 9, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ABEL SAPP, H-09105

First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Abel Sapp met Sue Eslinger at her apartment complex pool and the two spent the weekend drinking heavily and having sexual relations. Ms. Eslinger's roommate, Sandra Swiggard, was out of town. The following morning, Ms. Eslinger went out of town and Ms. Swiggard returned. Mr. Sapp stopped by to visit Ms. Eslinger. Ms. Swiggard let him in and the two watched a movie. As they discussed one of the characters in the movie, Ms. Swiggard stated, "you're gay aren't you?" Mr. Sapp denied it. The conversation continued and Ms. Swiggard again voiced her belief that he was gay. According to Mr. Sapp, he became enraged and frightened that Ms. Swiggard would disclose this information to others. He picked up a decorative rock and struck Ms. Swiggard in the head while her back was turned. He then choked her and cut her throat with a knife. Ms. Swiggard died of asphyxiation. Mr. Sapp took some of her belongings and left. He was arrested August 21, 1990.

GOVERNING LAW

The question I must answer is whether Mr. Sapp 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. Sapp suitable for parole based on his remorse and insight, acceptance of responsibility, prison conduct since 2001, educational and vocational upgrades, self-help programming, psychological report, age, and parole plans.

I acknowledge Mr. Sapp has made efforts to improve himself while incarcerated. He earned his high school equivalency certificate, completed a vocational program, taken fifteen college credits, and has held several institutional jobs. Mr. Sapp has participated in some self-help programming, including Alcoholics and Narcotics Anonymous, Conflict Management, and

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

Mr. Sapp's crime was brutal and horrific. Because of an innocuous comment made about his sexual orientation, he struck Ms. Swiggard over the head when her back was turned to him, strangled her, and then cut her throat to make certain she was dead. He fled and was apprehended a week later. The motivation for this murder and the way it was carried out demonstrate a cruel and callous disregard for human suffering.

I am troubled that Mr. Sapp does not fully understand his reasons for murdering Ms. Swiggard. He told the psychologist who evaluated him in 2012 that he killed Ms. Swiggard because he became enraged and frightened by her comments, noting "I felt like she was going to say something to somebody and I had to stop her from telling anybody." He now realizes that she was potentially joking with him and had no real concern for his sexual orientation. He explained that he grew up in a religiously oriented community that was hostile to his sexual orientation, and he grew ashamed of being gay and fearful that he would be discovered. He engaged in promiscuous sexual activity with both male and female partners, often under the influence of drugs or alcohol, to reduce feelings of "self-loathing." Mr. Sapp states that he had refused to discuss his motives for killing Ms. Swiggard for years because of his reluctance to discuss his sexual orientation. He finally came to terms with being gay in 2008 when he disclosed this fact to his sister, and he now states that he has learned to accept his sexual orientation.

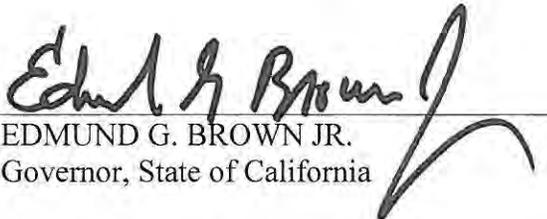
Mr. Sapp's explanations reflect a superficial understanding of his motivations. His assertion that he was afraid Ms. Swiggard would expose him makes no sense given his numerous casual sexual encounters, each of which risked revealing his sexual orientation to others. He does not convincingly explain why Ms. Swiggard's comments triggered such explosive rage. He doesn't really explain why longstanding insecurity about being gay all of a sudden exploded in such deadly violence against Ms. Swiggard. Until Mr. Sapp has sufficiently explored and worked through all this, I am concerned he is capable of another extreme overreaction the next time he encounters a stressful or emotionally volatile situation.

The psychologist concluded that "Mr. Sapp's current willingness to directly address what may well be a relevant factor is commendable but still potentially fragile and susceptible to unanticipated stress," noting that his sustained participation in self-help programming and willingness to openly address his sexual identity only began in the last few years. I see that Mr. Sapp hasn't taken many self-help programs, and I encourage him to continue exploring the causes of his violent overreaction and to better develop coping skills necessary to handle negative emotions and stresses through further programming.

CONCLUSION

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

Decision Date: November 16, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ROBERT DUREN, B-24120
Five counts first-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On January 16, 1969, Robert Duren went into a liquor store, shot David Munoz in the head with a .22 caliber gun and stole approximately \$3,000 from the cash register. Mr. Munoz died from the gunshot wound.

On January 28, 1969, Mr. Duren went into another liquor store, pulled a gun on Samuel Hahn and demanded money from the cash register. The owner, Ben Dreskin, was standing nearby and told Mr. Hahn to give him the money. Mr. Duren went over to a customer waiting for service, O.B. Hunt, and shot him in the neck. He walked over to Mr. Dreskin, shot him in the head, then turned around and shot Mr. Hahn. Mr. Hahn used a steel chair to protect himself and was not injured. Mr. Dreskin and Mr. Hunt both died.

On January 29, 1969, Mr. Duren went to Rosie's Café. He ordered a meal then shot the owners, Ryoso and Misao DeVinna, in the forehead and cheek. The cash register was open and empty. The couple died.

On February 1, 1969, Mr. Duren walked into a market and pointed a gun at the owners Mr. and Mrs. Cefter, and demanded money. Mr. Cefter followed Mr. Duren's instructions. Mr. Duren turned to Mrs. Cefter and told her that she was lucky before he left.

On February 8, 1969, Mr. Duren went to another market. While checking out, he pulled a gun on the clerk and instructed her to put money in a bag. He threatened to shoot her several times. She put about \$200 in the bag and Mr. Duren walked out of the store.

Mr. Duren was arrested on February 28, 1969 because he went into a bar with a gun. He was convicted by a jury of five counts of first degree murder, two counts of robbery, and assault with intent to murder, and sentenced to death. In 1973, the California Supreme Court overturned Mr. Duren's death sentence and modified the judgment to life imprisonment with the possibility of parole. This modification was not made on the basis of the merits of Mr. Duren's appeal, but rather on the Court's holding that the death penalty violated the state constitutional provision against cruel or unusual punishment. (*People v. Duren* (1973) 9 Cal.3d 218 (citing *People v. Anderson* (1972) 6 Cal.3d 628.))

GOVERNING LAW

The question I must answer is whether Mr. Duren 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. Duren suitable for parole based on his remorse, age, substance abuse programming, time since his last disciplinary action, parole plans, psychological evaluations, and educational accomplishments.

I acknowledge Mr. Duren has made efforts to improve himself while incarcerated. He has served over 43 years in prison. He has not been disciplined for misconduct in over thirty years, earned a Bachelor's degree, and participated in some self-help programming, including Alcoholics Anonymous, Breaking Barriers, group therapy, and re-entry programs. Supervisors routinely gave him above average and exceptional work ratings. He also suffers from some medical conditions and has been medically disabled since 2003. I commend Mr. Duren for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Duren's crimes were absolutely horrific. He indiscriminately shot and killed five innocent people in the course of his robberies. Mr. Duren demonstrated a cruel and callous disregard for human life when he planned these robberies and murders, calmly went into stores and cafes, forced the store clerks and owners to give him money from the registers, and dispassionately shot and killed five to ensure they would not identify him. These robberies continued for nearly a month. He aptly described himself as "animal-like" to the psychologist who evaluated him in 2009. As our Supreme Court has acknowledged, in rare circumstances, a murder is so heinous that it provides evidence of current dangerous by itself. This is such a case.

But there is more evidence that Mr. Duren remains dangerous. Notably, he explains killing these five strangers because he needed money, had problems with his wife, had low self-esteem, was drinking and gambling around the time of the murders, felt like a failure, and was cowardly, selfish, angry, and greedy. He says he grew up in a poor family and was abused by his mother. None of these explanations justify his actions. But he has not adequately described what it was about his personality that allowed him to set aside his humanity and coldly kill so many innocent strangers simply trying to do their jobs. Nor does he explain why he felt the compulsion to kill these people simply to hide his identity. Many people struggle financially and have trouble in

relationships. Far too many grow up poor and abused. But they do not turn to taking what is not theirs and killing any potential witnesses.

I am troubled that despite the fact that Mr. Duren has had serious struggles with substance abuse since the age of 19 and blames the murders in part on his substance abuse, he told the psychologist in 2012 that he was not vulnerable to any future use. He also had difficulty outlining many of the steps of his substance abuse program. This leads me to question Mr. Duren's commitment to maintaining his sobriety.

Mr. Duren's risk scores elevated risk scores support my concerns. In 2009, the psychologist rated him an overall moderate risk of violence, a moderate risk of violent recidivism, and in the moderate range of psychopathy.

While Mr. Duren has clearly made progress in his time in custody, he still has some work to do. I am not prepared to release him until he can better explain why he murdered five strangers and can persuasively convey his commitment to sobriety. I note that Mr. Duren has somewhat limited self-help participation in light of his long term incarceration, and I encourage him to continue exploring the factors the led to his criminal behavior and substance abuse.

CONCLUSION

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

Decision Date: November 21, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JOHN ROSE, C-96535

First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On April 29, 1983, John Rose, Phillip Walz, and Richard Perez were driving around looking for someone to rob. Mr. Walz spotted Michael Herr in his garage. Mr. Walz and Mr. Perez put on ski masks and each took a gun. Mr. Walz approached Mr. Herr while Mr. Perez went inside the home and confronted Mr. Herr's wife. Mr. Herr pulled off Mr. Walz's mask during a struggle and said, "I know your face." Mr. Walz shot him in the chest and head, killing him. Mr. Rose drove Mr. Walz and Mr. Perez away. Mr. Rose was the regular getaway driver for Mr. Walz and Mr. Perez, and was involved in at least ten other armed robberies with his friends within several months of the murder.

GOVERNING LAW

The question I must answer is whether Mr. Rose 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. Rose suitable for parole based on his remorse, age, lack of violent disciplinary actions in prison, vocational and educational improvements, positive work record, programming, and parole plans.

I acknowledge Mr. Rose has made efforts to improve himself while incarcerated. He has completed vocational programs in landscaping and small engine repair and has routinely received satisfactory to above average work ratings. He has taken some self-help programming and has not been disciplined for violent misconduct in over 29 years in prison. I commend Mr. Rose for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Rose was involved in a violent crime spree over the course of several months. He and his friends terrorized the community by invading homes, threatening and assaulting many, taking their belongings, and ultimately killing Mr. Herr.

Mr. Rose has only superficial insight into his reasons for participating in these crimes. He claims he had poor judgment, weakened inhibitions because of his drug and alcohol use, was susceptible to peer pressure, and was motivated by money. He says he was immature, selfish, and had no respect for people, property, or the law. These are all true. But, Mr. Rose does not explain what it was about his own past or personality that made him such a willing and active participant in such serious crimes. The psychologist who evaluated him in 2012 said Mr. Rose “continues to demonstrate little empathy and limited self-awareness of his own thoughts, feelings, and motivations, both in regards to his criminal activity as well as his substance dependence.” Until Mr. Rose is better able to explain his internal motivations for committing these crimes, I am not prepared to release him at this time.

