

BOARD OF PAROLE HEARINGS

P.O. BOX 4036
SACRAMENTO, CA 95812-4036
(916) 445-4072



April 17, 2023

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SISKIYOU
PO BOX 986
YREKA, CA 96097

Subject: **NONVIOLENT PAROLE REVIEW DECISION**

Inmate's Name : APEL, LEVI,HENRY
CDCR# : BN9684
Location : Folsom State Prison
Court Case# : 20978

The above inmate was referred to the Board of Parole Hearings under the Nonviolent Offender Parole Review Process. The board has denied the inmate for release. Enclosed is a copy of the board's decision.

If you believe the board's decision contains an error of law or error of fact, or you have new information you believe would have materially impacted the board's decision had it been known at the time of the decision, please submit a written statement to:

Board of Parole Hearings
Attn: Nonviolent Parole Review
P.O. Box 4036
Sacramento, CA 95812-4036

Please direct any inquiries concerning the inmate's release to the institution where the inmate is housed.

Respectfully,

BOARD OF PAROLE HEARINGS
NV Processing Unit

NONVIOLENT DECISION FORM

NONVIOLENT INFORMATION

Inmate Name: APEL, LEVI,HENRY
CDCR Number: BN9684
Institution: Folsom State Prison

BPH DECISION

JURISDICTIONAL REVIEW

BPH does not have jurisdiction, no further review.

BPH has jurisdiction.

REVIEW ON THE MERITS

Recommendation to release approved.

Recommendation to release denied.

Decision for Apel, Levi, BN9684: When considering together the findings on each of the inmate's four case factors, the inmate poses a current, unreasonable risk of violence or a current, unreasonable risk of significant criminal activity to the community. Release is denied.

Statement of Reasons:

Case Factor #1 - Current Commitment Offense

The circumstances of the inmate's current commitment offense(s) aggravate the inmate's current risk of violence or significant criminal activity. The inmate was sentenced to a total term of 5 years, 8 months on the current commitment offense(s). The commitment offense(s) is/are Butte County - HS 11366 Maintain Place Use/Sale of C/S, 2 years, with an enhancement of PC 12022(A)(1) Armed with a Firearm, 1 year; PC 30605(A) Possession of an Assault Weapon, 8 months; PC 30605(A) Possession of an Assault Weapon, 8 months, for a total term of 4 years, 4 months. The date of the convictions is 7/11/18.

Concurrent Siskiyou County - HS 11379(A) Transport/Import C/S, 2 years, with an enhancement assessed under PC 12022(C) Armed with Firearm During Commission of Specified H&S Code, 3 years; PC 29800 Felon in Possession of a Firearm, 8 months; HS 11351 Possession of C/S for Sale with a PC 12022(C) enhancement Armed with a Firearm During Commission of Specified H&S Code, 2 years concurrent; HS 11370.1(A) Possession of C/S While Armed with a Loaded Firearm, 2 years concurrent, for a total term of 5 years, 8 months. The date of the convictions is 4/13/21.

On 1/17/18, Cal Fire Officers and Sheriff Deputies served a search warrant at a residence which included a main residence and a cabin where the inmate lived. A search of the inmate's cabin yielded 16 firearms in his bedroom, including an AR-10 assault weapon and a Ruger .223 caliber assault weapon. A further search of the cabin yielded 6.34 pounds of marijuana packaged in eight separate plastic turkey oven bags. A large plastic bag containing 14.9 pounds of marijuana shake was located outside the cabin. A Connex box next to the inmate's residence was found to contain 7 firearms, with evidence the Connex box was used as a marijuana growing room with grow lights. A plastic tote containing 20.9 pounds of marijuana bud was also found. A second Connex box was searched which had been converted to a marijuana growing and harvesting room. Several plastic totes containing 93.70 pounds of marijuana bud, 8.3 pounds of marijuana bud on stems, 80.9 pounds of marijuana shake and 157.17 pounds of marijuana packaged in turkey oven bags in one pound increments were also discovered.