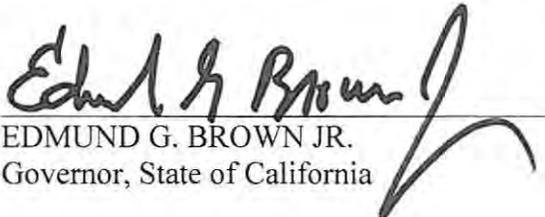
I am also troubled by Mr. Rose’s involvement in the Supreme White Power group in prison. He admitted his participation with the white supremacist group in 2007. His affiliation with this group demonstrates that Mr. Rose continues to be committed to criminal and violent activity, is not yet willing or able to turn away from negative peers, and is not ready to re-enter the community.

Mr. Rose’s elevated risk scores support my concerns. In 2009, the psychologist rated him an overall moderate to high risk of violence, a high risk of general recidivism, and in the moderate range of psychopathy and violent recidivism. These risk ratings were based in part on his “limited insight into the extent of his dangerousness and addictive behavior, and negative attitudes towards the law and authority.” The clinician who evaluated Mr. Rose this year indicated that his risk for future violence remains unchanged. I note that Mr. Rose has limited self-help participation, and I encourage him to continue exploring the factors that led to his criminal behavior and substance abuse through further programming.

CONCLUSION

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

Decision Date: November 21, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DALE CRAWFORD, E-16296
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Dale Crawford's wife Theresa Crawford had been seeing her previous boyfriend, Scott Cox. On February 6, 1988, Theresa's body was found buried under a pile of tires in a remote, muddy area. She died from blows to the head by a blunt instrument. Theresa was last seen alive at 5:00 p.m. on February 5th, getting into Mr. Crawford's truck. Three hours later a witness saw Mr. Crawford washing large amounts of mud from his truck. Blood stains were found in the Crawford's bathroom and bedroom and on the front door. A criminologist testified that the blood stain on the front door molding was consistent with someone being carried out of the house or walking out on her knees, and a pathologist testified there had been a six-to-ten-inch pool of blood in the bedroom. A neighbor testified seeing Mr. Crawford on the night of the murder attempting to clean a three-foot stain on the carpet between the bedroom and the bathroom. Leather gloves found in Mr. Crawford's truck had blood stains consistent with Theresa's blood type, rubber particles consistent with tire rubber, and fibers similar to jeans found on Theresa's body. Police arrested Mr. Crawford on May 2, 1988. He has consistently denied killing his wife and has suggested that Mr. Cox murdered Theresa.

Mr. Crawford has a history of violence against Theresa. In November 1987, Mr. Crawford showed up at Mr. Cox's house with a rifle. A neighbor heard Mr. Crawford threaten to kill Mr. Cox and saw Mr. Crawford grab Theresa by the throat and pull her into his truck before leaving with her. That same month Mr. Crawford told another neighbor that he had just hit Theresa during an argument. The neighbor found Theresa crying and with blood on her face. In January 1988, a man working across the street from the Crawford residence saw Mr. Crawford chasing a woman who lived at the house. Mr. Crawford caught her and dragged her back to the house and kicked her in her legs and back. A week before the murder, Mr. Crawford told a neighbor he would kill Theresa if she left him for Mr. Scott.

GOVERNING LAW

The question I must answer is whether Mr. Crawford 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. Crawford suitable for parole based on the empathy and coping skills he showed at the hearing, his lack of criminal history and in-prison discipline, psychological report, parole plans, age, and self-help, including book reports.

I acknowledge Mr. Crawford has made efforts to improve himself while incarcerated. He has never received a serious disciplinary report, and he was last counseled for minor misconduct over 10 years ago. He has also held various institutional jobs. Mr. Crawford has participated in self-help programming, including Conflict Management, Anger Management, Alternatives to Violence Project, Change Your Life Strategies, Personal Health Assessment and Self-Energizing System, Emotional Awareness/Emotional Healing, and Insight and Anger Management. I commend Mr. Crawford for taking these positive steps. But they are outweighed by negative factors that show he remains unsuitable for parole.

Mr. Crawford's murder of his wife was brutal and horrific. He beat Theresa with a blunt object and buried her under a pile of tires. Mr. Crawford abused his position of trust with his wife and deprived Theresa's two children of their mother. This murder was the culmination of a series of violent incidents and threats against his wife.

I find Mr. Crawford's denial of the murder implausible given the extensive circumstantial evidence showing his guilt. In order to conclude that Mr. Crawford did not commit this crime, I would have to ignore evidence that he was the last person seen with Theresa, was observed a few hours later cleaning his muddy truck and blood stains in his house, had been violent with Theresa and threatened her life in the weeks before her death, and that gloves with blood stains matching Theresa's blood type were found in his truck. I note that Mr. Crawford challenged his conviction without success in the Court of Appeal. After considering Mr. Crawford's theory that Mr. Cox murdered Theresa, the court affirmed the conviction finding "abundant circumstantial evidence of [Mr. Crawford's] guilt." I am persuaded on this record that Mr. Crawford killed his wife. Though Mr. Crawford need not admit guilt to be granted parole, I am not required to accept his innocence claim in the face of significant evidence showing his culpability.

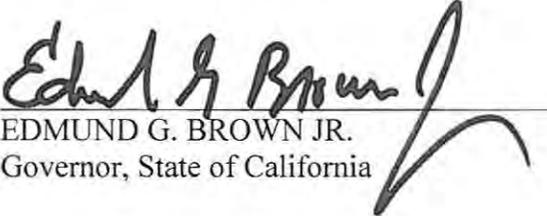
I am particularly concerned that Mr. Crawford minimizes his history of violence against Theresa. Mr. Crawford told the psychologist who interviewed him in 2012 he only hit Theresa once. When Mr. Crawford was first questioned by the 2012 Board he admitted he hit Theresa one time and was verbally abusive another time. It was only after extensive questioning that Mr. Crawford admitted he "grabbed [Theresa] and dragged her a little" on another occasion because she was going to break his truck window. The psychologist found Mr. Crawford's "recall of the problems in his marriage to his victim is selective and appears to ignore what would be seen by most others as some very obvious problems." The psychologist concluded Mr. Crawford "shows[s] remarkably little insight into the nature of his marital problems . . . or his reactions," "is ill-equipped to deal effectively with the type of conflict elicited in his marriage," and would

likely require “others’ intervention . . . to help him prevent similar problems.” Until Mr. Crawford has sufficiently explored and worked through the reasons he murdered and abused his wife, I cannot be assured that it is safe to release him from prison.

CONCLUSION

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

Decision Date: November 30, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DANI SHOPE, W-14538
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Dani Shope, her boyfriend Dean Noor, and friend James McCarter decided they would all go deer hunting. They borrowed a .30-.30 rifle. When they did not find any deer, they decided to look for cattle to shoot. Finding no cattle, Mr. Noor and Mr. McCarter discussed finding black people to shoot. They drove to the outskirts of Chico. Jimmy Campbell, a deaf black man, was walking along the street. Mr. Noor drove the pickup truck, with Ms. Shope in the middle and Mr. McCarter on the passenger side armed with a rifle. Mr. Noor drove up behind Mr. Campbell and urged Mr. McCarter to shoot him. Mr. McCarter fired a single shot, killing Mr. Campbell. They set out for an area they described as "nigger town." They came upon three black men standing next to a pickup. Mr. Noor drove up to the men, stopped the truck, and hailed them. He took the gun from Mr. McCarter, aimed and pulled the trigger. The rifle jammed, allowing the three men to flee. Mr. Noor drove off and they continued searching for another victim. They spotted a young black girl, Michelle King, walking on the street. Mr. Noor pulled within five feet of her and called out to her. As she turned towards him, he fired at her face. She was not struck by the bullet but received powder burns on her face. After dropping Mr. McCarter off at his house, Mr. Noor and Ms. Shope visited friends and relatives in several locations, smiling and bragging about killing two people. Ms. Shope told them, "It was so neat, you should have seen it," and explained that it was now her turn to "shoot a nigger."

GOVERNING LAW

The question I must answer is whether Ms. Shope 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. Shope suitable for parole based on her remorse, age, lack of serious disciplinary action since 1991, participation in substance abuse self-help, cultural awareness, and therapy, insight, and psychological evaluation.

I acknowledge Ms. Shope has made efforts to improve herself while incarcerated. She has participated in self-help programs including Alcoholics and Narcotics Anonymous, anger management, and therapy groups. She has participated in the Coalition for Cultural Awareness, served on the Women's Advisory Council, and learned sign language. She has been commended for having a positive attitude, teaching fellow inmates, helping others, being reliable, and respecting others. She has not been disciplined for serious misconduct since 1991. I commend Ms. Shope for taking these positive steps. But they are outweighed by negative factors that demonstrate she remains unsuitable for parole.

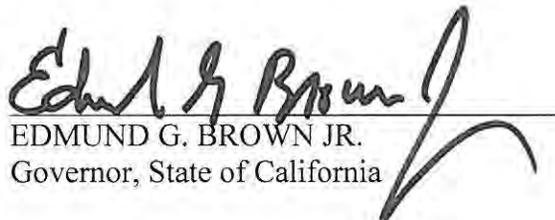
Ms. Shope was involved in a truly deplorable and horrific crime. She and her crime partners decided to hunt and kill their fellow human beings based on the color of their skin. They callously targeted unarmed, vulnerable, unsuspecting people on the streets and shot at them. They killed a deaf man, Mr. Campbell, tried to kill three others, and left gunpowder burns on young Ms. King's face. Their actions terrorized the entire community.

Ms. Shope does not adequately explain why she participated in such a shocking, race-motivated crime. She states that she was angry at life and in love with her boyfriend and was willing to do anything he asked. But this explanation understates her willing and active participation in these events. She egged on her crime partners, stating "let's go to deepest, darkest Africa." After the murder, she boasted about the shootings and stated that it was now her turn to "shoot a nigger." She has not delved into the extent of her racial animus and how it contributed to this repugnant, racially-motivated crime. Until she can give a better explanation for her actions, I am not prepared to release her.

CONCLUSION

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

Decision Date: November 30, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ROBERT WHALLEY, C-47594

Two counts second-degree murder

AFFIRM:

MODIFY:

REVERSE:

 X

STATEMENT OF FACTS

On June 22, 1981, sixteen-year-old Robert Whalley hosted a party in his mother's apartment. He began to argue with his girlfriend Brenda Baird after she threatened to break up with him. Mr. Whalley retrieved a stolen gun from behind a mattress and pointed it at Ms. Baird. In a struggle for the weapon, the gun discharged. Mr. Whalley's friend William Heinz rushed into the bedroom after hearing the gunshot. Mr. Whalley shot Mr. Heinz in the chest, killing him. Ms. Baird ran into the bathroom to hide and Mr. Whalley threatened to shoot himself unless Ms. Baird came outside. When she emerged, Mr. Whalley shot Ms. Baird in the arm. She ran back into the bathroom, but Mr. Whalley followed her and shot her in the neck, killing her as well. Mr. Whalley was arrested later that night.

GOVERNING LAW

The question I must answer is whether Mr. Whalley 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. Whalley suitable for parole based on having matured, his remorse, vocational and self-help programming, psychological evaluation, lack of disciplinary actions since 2000, and parole plans.

I acknowledge Mr. Whalley has made efforts to improve himself while incarcerated. He has worked in the shoe factory and in the optical field and earned above average and exceptional work ratings. He has started to participate in self-help programs including Alcoholics Anonymous, and anger management. He has not been disciplined for serious misconduct since 2000. I commend Mr. Whalley for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Whalley's crime was senseless and disturbing. When his girlfriend of three months told him she wanted to end their relationship, he responded by pointing a gun at her, and then shooting his best friend Mr. Heinz for trying to intervene. Rather than stop his horrific attack, he lured Ms. Baird out of the bathroom with the plea that he would shoot himself, and then mercilessly killed Ms. Baird instead. Mr. Whalley's willingness to take advantage of Ms. Baird's compassion for him reflects a callous disregard for human suffering.

It is clear Mr. Whalley does not yet understand the reasons for his actions. He minimizes his behavior by claiming he did not pull the trigger, stating to the Board that the gun discharged when Ms. Baird tugged at it in their struggle. When asked about the reasons he committed these murders, he references his use of alcohol, jealousy, and lack of hope, explaining that he had nothing positive in his life without the relationship. Mr. Whalley understands that he was distraught and immature, but he has not described what it was about his personality or past that led him to decide to kill his girlfriend and best friend in response to the breakup. Relationship woes and emotional turmoil are common for teens, yet most do not violently murder their peers.

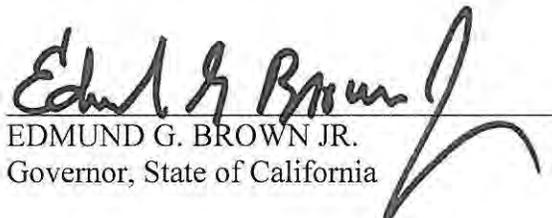
I am also troubled by Mr. Whalley's violent behavior since his incarceration. For the first twenty years of his prison term, he was disciplined for serious misconduct 44 times. The record reflects that Mr. Whalley fought frequently with inmates, manufactured and distributed weapons for white supremacist prison gangs, stabbed inmates, and attacked correctional officers. Despite this record of violence, he told the Board that he has never been a member of any prison gang and in fact has never done anything for a prison gang. He also told the Board that he made weapons for "regular guys, Peckerwoods, Skinheads." Whether or not Mr. Whalley is being candid with the Board or with gang experts about his involvement with prison gangs, I find his justification why he made weapons in prison unconvincing. He claims that he perpetrated these acts because he was scared of becoming a victim. Until he can better explain his extreme violence and aggression, I am not prepared to release him.

The record indicates that Mr. Whalley has only recently begun to address his long history of substance abuse. He began drinking and smoking marijuana at twelve. He used PCP several times and abused pharmaceutical amphetamines. He blames his double homicide in part on drinking two screwdrivers. He has been disciplined for possession of marijuana in 1995 and for possession of inmate-manufactured alcohol in 1985. He received an additional six year term for possession of marijuana in prison. I note that Mr. Whalley began his involvement in Alcoholics Anonymous in 2010. I encourage him to continue exploring the causes of his violence and addressing his substance abuse problem.

CONCLUSION

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

Decision Date: November 30, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ROGER PLANK, D-75871

Second-degree murder

AFFIRM:

MODIFY:

REVERSE:

 X

STATEMENT OF FACTS

Loretta Groat was in an intimate relationship with Sherman Giles. She became angry when she discovered that her nineteen year old daughter Jennifer Jones was having sex with Mr. Giles. Ms. Groat was also angered by rumors that Ms. Jones was molesting children she was babysitting. Ms. Groat decided to kill her daughter, and she enlisted the help of Roger Plank. Mr. Plank was upset with Ms. Jones because Mr. Giles, his landlord and boss, had moved Ms. Jones into his apartment. Ms. Jones was also messy and neglectful of her daughter.

On March 27, 1987, Mr. Plank furnished Ms. Groat with a 12-gauge shotgun that belonged to Mr. Giles. Mr. Plank also taught Ms. Groat how to bind Ms. Jones with rope while holding the shotgun. Ms. Groat went to her daughter's apartment and hog tied Ms. Jones. Ms. Jones pleaded with her mother to let her go and promised to give Ms. Groat custody of her child and to move away. Ms. Groat signaled for Mr. Plank to arrive by turning a light on in the apartment. They placed Ms. Jones in the trunk of Ms. Groat's car. Mr. Plank remained in the apartment while Ms. Groat drove to a nearby mine shaft, bringing Ms. Jones's young daughter along. Ms. Groat told Ms. Jones to say goodbye to her daughter and made her stand at the opening to the mineshaft. Ms. Groat shot her daughter twice. Ms. Jones fell down the eighty-foot mineshaft and died. Ms. Groat returned to the apartment. Mr. Plank burned Ms. Jones's clothes and returned the shotgun to Mr. Giles's home. He was arrested on April 2, 1987.

GOVERNING LAW

The question I must answer is whether Mr. Plank 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. Plank suitable for parole based on his positive prison behavior, lack of any criminal history, insight and acceptance of responsibility, psychological report, education and vocation improvements, self-help programming, age, parole plans, and the presence of significant stress in his life at the time of the murder.

I acknowledge Mr. Plank has made efforts to improve himself while incarcerated. He has only been disciplined once in 1992 and counseled five times for minor misconduct. He obtained his GED, completed a vocation in upholstery repair and has held several institutional jobs. Mr. Plank has also participated in self-help programs, including Alcoholics and Narcotics Anonymous, Anger Management Alternatives to Violence, Remorse, Integrity, Seeking Peaceful Solutions, and Communication. I commend Mr. Plank for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Plank was an active participant in the brutal murder of a nineteen year old girl. He furnished the shotgun, instructed Ms. Groat how to tie and kill Ms. Jones, helped move Ms. Jones to the trunk of Ms. Groat's car, and helped cover up the crime. His reasons for helping murder Ms. Jones are senseless and trivial—he was upset that Ms. Jones displaced him from his apartment and kept a messy house.

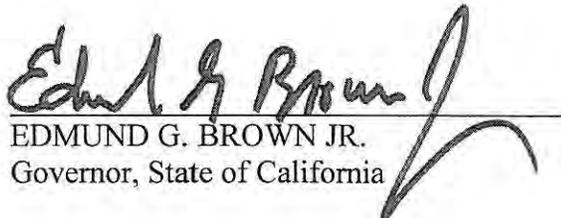
I am concerned Mr. Plank has not fully examined why he participated in the murder of Ms. Jones. In 2012, Mr. Plank told the evaluating psychologist that he was angry because Ms. Jones moved into his apartment and wasn't taking care of the house or her baby. He told the Board he was upset with the way Ms. Jones criticized him. These explanations are implausible and superficial. He does not explain why, if he felt concern over the wellbeing of Ms. Jones's daughter, helping to murder Ms. Jones would improve the situation. Nor does he plausibly explain how an unkempt home, or being criticized by Ms. Jones, can justify murderous rage. The record indicates that Ms. Jones moved into the apartment only two to three months before the crime. Evidently it did not take long for Mr. Plank's anger to build up to a violent crescendo. Until Mr. Plank has explored in greater depth why he was such a willing participant in this horrible murder over such trivial reasons, I am not prepared to release him.

Mr. Plank continues to minimize responsibility for his actions. He told the Board that although Ms. Groat asked him to help kill her daughter, he did not believe she would actually do it. The record clearly indicates otherwise. He acquired the 12-gauge shotgun and instructed Ms. Groat how many times to shoot it, also reminding her to bring back the shells; he taught Ms. Groat how to tie a noose to bind Ms. Jones; he suggested to Ms. Groat that there were several mine shafts in the area; he watched over Ms. Jones while hog-tied and help transport her to the trunk of the car; and he burned the evidence of the crime and returned the shotgun to Mr. Giles's house. He initially claimed that he burned Ms. Jones's clothes because he was afraid of Ms. Groat, but now admits that was an excuse. Mr. Plank has not dealt with the issues that led to this violent crime and would present an unreasonable risk to public safety if released at this time.

CONCLUSION

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

Decision Date: December 7, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DAVID PORTILLO, B-83639
First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

David Portillo was getting out of jail when his girlfriend reported that Joe Caballero had stolen drugs from her. Mr. Portillo's friend, Corwin Elmore, was upset about this theft. Mr. Elmore and Mr. Portillo agreed to kill Mr. Caballero. On September 25, 1976, Joe Caballero and his girlfriend, Natalie Luna, went to David Portillo's house to purchase heroin. Mr. Elmore and another man were there waiting for Mr. Caballero to arrive. After Mr. Caballero and Ms. Luna were seated on a couch, Mr. Portillo and Mr. Elmore came into the room. Mr. Elmore pointed a sawed-off shotgun at the couple. Mr. Portillo ordered him to shoot Mr. Caballero. Mr. Elmore shot Mr. Caballero in the head, killing him. Mr. Elmore re-loaded and Mr. Portillo told him to kill Ms. Luna as well. Mr. Elmore shot Ms. Luna in the face, killing her. Mr. Portillo and Mr. Elmore loaded the bodies in a vehicle and Mr. Elmore dumped the bodies by some railway tracks.

GOVERNING LAW

The question I must answer is whether Mr. Portillo 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. Portillo suitable for parole based on his age, programming, lack of recent serious disciplinary action, parole plans, participation in self-help classes, vocational training, educational improvement, and performance at the parole hearing.

I acknowledge Mr. Portillo has made efforts to improve himself while incarcerated. He earned an Associate's Degree and became a Certified Substance Abuse Counselor. He has completed several vocational programs and has routinely received above average work ratings. He has been commended by supervisors for his attitude, work ethic, and behavior. He has participated in self-help groups including Alcoholics and Narcotics Anonymous, Criminals and Gangmembers

Anonymous, Alternatives to Violence, and anger management classes. He has not been disciplined for serious misconduct in prison since 1998. I commend Mr. Portillo for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Portillo's murders were senseless and callous. He directed Mr. Elmore to shoot Mr. Caballero and then decided to execute Ms. Luna as well. This was not the first time he killed another person. He was convicted of voluntary manslaughter only three years earlier for stabbing a man three times. His violence continued for two decades in prison through his involvement with a prison gang.