On 8/18/20, the inmate was contacted by a CHP Officer after he was observed to be stopped in the center divider of I-5. The inmate was found to have approximately two ounces of heroin on his person. A search of the inmate's vehicle yielded half a pound of methamphetamine along with two digital scales. In a backpack on the back seat of the vehicle, officers located a loaded .357 handgun.

After careful review and consideration of the aggravating and mitigating circumstances in all of the current crimes, there are aggravating circumstance(s) in the case and the following aggravating circumstances make this an aggravating factor in the case:

1. There were multiple convictions involving large-scale criminal activity. The inmate was found to be engaged in a major marijuana growing and harvesting operation, with a search of the inmate's bedroom yielding 17

firearms including two assault weapons. Cal Fire Officers and Sheriff Deputies conducted the search which included two Connex boxes used in the growing and harvesting of large amounts of marijuana. One of the Connex boxes was found to contain 157.17 pounds of marijuana packaged in turkey oven bags in one pound increments. The inmate was convicted of 7 felonies total in the Butte County and Siskiyou cases.

Therefore, the current crimes are found to be an aggravating risk factor in the case.

Case Factor #2 - Prior Criminal Record

The inmate's prior criminal history began in 2018 and continued until the commitment offense(s) in 2021. The inmate's prior criminal record is a factor mitigating the inmate's current risk of violence or significant criminal activity. The inmate has the following adult criminal convictions: The inmate has no prior adult felony convictions.

The circumstances of the inmate's prior criminal record that mitigate the inmate's current risk of violence or significant criminal activity are:

1. The inmate has no prior criminal convictions.
2. The inmate has not been convicted of a violent felony as defined in subdivision (c) of section 667.5 of the Penal Code in the past 15 years.
3. The inmate was free from incarceration for a misdemeanor conviction involving physical injury to a victim or a felony conviction for five years or more prior to his current convictions.

The circumstances of the inmate's prior criminal record that aggravate the inmate's current risk of violence or significant criminal activity are:

None.

Analysis: When balancing the aggravating circumstances against the mitigating circumstances, they tend to show that the circumstances of the inmate's prior criminal record mitigate the inmate's current risk of violence or significant criminal activity because there are no aggravating circumstances to weigh against the absence of any prior adult felony convictions.

Case Factor #3 - Institutional Adjustment

The inmate was received into the California Department of Corrections and Rehabilitation on the current commitment offense(s) since June 21, 2021, a period of approximately 1 year, 10 months.

The inmate has been involved in the following activities:

Serious RVRs:

Battery on Prisoner 8/21/21

Work/Vocational Assignments:

Yard Worker 10/19/22 - 11/28/22, 188.5 hours

Vocational Carpentry 6/1/22 - 8/5/22, 132 hours, 3/3/22 - 4/5/22, 0 hours

Education Assignments:

None

Self-Help Participation:

None documented

The following circumstances of the inmate's institutional behavior, work history, and rehabilitative programming mitigate the inmate's current risk of violence or significant criminal activity:

1. There is no reliable information in the confidential section of the inmate's central file indicating the inmate has engaged in criminal activity since his last admission to prison.

The following circumstances of the inmate's institutional behavior, work history, and rehabilitative programming aggravate the inmate's current risk of violence or significant criminal activity:

1. The inmate has been found guilty of institutional Rules Violations Reports resulting in physical injury or threat of physical injury since his last admission to prison or has one or more recent serious institutional Rules Violation Reports. The inmate was found guilty of an RVR dated 8/21/21 for Battery on a Prisoner.
2. The inmate has limited participation in available vocational, educational, or work assignments. Over his approximately 1 year, 10 month term to date, the inmate has had no education assignments, and 188.5 hours over 2 months in a work assignment, and 132 hours over 3 months in a vocational assignment. The foregoing is not found to be sustained and successful.
3. The inmate has no participation in available rehabilitative or self-help programming to address the circumstances that contributed to his criminal behavior, such as substance abuse. The inmate's 2018

commitment offenses involved a large-scale marijuana growing and harvesting operation with many weapons at the location including two assault weapons. In a 2020 interview with probation officers, the inmate admitted having a 9 year addiction to drugs, and he was arrested that same year on his Siskiyou offenses including being in possession of two ounces of heroin and half a pound of methamphetamine. To date, the inmate has no documented self-help to address substance abuse, a circumstance contributing to his criminal behavior.