I am troubled by Mr. Portillo's lack of understanding as to his reasons for committing these murders. He explained to the Board that he was concerned about his reputation as a drug dealer if he allowed his girlfriend to be robbed without reprisal. He reported he "wasn't thinking" and was under the influence of drugs and alcohol. When asked why he directed Mr. Elmore to kill Ms. Luna, he said, "The decision wasn't to kill her. She started screaming, and I just said 'her too'—automatic. It was a reflex. It was just, her too." Mr. Portillo's explanations are superficial and implausible. Drugs and alcohol did not cause him to carefully plan and carry out these two murders. Nor was the killing of Ms. Luna a reflex reaction. Nothing in the record supports Mr. Portillo's claim that it was anything other than a conscious decision to kill Ms. Luna. In light of this, I disagree with the psychologist's finding in 2012 that Mr. Portillo's level of insight into the crime does not represent a significant risk of violence. Mr. Portillo's statements demonstrate to me a total unwillingness to confront his motivations for killing the victims in such a calculated and callous manner.

Mr. Portillo also minimizes his responsibility by claiming that his crimes were motivated by the social injustices of the period. When asked by a psychologist in 2009 who or what was to blame for his criminal activities, he replied, "I don't really like to play the blame game" and elaborated that at the time, people had to "fight for their rights" in the face of police brutality and job discrimination. Mr. Portillo also stated that he remains incarcerated because of "politics... I'm a political prisoner now." This is preposterous. Mr. Portillo was not fighting for anyone's rights when he trafficked in heroin in the community and killed Mr. Caballero and Ms. Luna to further his criminal activities.

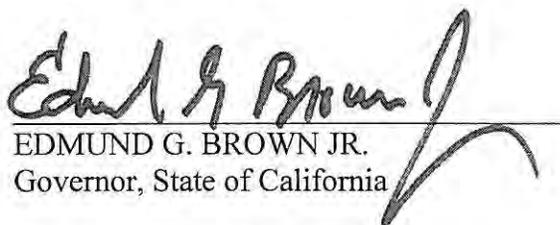
Mr. Portillo's violent behavior continued for the first twenty-two years of his incarceration. He was disciplined for serious misconduct 17 times, including eight disciplinary actions for punching an officer in the eye, stabbing an inmate with a shank, getting into fist fights, and stalking and assaulting a female staff member. He was validated as a member of the Mexican Mafia and disassociated from the prison gang in 1998. Despite this serious record, he makes light of these events. He told the Board that punching the correctional officer in the eye was "just an impulsive action" and that "God put him in my way that day." He reported that stabbing an inmate with a shank in 1984 was "just me being paranoid." His explanation for stalking and assaulting a female staff member by running his hand down her back and up her leg was that "she was flirting with me." His cavalier attitude toward these serious transgressions indicates that he has not yet turned away from his criminal values.

Mr. Portillo's elevated risk scores support my concerns. In his 2009 comprehensive risk assessment, the psychologist rated him a moderate risk of violence, a high to moderate risk for general recidivism, in the high range for psychopathy, and a moderate overall risk for violent recidivism. These risk ratings were based in part on his failure to accept responsibility, a lack of remorse, his violent background beginning at age 9, and his anti-social thinking. I encourage Mr. Portillo to continue exploring the factors that led to these violent crimes and substance abuse with further programming.

CONCLUSION

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

Decision Date: December 7, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

CRAIG SIMPSON, J-12504
Second-degree murder

AFFIRM:

MODIFY:

REVERSE:

X

STATEMENT OF FACTS

Craig Simpson had been married to his wife Jacquelyn for almost ten years when he beat her to death with a claw hammer. Their marital problems began in 1988 when Mr. Simpson left his family without warning for two and one-half months, purchasing a pickup truck and spending \$15,000 to \$18,000 the family did not have. The family struggled to pay their bills and debts as a result. Mr. Simpson started a new job in December 1991, but his work performance suffered as he struggled with feelings of depression and thoughts of suicide. Mr. Simpson disappeared a second time and traveled to Seattle for a week. When he returned, he checked himself in to a psychiatric facility for three weeks.

Several weeks after his hospital stay, Mr. Simpson and Jacquelyn began to argue about finances and his unwillingness to go back to work or help around the house. As the Thanksgiving holiday approached, they argued more frequently. On November 22, 1992, the couple fought for hours after putting their eight-year-old son and five-year-old daughter to bed. Jacqueline eventually went to sleep. Two hours later, Mr. Simpson walked to the kitchen to retrieve a large butcher knife and locked the bedroom door. Not finding the knife in the dark, he picked up a claw hammer and began to beat Jacquelyn over the head. Their son Matthew was awakened to the sound of his mother screaming for help and called 911. Matthew and his younger sister Juliana stood outside the bedroom door listening to their mother plead for her life. Police arrived and forced the bedroom door open. Jacqueline was covered in blood and moaning from the attack. She died at the hospital later that morning from blunt force trauma to the head. She had been struck at least eleven times on her forehead and skull.

GOVERNING LAW

The question I must answer is whether Mr. Simpson 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. Simpson suitable for parole based on his insight and remorse, positive prison behavior, lack of criminal history, self-help and work evaluations, psychological reports, age, and parole plans.

I acknowledge Mr. Simpson has made efforts to improve himself while incarcerated. He has never received a serious disciplinary report. He has completed vocational training and held several institutional jobs. Mr. Simpson has also participated in self-help programming, including Stress Management, Anger Management, Alternatives to Violence Project, Life Values Group, Victim Awareness, and group therapy treatment for his depression. I commend Mr. Simpson for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Simpson's murder of his wife was exceedingly brutal and disturbing. Without any warning or provocation, he viciously attacked Jacqueline in her sleep, striking her repeatedly with a claw hammer as she pleaded for her life. The hammer blows were so severe that it appeared to police that Jacqueline had been scalped and the top half of her head could be folded over. That Mr. Simpson committed this violent assault in the sanctity of their bedroom and the presence of his children demonstrates a cruel and callous disregard for their suffering. Mr. Simpson's actions had a devastating and long-lasting impact on Jacquelyn's loved ones. I note that they have written numerous heartfelt letters opposing his parole and have appeared at Mr. Simpson's parole hearings expressing their loss.

I am troubled that Mr. Simpson has not fully realized or resolved his reasons for murdering his wife so unexpectedly. He explains that his anger and resentment for Jacqueline built up from the beginning of their marriage, stating he felt forced to marry her because he had convinced Jacqueline to get an abortion in the early stages of their relationship and "felt like I owed her." When she became pregnant again four months into their marriage with their son, he was "livid about it." Two years later, he felt resentful when Jacqueline became pregnant with their daughter and was angry that Jacqueline felt sick throughout her pregnancy, requiring him to care for their son. He resented Jacqueline for forcing him to participate in church, pushing him to get a job, and seemingly controlling his life. Mr. Simpson explains he decided to finally take control of the situation on the night of the murder, and after their argument, the pent-up frustration and anger boiled over and he attacked Jacqueline.

I find many aspects of Mr. Simpson's explanations for this horrible murder either unconvincing or reflective of a lack of insight. First, he puts an inordinate amount of blame on his desire to be carefree as a twenty-three year old when he was forced into marriage. But this crime happened when he was thirty-two and the father of two young children. Having unmet needs as a young man does not explain why he erupted in violence nearly a decade later and waited two hours for his wife to fall asleep before he bludgeoned her to death. Mr. Simpson was asked why he didn't just seek a divorce if he was so unhappy. He told the Board that he "wanted to be the good guy, didn't want to be the one that caused the misery to the kids by getting divorced." He offers no

plausible explanation why horribly beating Jacqueline within earshot of his children would resolve his anxiety about being the “good guy.”

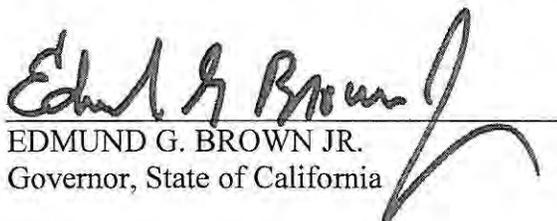
Mr. Simpson rightly acknowledged to the Board that “[e]verything revolved around me, my world, my anger, my bitterness, my frustration,” and that blaming Jacqueline for financial problems of his own making, for being sick during her pregnancies, and for wanting him to be a responsible parent and adult was irrational and self-absorbed. But it is not at all clear that his narcissistic tendencies have gone away. In 2009, Mr. Simpson’s psychologist found that “he continues to present with some features associated with narcissism” along with a depressive disorder that seems to be under control. Although Mr. Simpson acknowledges that he robbed his kids of their future and can never make up for what he did to them, it was pointed out at his hearing that he has not tried to contact his children since 1995 to make amends. This suggests to me that he is still running away from his problems.

Mr. Simpson’s reasons for murdering Jacqueline—everyday concerns about finances, household duties, relationship stresses and employment—still await him in the community. Until he can demonstrate that he can handle these normal stresses and express a better understand for the reasons he committed this crime, I am not prepared to release him at this time.

CONCLUSION

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

Decision Date: December 7, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

MARIO CATANIO, C-77711
First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Restaurant owners Henry Martinez and Arlene Boyle hired Mario Catanio to set fire to their restaurant to fraudulently collect the insurance proceeds. Mr. Catanio was paid \$2500 by the owners. The fire developed into a major emergency, requiring fire fighters from seven stations to be dispatched along with five rescue ambulances. While attempting to extinguish the blaze, firefighter Thomas Taylor fell through the roof and died. Eight other firefighters were injured. Mr. Catanio was arrested on September 3, 1981.

GOVERNING LAW

The question I must answer is whether Mr. Catanio 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. Catanio suitable for parole based on his remorse, insight, lack of disciplinary history, self-help programming and vocational upgrades, age, psychological report, and parole plans.

I acknowledge Mr. Catanio has made efforts to improve himself while incarcerated. He earned two associate's degrees while in federal prison and has completed some college coursework in Alcohol and Drug Studies. He has been disciplined only once for serious misconduct. He has participated in self-help programs including Alcoholics Anonymous and victim awareness classes and retreats. He has received positive work evaluations. He plays music in mass. I commend Mr. Catanio for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Catanio's crime was senseless. He set fire to a restaurant without giving any consideration to the risks the conflagration would pose to the firefighters or the public. One firefighter died in

the line of duty and eight others were injured. Mr. Catanio's actions had a devastating and long-lasting impact on Mr. Taylor's loved ones and the community of firefighters. I note that they have written several heartfelt letters and have appeared at Mr. Catanio's parole hearings to express their deep sense of loss even these many years after the fire.

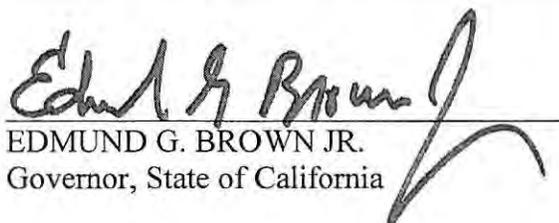
I am concerned Mr. Catanio lacks a proper appreciation for the gravity of his actions. In 2009, he denied any intent to physically harm anyone by committing the arson, calling it an "accident." When asked about Mr. Taylor who died in the fire, Mr. Catanio stated: "I can't blame him ... it was a million to one shot what happened ... the roof caved in ... he was doing his job. I'm not saying he did anything wrong." The psychologist concluded that Mr. Catanio lacked insight, expressed negative attitudes, and showed a lack of remorse and failure to accept responsibility for his actions. I agree. His comments indicate to me that he does not understand that his fire placed many firefighters' lives at risk and resulted in Mr. Taylor's death.

In 2012, Mr. Catanio explained to a psychologist that "I was irresponsible, thought life was a joke" and that "at the time I didn't think that the fire was really wrong." The psychologist noted that "[w]hile he has some insight, his remorse seems more intellectual, albeit his genuineness is clear." It appears from these findings that Mr. Catanio has yet to internalize what he did and why. Mr. Catanio's elevated risk scores support my concerns. In his 2009 comprehensive risk assessment, the psychologist rated him a moderate risk of violence, a moderate risk for general recidivism, and in the moderate range for psychopathy and overall risk for violent recidivism. I encourage Mr. Catanio to continue exploring the factors that led to this crime and the impact it had on the community, especially the families of the firefighter killed and those injured in the fire.

CONCLUSION

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

Decision Date: December 14, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

FELIX CHRISTMAN, P-19437
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On March 8, 1997, Felix Christman shot Shannon Baga five times, killing him. Mr. Christman's fiancé, Erica Lopez, had previously dated the victim's brother, Chad Baga. Mr. Christman and Chad had several violent confrontations over Ms. Lopez. On the night of the murder Chad and Shannon drove by Ms. Lopez's house and Shannon threw a rock into her truck, triggering the car alarm. Mr. Christman emerged from the house and fired his gun at Chad and Shannon's car as it drove away. Mr. Christman and Ms. Lopez pursued Chad and Shannon with Ms. Lopez driving the truck. As they passed the brothers, who were then walking on the street, Mr. Christman shot Shannon five times and Ms. Lopez ran him over. Mr. Christman and Ms. Lopez fled the scene. Shannon died from the gunshot wounds. Mr. Christman was arrested that night.

GOVERNING LAW

The question I must answer is whether Mr. Christman 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. Christman suitable for parole based on his remorse, insight, limited criminal history, self-help programming, psychological report, parole plans, and the absence of serious discipline in prison since 2006.

I acknowledge Mr. Christman has made recent efforts to improve himself. He has worked toward completing an A.A. degree, completed vocational training, and has held various institutional jobs. He has participated in self-help programming, including Alcoholics Anonymous, Narcotics Anonymous, Anger Management, Alternatives to Violence, and Criminal and Addictive Thinking courses. He is a member of the Tule River Indian Tribe and has participated in the Native American sweat lodge while incarcerated. I commend Mr. Christman for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Christman's crime was callous and senseless. Mr. Christman armed himself and chose to pursue the brothers simply because they threw a rock at Ms. Lopez's truck. Mr. Christman shot the unarmed victim five times, and Ms. Lopez ran him over. Although Mr. Christman claims he never intended to harm anyone, he summoned no medical assistance after the fact and instead drove to his mother's house. Mr. Christman's motive was trivial and inexplicable, and his actions had a devastating and long-lasting impact on Shannon Baga's loved ones.

I am concerned that Mr. Christman continues to minimize his responsibility for this crime. He recently told the Board that it was Ms. Lopez who suggested they pursue the brothers and insisted they do so after Mr. Christman told her to drive back home. He told the psychological examiner in 2012 that as they passed the brothers on the street, he heard "banging" sounds of objects hitting the truck. Believing that the brothers were shooting at them, he claims he "stuck his arm out of the truck toward the men and simply began firing," without aiming at the brothers. He states he was unaware that Shannon had been shot and was surprised to learn that he had been killed, though he did know that Shannon was struck by the truck.

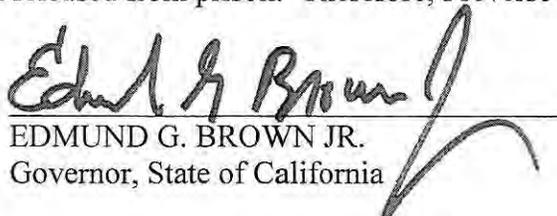
I find Mr. Christman's explanation for his actions completely implausible. He must be a remarkable marksman to shoot Shannon five times from a moving vehicle while blindly firing his weapon. His statement that he did not intend to kill or injure anyone is contradicted by evidence that he armed himself and pursued the two men, and never sought medical attention for Shannon after shooting him and running him over. He explains that he chased after Shannon and Chad because he was frustrated by his inability to protect himself and Ms. Lopez from prior attacks from the brothers. But he again contradicts himself by blaming Ms. Lopez for insisting that they pursue the brothers. Mr. Christman's statements indicate he has not accepted full responsibility for his actions and does not have an adequate understanding of why he committed this murder.

Evidence of recent illegal activity by Mr. Christman in prison also indicates that he has not been rehabilitated. His file contains confidential memoranda as recent as 2010 that indicate Mr. Christman was involved in planning and ordering assaults on other Native American inmates. Prison officials deemed the sources of the information in these memoranda reliable. This information raises serious questions in my mind about his propensity for criminal behavior and current dangerousness.

CONCLUSION

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

Decision Date: December 14, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

WILLIE REDMOND, B-55567
First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On August 4, 1973, Willie Redmond entered the apartment of 74-year-old Lorraine Brooks to rob her and use the money to purchase drugs. Ms. Brooks was in her home watching television at the time of the burglary and told Mr. Redmond to leave. Mr. Redmond punched Ms. Brooks in the face, breaking her nose, and then stabbed her twelve times with his pocket knife, killing her. Mr. Redmond ransacked the apartment, stealing \$60 and Ms. Brooks's jewelry.

GOVERNING LAW

The question I must answer is whether Mr. Redmond 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. Redmond suitable for parole based on having matured, his remorse, insight into the causative factors of the commitment offense, vocational and self-help programming, the remoteness of disciplinary actions based on violent behavior, and age.

I acknowledge Mr. Redmond has made efforts to improve himself while incarcerated. He earned a high school equivalency degree in 2007, has helped facilitate mental health groups, and has volunteered as a tutor for other inmates. He has written several novels and has routinely received above average to exceptional work ratings. He dropped out of the Black Guerilla Family prison gang and has since participated in a number of self-help groups including Narcotics Anonymous, Criminals and Gangmembers Anonymous, Alternatives to Violence, and Anger Management. I commend Mr. Redmond for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Redmond's crime was brutal and senseless. He broke into the apartment of an elderly woman to feed his drug habit. When she discovered him in her home, Mr. Redmond punched

Ms. Brooks in the face and stabbed her to death. He then ransacked the home to find \$60 so that he could pay for drugs that night.

Mr. Redmond's violence did not end the night of the murder. He joined the Black Guerilla Family in prison, eventually reaching a high-ranking status within the gang. He conspired with other members of the prison gang to kill a correctional officer in 1985 and was implicated in the assault of an officer in 1980. Mr. Redmond admitted to participating in the murder of another inmate in 1975, for which he has never been charged. His criminal activity with the prison gang also included stabbing other inmates, making weapons, ordering violence against inmates, and having a sexual relationship with a staff member to induce her to remove documents from his prison record. Even after debriefing from the Black Guerilla Family in 1989, Mr. Redmond's criminal activities continued. In 1996 and 1997, he admitted to being a member of the Compton Crips and reportedly recruited inmates to make weapons in his cell.

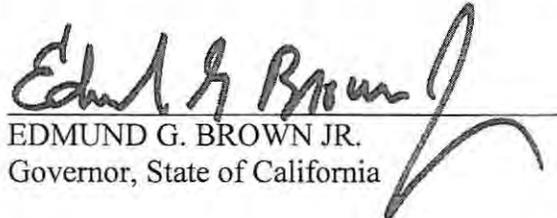
Mr. Redmond's drug trafficking in prison is particularly alarming. In 2005, inmates reported that he was selling drugs. A 2007 confidential investigation uncovered overwhelming evidence that Mr. Redmond conspired to smuggle methamphetamine into prison. In recorded telephone calls, Mr. Redmond and another inmate instructed two women in the community to purchase, package narcotics, and mail them. A search warrant issued in the course of the investigation resulted in the seizure of 17 grams of methamphetamine packaged in 26 balloons intended to be brought to Mr. Redmond in prison. These are serious transgressions that demonstrate Mr. Redmond has yet to overcome his criminal thinking and lifestyle. Based on this record, I do not believe that Mr. Redmond is willing to turn away from criminal activity. Until he has shown significant and sustained behavioral improvement, I am not prepared to release him.

I am also troubled by Mr. Redmond's ongoing struggles with substance abuse. Mr. Redmond began smoking marijuana at 13, using seconals by age 14, and using heroin at 16. At the height of his heroin addiction, he was injecting \$50 to \$60 of heroin two or three times daily. He murdered Ms. Brooks to obtain money for his drug habit. He has been disciplined for possession and use of marijuana in prison five times and for testing positive for opiates once. In 2011, he told the psychologist that he last used heroin 11 years ago and marijuana in 2007. The psychologist concluded that Mr. Redmond's "ability to refrain from substance use/sales in the free community remains guarded at this time." His recent drug use leads me to believe he is not ready to be released. I encourage him to continue working to address his substance abuse problem.

CONCLUSION

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

Decision Date: December 14, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JEFFRY COOK, C-12729

First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On March 13, 1979, Nevada State Undercover Narcotics Agent Ronald Chelius and a 17 year-old informant drove to Sacramento to meet with Joseph Roberts and Jeffry Cook to purchase narcotics. Agent Chelius met with Mr. Roberts and Mr. Cook in a grocery store parking lot. Agent Chelius walked to the driver's side window of the vehicle where Mr. Cook was sitting. Agent Chelius counted out \$1,200 and handed the money to Mr. Cook and received 1,000 tablets of LSD from Mr. Cook in return. After completing the drug purchase, Agent Chelius identified himself as a narcotics officer and advised Mr. Cook and Mr. Roberts they were under arrest. Agent Chelius reached into the car and removed the keys from the ignition. After a brief struggle, Mr. Cook fired a .22 caliber derringer, striking Agent Chelius in the chest. Mr. Roberts and Mr. Cook exited the vehicle and fled on foot but were apprehended and arrested near the crime scene. Agent Chelius, who was unarmed during the transaction, was transported to the hospital where he was pronounced dead.

GOVERNING LAW

The question I must answer is whether Mr. Cook 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. Cook suitable for parole based on his remorse and acceptance of responsibility, insight, lack of any violent behavior other than the life crime, the absence of serious disciplinary infractions in many years, self-help and vocational programming, positive psychological reports spanning 25 years, and viable parole plans.