Analysis: When balancing the aggravating circumstances against the mitigating circumstances, they tend to show that the inmate's institutional behavior, work history, and rehabilitative programming aggravate the inmate's current risk of violence or significant criminal activity because the inmate was found guilty of an RVR dated 8/21/21 for Battery on a Prisoner. Additionally, the inmate was found to have limited work/vocational/education assignments. Lastly, the inmate's 2018 commitment offenses involved a large-scale marijuana growing and harvesting operation with many weapons at the location including two assault weapons. In a 2020 interview with probation officers, the inmate admitted having a 9 year addiction to drugs, and he was arrested that same year on his Siskiyou offenses including being in possession of two ounces of heroin and half a pound of methamphetamine. To date, the inmate has no documented self-help to address substance abuse, a circumstance contributing to his criminal behavior. The foregoing aggravating circumstances are found to outweigh the mitigating circumstance of the absence of confidential information of criminal activity when assessing the inmate's current risk of violence or significant criminal activity.

Case Factor #4 - Response to Legal Notice

The Board of Parole Hearings received responses to the legal notices regarding the inmate's nonviolent review. The following responses were reviewed and considered in this decision: A letter from the Butte County District Attorney's Office dated 3/7/23, and a letter from the Siskiyou County District Attorney's Office dated 3/10/23.

SUMMARY: When reviewing all of the case factors as documented above, and taking into account the totality of the circumstances, including the passage of time and the inmate's age of 25, the factors aggravating the inmate's current risk of violence outweigh the factors mitigating the inmate's current risk of violence or significant criminal activity.

The inmate's institutional adjustment was found to aggravate the inmate's current risk of violence or significant criminal activity given the inmate was found guilty of an RVR dated 8/21/21 for Battery on a Prisoner. Additionally, the inmate was found to have limited work/vocational/education assignments. Lastly, the inmate's 2018 commitment offenses involved a large-scale marijuana growing and harvesting operation with many weapons at the location including two assault weapons. In a 2020 interview with probation officers, the inmate admitted having a 9 year addiction to drugs, and he was arrested that same year on his Siskiyou offenses including being in possession of two ounces of heroin and half a pound of methamphetamine. To date, the inmate has no documented self-help to address substance abuse, a circumstance contributing to his criminal behavior. The inmate's commitment offenses were also found to aggravate the inmate's current risk of violence or significant criminal activity as he was convicted of multiple convictions that involved large-scale criminal activity. The foregoing aggravating circumstances were found to outweigh the mitigating circumstance of the absence of any prior adult felony convictions as more recent behavior is found to have higher probative value when assessing future risk of violence or significant criminal activity. To prepare for this review, the author reviewed the Disability and Effective Communication System as well as the inmate's record to determine all physical and cognitive disabilities documented for this inmate. In reaching the decision articulated above, the author fully considered any mitigating impact of each documented disability on all of the factors considered
. The inmate is denied for release.



April 14, 2023

SIGNATURE

REVIEW DATE

DENVIR, JOHN - Deputy Commissioner

If you believe this decision is not correct, you may send a written request to :

Board of Parole Hearings
Attn: Nonviolent Parole Review
P.O. Box 4036
Sacramento, CA 95812-4036

Your request must be post marked within 30 calendar days from the date you were served this decision and your request must include a brief written statement explaining why you believe the decision is not correct. You may include additional information to support your request.