I acknowledge Mr. Cook has made efforts to improve himself while incarcerated. He earned his GED, completed several vocational programs, and has routinely received above average and exceptional work ratings. He has participated in and facilitated several self-help groups

including Alcoholics and Narcotics Anonymous, Substance Abuse Fellowship Group, Recovery International Program, and Project Pride. Mr. Cook has also served as a mentor, group leader, and facilitator for the Volunteer Tutor Workshop. He has not been disciplined for serious misconduct in prison since 2001. I commend Mr. Cook for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Cook callously murdered a decorated police officer merely to evade capture. After Agent Chelius identified himself and placed Mr. Cook and Mr. Roberts under arrest, Mr. Cook withdrew a .22 caliber derringer and fired a single shot into his chest, and then took off running. Mr. Cook's actions had a devastating and long-lasting impact on Agent Chelius's loved ones and the law enforcement communities in California and Nevada. I note that his family members have written me several heartfelt letters and have appeared at Mr. Cook's parole hearings to express their deep sense of loss over this terrible crime.

I am concerned that Mr. Cook has not accepted responsibility for this murder. He told the psychologist who evaluated him in 2012 that he did not recall hearing Agent Chelius announce that he was a police officer, and instead believed that Agent Chelius was attempting to "rip him off" when Agent Chelius reached for the car keys in the ignition. Mr. Cook states he panicked and fired his handgun and immediately ran away. Mr. Cook also explains he was under the influence of methamphetamine at the time of the crime, had not slept in several days, and felt paranoid.

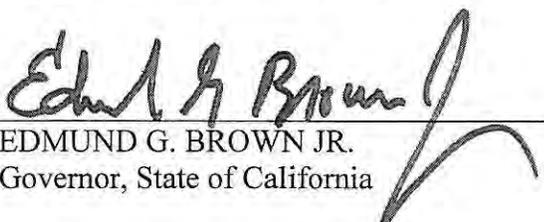
Mr. Cook's continued insistence that he was not aware Agent Chelius was a police officer at the time of the shooting strains credulity. Agent Chelius was standing directly next to the driver's side window when he placed Mr. Cook and Mr. Roberts under arrest. Mr. Roberts—who was sitting in the passenger seat—testified at the preliminary hearing that he heard Agent Chelius say, "you're under arrest, I'm a narcotics officer." The informant, sitting in the car driven by Agent Chelius, also testified that he heard Agent Chelius identify himself as a police officer. Mr. Cook's claim that he was reacting to what he perceived was an attempted robbery also makes little sense. Why would he run away, leaving behind the money and drugs, if he had already shot the man who was purportedly trying to rob him? The only plausible explanation is that Mr. Cook killed Agent Chelius and then fled on foot to avoid arrest.

The psychologist concluded that Mr. Cook "does appear to understand the degree to which his previous lifestyle choices [*i.e.*, substance abuse and drug dealing] resulted in the life crime." I disagree. Most drug dealers who are about to be arrested don't decide to murder a police officer to evade capture. In light of the evidence in the record, Mr. Cook's attempts to minimize his actions show that he has not truly taken full responsibility for shooting and killing Agent Chelius. Until Mr. Cook can demonstrate that he understands why he was capable of such a cold and calculated decision, I find that he remains a threat to participate in further acts of violence if released from prison.

CONCLUSION

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

Decision Date: December 21, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

GREGORY HAMILTON, D-19499
First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Gregory Hamilton had been living with Christine Gelapaga, but she left him, taking their infant son Gregory. On December 21, 1984, Mr. Hamilton tried to break into Ms. Gelapaga's former apartment, armed with a sword. He told the resident of the apartment that he was looking for Christine. Police contacted Ms. Gelapaga. She explained she did not want to give out her current address because she was afraid of Mr. Hamilton. The following day, Mr. Hamilton was arrested for the break-in. Police again contacted Ms. Gelapaga, who reported that Mr. Hamilton had recently threatened her, that he used to hit her, talked about committing suicide, and told her that he imagined shooting her and the baby before the baby was born. Ms. Gelapaga also conveyed that after their breakup, Mr. Hamilton would follow her, call her at work, and harass her. He called and pretended to be a police officer, tried to lure her to his house by pretending he had attempted suicide, and appeared at her workplace with a sword wrapped in Christmas wrapping paper, telling her co-workers that he wanted to give it to his then 2-month-old son.

At some point, Ms. Gelapaga moved back in with Mr. Hamilton. On February 15, 1985, police responded to a 911 call from Mr. Hamilton. He had cut his 4-month-old son's throat, Ms. Gelapaga's throat, and tried to cut his own neck. A neighbor reported hearing a female voice exclaim, "My God, he killed my baby!" The police found Mr. Hamilton staring at the bodies of Ms. Gelapaga and baby Gregory. Mr. Hamilton claims that he has no memory of the murders.

GOVERNING LAW

The question I must answer is whether Mr. Hamilton 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. Hamilton suitable for parole based on his remorse, psychological evaluations, educational achievements, participation in self-help programs, and institutional behavior.

I acknowledge Mr. Hamilton has made efforts to improve himself while incarcerated. He has participated in a number of self-help programs including therapy groups, anger management, and stress management. He helped start a youth diversion program, was a member of a veteran's group, and was a peer counselor in psychiatric services. He has worked toward a college degree and has received above average and exceptional work ratings. I commend Mr. Hamilton for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Hamilton's crime was utterly horrific. In a two month span, he stalked and harassed Ms. Gelapaga, tried to break into her former home with a sword, tried to lure her to his home with claims of suicide, and threatened to kill her and their son. This disturbed and menacing behavior culminated in a brutal act of violence when he slit baby Gregory's throat and then killed Ms. Gelapaga in the same manner. He claims he has no memory of committing these atrocious murders.

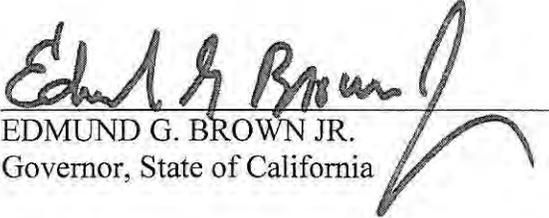
I am troubled by Mr. Hamilton's lack of insight into his actions on the day of the crime and in the preceding months. Mr. Hamilton told a psychologist in 2009 that shortly before the murders, he remembers feeding his son and laying out his suit to go into his office, and then waking up 1½ to 2 days later in the hospital and being told what he had done. Mr. Hamilton states he was not under the influence of drugs or alcohol at the time, and the record does not disclose any medical or psychiatric diagnosis that would support his claim of a blackout. The evaluating psychologist in 2012 found that Mr. Hamilton's "insight into the life crime remains fundamentally limited by the fact that he reportedly does not recall the actual killings, and therefore he has not been able to actively process and come to terms with the emotions related to those specific events."

Equally troubling is Mr. Hamilton's failure to explain his threatening behavior in the months preceding the crime. Mr. Hamilton told the Board that when he was arrested for attempting to break into Ms. Gelapaga's former home, he was merely looking for her and was concerned because she had been gone for several days. Ms. Gelapaga told police she was terrified of him and had left him. Mr. Hamilton states he had several swords in his possession because he didn't want them to be stolen from his car, but claims he laid them against the house and knocked on the front and back doors. But the resident of the house told police that Mr. Hamilton tried to pry open the back door with a sword. Mr. Hamilton has no explanation for pursuing and harassing Ms. Gelapaga at her workplace, trying to lure her to his apartment with threats of suicide, wrapping a sword in paper to give to his two-month old son, and threatening to kill Ms. Gelapaga and Gregory. Until Mr. Hamilton can explain why he terrorized and sought to control Ms. Gelapaga before ultimately killing her and his baby, I am not prepared to release him.

CONCLUSION

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

Decision Date: December 21, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

GREGG JACKSON, D-87584
First-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Gregg Jackson and his roommates lived in a hotel room. They decided to go to the hotel room of Shirley Toliver. When she opened the door, Mr. Jackson struck her head with a hammer. He hit her twice more with the hammer once inside the apartment. Ms. Toliver died from the hammer blows. Mr. Jackson stole \$1,000 from a dresser drawer. He and his friends fled to San Diego. Ms. Toliver's boyfriend found her body on August 5, 1987.

GOVERNING LAW

The question I must answer is whether Mr. Jackson 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. Jackson suitable for parole based on his insight, remorse, psychological evaluation, marketable skills, participation in self-help programs, parole plans, and age.

I acknowledge Mr. Jackson has made efforts to improve himself while incarcerated. He has completed two vocations and has received above average work ratings. Mr. Jackson has not been disciplined for serious misconduct since 2001. He has participated in self-help programming, including Breaking Barriers, Alternatives to Violence, Anger Management, and substance abuse programs and groups. He helped to establish a chapter of Criminals and Gangmembers Anonymous in one of the prisons. I commend Mr. Jackson for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Jackson's crime was callous and abhorrent. Without any apparent reason or provocation, he went to Ms. Toliver's room and bludgeoned her to death with a hammer. He then stole \$1000 from her dresser drawer and fled.

I am troubled that Mr. Jackson cannot adequately explain his reasons for brutally attacking Ms. Toliver. He told the psychologist who recently evaluated him that he was trying to prove his worth and that he "needed someone to see [him] as a dominant figure for validation." At his hearing, he explained that he wanted to prove to himself that he was powerful and that after years of sexual abuse as a child, "I needed somebody to carry my pain, somebody to suffer worse than I had been suffering." He picked Ms. Toliver to kill because she was the weakest person he knew.

Childhood sexual abuse is undeniably traumatic, but it does not justify nor explain why Mr. Jackson was willing to kill an innocent person in such brutal fashion and without a moment's thought. There are deeper reasons underlying his desire to seek validation by targeting "the weakest person he knew." Until Mr. Jackson is better able to describe what caused him to become so indifferent to human life, I am not prepared to release him at this time.

CONCLUSION

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

Decision Date: December 21, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ALGENON MCCALL, J-41084
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On November 6, 1993, Algenon McCall drove with Jeannie Beaucham, his ex-girlfriend, in Ms. Beaucham's truck to pick up some of his belongings from her house. His new girlfriend, Catherine Cato, drove behind them. While driving to Ms. Beaucham's house, Mr. McCall shot her in the neck, chest, and head, killing her. Mr. McCall took Ms. Beaucham's purse and drove away with Ms. Cato. He was arrested on November 10, 1993.

GOVERNING LAW

The question I must answer is whether Mr. McCall 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. McCall suitable for parole based on having matured, his remorse, lack of disciplinary actions, vocational and self-help programming, and his age.

I acknowledge Mr. McCall has made efforts to improve himself while incarcerated. He has completed three vocations and has routinely received average to exceptional work ratings. Mr. McCall has only been disciplined once, in 1996. He has participated in a number of self-help groups, including victim awareness workshops, anger management classes, and the Substance Abuse Program. I commend Mr. McCall for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. McCall's murder of his ex-girlfriend was senseless and callous. While driving with Ms. Beaucham in her truck to pick up some of his things from her house, he shot her three times. His new girlfriend Ms. Cato was following behind them. After shooting Ms. Beaucham, he parked her truck on an isolated street and fled the scene in Ms. Cato's truck.

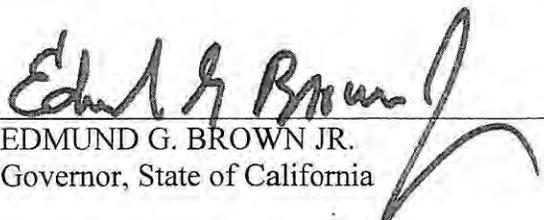
Mr. McCall continues to report that he did not commit this murder. His denial of guilt is utterly implausible given the extensive evidence showing his culpability. Ms. Cato pled guilty to accessory to murder and testified against Mr. McCall. In her testimony, Ms. Cato stated that while following Mr. McCall and Ms. Beaucham in her car, she saw Mr. McCall raise his arm toward Ms. Beaucham, and saw Ms. Beaucham's body "jump violently to the right" and the passenger window break. Mr. McCall then abandoned the pickup truck and drove away with Ms. Cato. The record further discloses that Mr. McCall's fingerprints were found in the truck. The .380 caliber semiautomatic pistol used to kill Ms. Beaucham belonged to Mr. McCall's roommate, who reported that Mr. McCall had stolen it from her. Other witnesses identified the pistol as the weapon constantly carried by Mr. McCall.

The psychologist who evaluated Mr. McCall in 2012 concluded that Mr. McCall's denial of the murder does not aggravate his future risk of violence. I disagree. Mr. McCall's continued failure to acknowledge his actions demonstrates he has not yet come to understand his reasons for murdering his ex-girlfriend. Mr. McCall is not required to admit guilt to be granted parole, but I am also not required to accept his claim of innocence in the face of overwhelming evidence establishing his guilt. Until he has sufficiently explored and worked through all this, I cannot be assured that it is safe to release him from prison at this time.

CONCLUSION

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

Decision Date: December 21, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

STEPHEN SCHRADER, J-59693

Second-degree murder

AFFIRM:

MODIFY:

REVERSE:

 X

STATEMENT OF FACTS

On October 15, 1994, Stephen Schrader received a phone call from Jennifer Lesley who said she needed a ride because her boyfriend, Johnny Edmundson, had been violent with her. Mr. Schrader and Kelly Lund went to pick her up. On the drive back Mr. Lund became upset at the way Ms. Lesley had been treated and said he would take care of Johnny for this. Mr. Schrader and Mr. Lund devised a plan to lure Mr. Edmundson to Mr. Schrader's home to beat him up. Mr. Schrader invited Mr. Edmundson to his house on the pretext that he had stereo equipment to show Mr. Edmundson. Mr. Lund brought Mr. Edmundson down to the garage, where Mr. Lund was waiting. Mr. Lund attacked Mr. Edmundson with a metal pipe furnished by Mr. Schrader, striking Mr. Edmundson on the head 15 times. Mr. Schrader stood there, listening to Mr. Edmundson's pleas for mercy, and did nothing. Mr. Schrader then went upstairs and told people who were having a party to leave his home. When he returned to the garage, he and Mr. Lund wrapped Mr. Edmundson's body in a carpet, drove to a canyon, and dumped the body from a 150 foot cliff. He was arrested that same day.

GOVERNING LAW

The question I must answer is whether Mr. Schrader 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. Schrader suitable for parole based on his remorse, insight, limited criminal history, the absence of serious discipline in prison, self-help programming, educational achievements, psychological report, and parole plans.

I acknowledge Mr. Schrader has made efforts to improve himself while incarcerated. He attained a Bachelor's Degree in health care administration and an Associate of Arts degree in general studies. He has never been disciplined in prison and has held several institutional jobs.

Mr. Schrader has also participated in self-help programs, including Alcoholics and Narcotics Anonymous, Anger Management, Alternatives to Violence, Remorse, and Cognitive Behavioral Workshop. I commend Mr. Schrader for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Edmundson's murder was senseless and heinous. He was ambushed by people he thought were his friends and bludgeoned to death with a metal pipe. The reason for this brutal attack was Mr. Edmundson's alleged violence against Ms. Lesley. Mr. Schrader planned and actively participated in this murder. He lured Mr. Edmundson into his home based on a lie, did nothing as Mr. Edmundson was beaten and begged for his life, and helped dispose of Mr. Edmundson's body down an embankment. Mr. Schrader's actions had a devastating and long-lasting impact on Mr. Edmundson's loved ones. I note that they have written me numerous heartfelt letters after the Board granted Mr. Schrader parole urging me to reverse the Board's decision.

It appears that Mr. Schrader has not fully realized or resolved his reasons for murdering Mr. Edmundson. At his recent parole hearing, Mr. Schrader stated that his intent was to "teach [Mr. Edmundson] a lesson" about "treat[ing] women that way." But the record shows that Mr. Schrader himself has a history of domestic violence. In January 1993, Mr. Schrader was convicted of corporal injury of a co-habitant and child abuse after attacking his live-in girlfriend and her daughter. Mr. Schrader was again arrested for domestic violence in September 1993. His live-in girlfriend reported to police that Mr. Schrader beat her up all the time. Given his own criminal past, I am skeptical of Mr. Schrader's claim that he found the mistreatment of women so objectionable that he would plan an attack on Mr. Edmundson. There are deeper reasons underlying his motive for planning and facilitating this vicious attack on a former friend that he must explore.

I am also concerned that Mr. Schrader is still minimizing his responsibility for this crime. His statements to a psychologist in 2009 demonstrate that he believed Mr. Lund was the driving force behind the crime and the cover-up. He claimed that Mr. Lund "started to get real animated about what he was going to do to Johnny" and that "I told him he should calm down and when Johnny came over he could talk to him in the garage." He stated that it was Mr. Lund's idea to get rid of the body, claims he was trying to get away but Mr. Lund "put a knife to my leg and told me to go back to the house," and that he "tried to call 911 but Kelly was watching me so I dialed my parent's number." At his 2012 psychological interview, he no longer indicated that he was forced to act by Mr. Lund but rather asserted that "I could have been more in control and seen that things were slipping into a really out of control state."

At his recent hearing, he finally admitted that "I set up the killing of Johnny Edmundson, and I covered up the crime," explaining that it was "our idea" to get rid of Mr. Edmundson's body. But he also stated that during the attack, he was "frozen in place" and was "in a state of shock." Mr. Schrader had the energy and wherewithal to order his other guests out of the house, collect blankets and cleaning materials to cover up the crime, help load the body into his truck, and dump Mr. Edmundson down a cliff. Mr. Schrader's recent statements are an improvement, but he still clings to the misguided belief that he was a peripheral participant in a crime that spiraled out of control.

CONCLUSION

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

Decision Date: December 24, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JAMES SNIDER, D-38950
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

James Snider shared a motel room with his long-time friends James and Theresa Brauning. Late in the evening of September 8, 1985, Mr. Snider returned to the motel room after drinking heavily at a company picnic. After disturbing the Braunings, an argument arose between Mr. Snider and Mr. Brauning regarding Mr. Snider's drinking and behavior. Mr. Brauning told him to pack his belongings and leave. Mr. Snider began packing but found his gun. Rather than leave the room, he shot Mr. and Mrs. Brauning and their dog. Mrs. Brauning survived, but Mr. Brauning and the dog died. Mr. Snider fled in the Brauning's truck and was apprehended a short distance from the motel.

GOVERNING LAW

The question I must answer is whether Mr. Snider 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. Snider suitable for parole based on his lack of recent substance abuse-related discipline, psychological evaluations, remorse, positive work evaluations, parole plans, and age.

I acknowledge Mr. Snider has made efforts to improve himself while incarcerated. He routinely received above average and exceptional work evaluations and has been commended for being a productive worker with a good attitude. He has been disciplined for serious misconduct only once in 1989 and earned a GED in 1994. I commend Mr. Snider for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Snider's crime was senseless. He came into a motel room in the middle of the night after drinking for much of the day. He disturbed Mr. Brauning, who he had known for 14 years.

When Mr. Brauninger told him to leave, Mr. Snider impulsively grabbed a gun and shot Mr. and Ms. Brauninger, killing the husband and their dog.

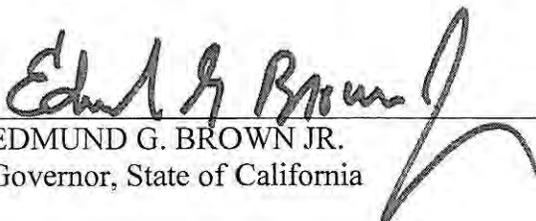
I am troubled that Mr. Snider has not yet credibly addressed his alcohol problem. Before this crime, Mr. Snider was convicted five times for driving under the influence of alcohol. Mr. Snider states he was heavily intoxicated when he committed the murder and explains that alcohol distorted his judgment and contributed to his fear and anger during the altercation. The psychologist who evaluated him in 2009 described, "for the better part of 18 years, he engaged in compulsive and excessive drinking, the results of which manifested as taking increasingly larger amounts (tolerance), unsuccessful efforts to control its use, giving up important life activities in favor of alcohol, and continued use despite recurrent problems."

Despite this sustained history of alcohol abuse, his participation in self-help programming in prison has been sporadic. He attended Alcoholics Anonymous between 1999 and 2003 but inexplicably ended his participation. Since 2003, he participated in only one treatment program in 2008. The psychologist who evaluated him earlier this year indicated Mr. Snider "lacked some understanding of the significance of chronic alcohol use" and lacked a solid understanding of the "internal factors that led to excessive use of alcohol initially." His psychological evaluator concluded in 2009 that Mr. Snider's risk of violent recidivism would likely increase if he "did not take advantage of self-help group opportunities" or "gravitated towards a return to substance use." Because of the close relationship between his alcohol abuse and his criminal history, addressing these issues should merit earnest attention while he is in prison. I encourage him to dedicate himself to available self-help programming, independent study, and self-reflection to fully analyze and address his problem to demonstrate that he is suitable for release.

CONCLUSION

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

Decision Date: December 24, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

WALTER AUSTIN
Second-degree murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

X

STATEMENT OF FACTS

Walter Austin was having marital problems with his wife Elverta. On June 2, 1980, Elverta informed Mr. Austin that she wanted a divorce and would seek child support payments. After feeding and putting down their two children, two-year-old James and eight-month-old Rebecca, Elverta went out for the night. Mr. Austin was desperate to keep his marriage intact and felt overburdened by bills and a failing car. He recalled that the family had taken out life insurance policies on the children. He decided that if he killed one of his children, the tragedy might bring the couple closer together. Mr. Austin went to his eight-month-old daughter's room and slipped a plastic bag over her head. She whimpered and then began to cry. He left Rebecca and took a twenty minute shower. When he returned, Rebecca was lying motionless several feet away from her bed. She was no longer breathing. Mr. Austin called Elverta and told her to come home immediately without telling her why. When Elverta arrived, Mr. Austin told her that he had found Rebecca with a plastic bag over her head. When interviewed by police, he initially told the same story and eventually confessed to his actions and was arrested.

GOVERNING LAW

The question I must answer is whether Mr. Austin 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. Austin suitable for parole based on the absence of any prior criminality or disciplinary infractions in prison, psychological evaluations, insight and remorse, acceptance of responsibility, self-help programming, vocational accomplishments, and parole plans.

I acknowledge Mr. Austin has made efforts to improve himself while incarcerated. He has never received a serious disciplinary report. He earned his high school equivalency certificate,

completed four vocations, and has held several institutional jobs. Mr. Austin has also participated in self-help programming, including Alcoholics and Narcotics Anonymous, Anger Management and Anger Control, Stress Management, Post Incarceration Syndrome Program, and rational behavior training and individual psychotherapy earlier in his incarceration. I commend Mr. Austin for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Austin's crime was appalling. He murdered his own infant daughter by slipping a plastic bag over her head and allowing her to slowly suffocate and die. Rebecca could not call out for help or defend herself against this monstrous attack. Mr. Austin explains that he chose Rebecca because it was less believable that his two-year-old son might crawl into a plastic bag and die. Mr. Austin's ready willingness to sacrifice his own daughter for his selfish needs demonstrates a cruel and callous disregard for her suffering.

I am troubled that Mr. Austin has not fully realized or resolved his reasons for killing Rebecca. Mr. Austin claims that he was upset by his wife's infidelity and desire to seek a divorce. He told the Board he believed that killing his daughter would "get my wife to turn to me for comfort" but also "get back at her for all the hurt and pain I'd felt over the last four years, five years." Mr. Austin does not adequately explain why he was so determined to keep his failed marriage intact that he would sacrifice his own children for it, and what caused him to become so indifferent to human life that he would kill his own infant daughter without any compunction. There are clearly deeper reasons at play that contributed to his actions, and until he has sufficiently explored and worked through those reasons, I am concerned he will act out violently again the next time he encounters a stressful situation.

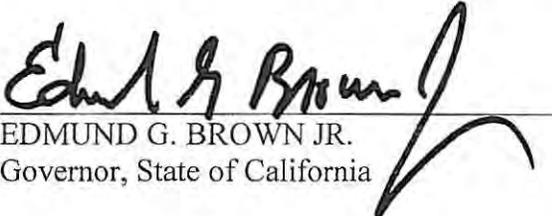
Several of Mr. Austin's statements also strike me as insincere or contradictory. He told the Board that after coming out of the shower and finding Rebecca's body, "I snatched the bag off of her head, checked for a pulse, checked for breathing, and knowing it was too late, but I didn't want it to be. Because it was then I realized what I had actually done. I had actually killed my daughter." If the gravity of his crime hit him at that moment, why did he then lie to his wife when she came home, telling her that "I found Rebecca with a plastic bag on her head"? He then lied to the police, telling them the same fabricated story.

The psychologist who evaluated Mr. Austin also found that "he has not been entirely honest" regarding whether his crime was motivated by money or the fear of losing his wife. Mr. Austin now states that the insurance policies were never a factor in his decision to kill Rebecca, but when he confessed to police, he gave a detailed account of what he intended to do with the insurance payout. When asked why he told the police his crime was motivated by the insurance money, he told the psychologist that "it sounded more 'macho' rather than it being for the love of a woman." It does not make sense that Mr. Austin would be concerned about appearing "macho" after having killed his eight-month-old defenseless daughter. These statements are further indication that Mr. Austin is not being completely honest and sincere with himself or the Board about his reasons for murdering Rebecca.

CONCLUSION

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

Decision Date: December 28, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

MARIANO MUNOZ, J-04004

Second-degree murder with weapon enhancement

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

In late March 1993, Maria Munoz left her husband Mariano. She and her 2-year-old son moved in with another family. On April 7, 1993, Mr. Munoz entered Maria's new home unannounced, and took Maria into her bedroom. Maria tried to leave, but he shoved her back into the room and locked the door. Mr. Munoz then struck her in the head with a steam iron approximately 18 times. Maria's roommate tried to get into the room because Ericka was screaming. He came out of the room and told Maria's roommate that "She's fine. Everything is fine." But the roommate saw that Maria was laying on her back with head wounds, covered in blood.

Mr. Munoz retrieved a large knife from the kitchen and returned to the room while Maria's roommate fled with her children to get help. He kneeled over Maria and began stabbing her in the chest. Because the blade was long, it kept bending. So Mr. Munoz went back to the kitchen and retrieved a smaller knife and resumed stabbing her. In all, he stabbed Maria approximately 16 times. He then cut his own arms in an apparent suicide attempt. When Maria's roommate and uncle returned to the house, they found Mr. Munoz lying next to Maria's body. Their 2-year-old son was also in the room, unharmed. The little boy was raising and lowering his hand in a chopping motion. Mr. Munoz was taken to the hospital and arrested the following day.

GOVERNING LAW

The question I must answer is whether Mr. Munoz 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. Munoz suitable for parole based on his remorse, age, self-help programming, positive prison behavior, parole plans, and psychological evaluations.

I acknowledge Mr. Munoz has made efforts to improve himself while incarcerated. He has participated in numerous self-help programs including Alcoholics Anonymous; Conflict Anger Lifelong Management; Domestic Violence; Early Engagement; Insight; Anger Management; Lifer Group; Straight Talk on Point; Victims Awareness; Yokefellows; Victim Recognition, Reflection and Healing; and Individual Therapy. Mr. Munoz has also received above average to exceptional work ratings, and has been commended for his exemplary behavior and work ethic, maturity, as well as his efforts to improve himself, and willingness to help staff and inmates with medical needs. I commend him for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Munoz's crime was vicious and senseless. He brutally beat then stabbed his wife to death while his two-year old son watched. Although he apparently had not been drinking when he murdered his wife, he admits his relationship problems originally began when he started drinking. He also admits that he was drunk a month earlier when he held a knife to Maria's throat and threatened to kill her. He admits he had physically abused Maria on previous occasions.

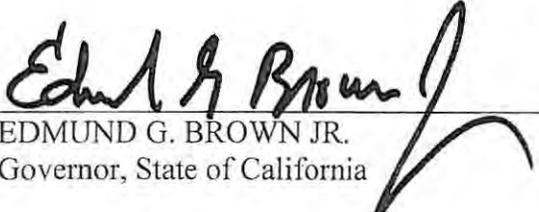
I am not convinced that Mr. Munoz has adequately confronted the personal issues that contributed to his violence against his wife. He has identified anger, frustration, and jealousy as his emotions that contributed to the murder, but the record does not demonstrate that he has developed the self understanding that would enable him to handle the stresses of relationship and life on the outside in a non-violent manner.

Finally, I am concerned that Mr. Munoz has not sufficiently dealt with his propensity to abuse alcohol. Although he has attended Alcoholics Anonymous classes, he admits that he does not know all of the steps. The psychologist who evaluated him earlier this year observed that he "has not identified the potential triggers that might increase his risk of relapse, and has not developed a comprehensive relapse prevention plan." Because of the connection between his alcohol abuse and the violence he inflicted on his wife, addressing these issues should merit his earnest attention while he is in prison.

CONCLUSION

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

Decision Date: December 28, 2012


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

VIET NGUYEN, C-45199
Second-degree murder

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

STATEMENT OF FACTS

On February 16, 1982, Viet Nguyen, his brother Nam, and Cong Pham went to the home of Dinh Tran and his wife My. Nam Nguyen argued with the couple over a welfare check which he claimed was erroneously delivered to the Trans but purportedly belonged to his friend. At some point during the argument, Viet Nguyen drew a .22 caliber pistol. He shot Mrs. Tran in the head and then shot Mr. Tran, who was holding their two-year-old son. He then turned and shot Mrs. Tran again. She died of gunshot wounds to her cheek and upper skull. Mr. Tran was shot in the neck and cheek, but survived.

GOVERNING LAW

The question I must answer is whether Mr. Nguyen 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. Nguyen suitable for parole based on his lack of prior criminal history, remorse and acceptance of responsibility, educational improvements, participation in self-help programs, parole plans, family support, and age.

I acknowledge Mr. Nguyen has made some efforts to improve himself while incarcerated. He obtained a GED and has taken some classes on anger management and non-violent communication. He has also held several institutional positions and has received above-average work ratings. I commend Mr. Nguyen for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Nguyen's crime was callous and unprovoked. Mr. Nguyen killed Mrs. Tran and shot Mr. Tran while Mr. Tran was holding their toddler in the doorway of their own home. They were

unarmed and vulnerable to this violence. The apparent reason for the dispute was utterly trivial, a missing welfare check which did not even belong to Mr. Nguyen.

Mr. Nguyen has a superficial understanding of why he committed this attack. He simply states that he “lost control” and was angry. The psychologist who evaluated him earlier this year noted that Mr. Nguyen has “failed to communicate any understanding of anger and rage,” does not convey an “awareness of his impulsivity,” and has yet to address many questions about his life crime, including why he came to the house armed, why he shot the Trans in front of their small son, and why he decided to use a weapon to resolve the conflict. The psychologist concluded that his current lack of insight shows a reticence to respond to numerous encouragements by prison staff, mental health evaluators, and Board members in his more than 30 years of incarceration to reflect upon the root causes of his rage. I share the psychologist’s concern that “without being able to clearly identify the external and internal contributing factors of his life crime, and without having a reasonable explanation of why he was armed at the time and chose to shoot Mr. and Mrs. Tran in the presence of their little son, he places himself at risk for repeating a similar behavior in the future.”

I am concerned about Mr. Nguyen’s limited empathy for the victims of his crime. The psychologist who evaluated him in 2012 noted that he “communicated virtually no understanding of the victim’s suffering and the impact his crime had on his victims and their families” and indicated Mr. Nguyen has “shallow affect and inability or unwillingness to reflect upon his emotions as well as their impact upon him and those around him.”

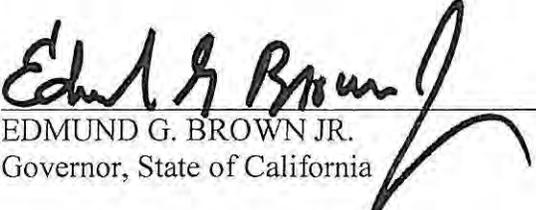
I am also troubled by Mr. Nguyen’s inappropriate sexual behavior in prison. He has been disciplined five times for sexual infractions including soliciting a staff member for sex, peeping through a hole in a restroom door that was occupied by a female staff member, and masturbating in front of female staff on several occasions. Although these incidents occurred over a decade ago, the psychologist noted that “[Mr. Nguyen] communicated no understanding of the inappropriateness of these behaviors. Instead he attempted to justify them.” At his hearing, he took the “blame” for his actions but states he was disciplined because of the people he associated with, referring to the female staff. Mr. Nguyen’s statements suggest a cavalier attitude about this intrusive sexual behavior and an unwillingness to learn from his past wrongs.

Finally, I find Mr. Nguyen’s participation in self-help programs to be limited and insufficient. Given his inadequate insight into his crime and misconduct in prison and failure to understand the impact his violent actions had on others, he would likely benefit from further programming to assist in his understanding of the reasons he committed these crimes.

CONCLUSION

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

Decision Date: December 31, 2012


EDMUND G. BROWN JR.
Governor, State of California