

BOARD OF PAROLE HEARINGS

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



August 18, 2020

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

Subject: **NONVIOLENT PAROLE REVIEW DECISION**

Inmate's Name : DURAN, STEPHEN,WOLF
CDCR# : BH4114
Location : Correctional Training Facility
Court Case# : 181039, 18361

The above inmate was referred to the Board of Parole Hearings under the Nonviolent Offender Parole Review Process. The board has approved 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: DURAN, STEPHEN,WOLF
CDCR Number: BH4114
Institution: Correctional Training Facility

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 Duran, Stephen, BH4114: When considering together the findings on each of the inmate's four case factors, the inmate does not pose a current, unreasonable risk of violence or a current, unreasonable risk of significant criminal activity to the community. Release is approved.

Statement of Reasons:

Case Factor #1 - Current Commitment Offense

The circumstances of the inmate's current commitment offense(s) mitigate the inmate's current risk of violence or significant criminal activity. The inmate was sentenced to a total term of 5 years and 4 months on the current commitment offense(s). The commitment offense(s) is/are

On 09/11/18, the inmate was convicted of a P.C. 459 2nd, burglary of an unoccupied residence, in which the court imposed the median term of 2 years, which was doubled to 4 years due to the admission of a strike prior conviction. Additionally, the inmate was convicted of a P.C. 487(a), grand larceny, and received 16 months consecutive, which is one third the median term doubled.

On 12/24/17, law enforcement responded to a service call for a residential burglary that was in progress. The victims observed two subjects inside their residence through video surveillance. Law enforcement contacted the subjects outside of the residence carrying the homeowners' personal property. The inmate was not located at the residence, however, an accomplice indicated the inmate left the residence prior the arrival of law enforcement. The inmate admitted to law enforcement he entered the home to check on the status of the accomplices. The residence was unoccupied at the time of the burglary, as the residence was in probate and the reporting party was an executor of the estate.

On 06/14/18, the inmate took a misplaced wallet and placed it into pants. The inmate approached a motel lobby to check into a room and observed a misplaced wallet sitting on a shelf in front of the reception desk. The inmate was depicted on surveillance cameras taking the wallet and placing it into his pants. The victim indicated the wallet contained 2,500 dollars. The money was not recovered.

After careful review and consideration of the aggravating and mitigating circumstances in all of the current crimes, there are no aggravating circumstances and the following mitigating circumstances make this a mitigating factor in the case:

The inmate did not personally use a deadly weapon.
No victims suffered physical injury or threat of physical injury.

Therefore, the current crimes are found to be a mitigating risk factor in the case.

Case Factor #2 - Prior Criminal Record

The inmate's prior criminal history began in 2011 and continued until the commitment offense(s) in 2018. The inmate's prior criminal record is a factor aggravating the inmate's current risk of violence or significant criminal activity. The inmate has the following adult criminal convictions:

The inmate's prior adult criminal history began in 2011 and continued until the current convictions in 2018. The inmate has a lengthy criminal history, with the following convictions as most recent in time:

10/07/15: P.C. 530.5, unauthorized use of another person's identification, 3 years probation with 90 days jail.
2011: P.C. 451(b), arson of inhabited structure. Criminal history indicates "used firearm."

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

There are no mitigating circumstances applicable to the inmate's prior criminal record.

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

The inmate has a violent felony conviction as defined in subdivision (c) of section 667.5 of the Penal Code in the past 15 years. The inmate was convicted of a P.C. 451(b), arson of inhabited structure, in 2011. A P.C. 451(b) is defined as a violent felony conviction within the meaning of P.C. 667.5(c).

The inmate was incarcerated for a felony conviction within five years prior to his current convictions. The inmate's date of last felony conviction was on 10/07/15, where the inmate was incarcerated for 90 days as a condition of felony probation and the inmate suffered the current commitment conviction on 09/11/18. The inmate was free of custody for approximately 3 years.

Analysis: When balancing the aggravating circumstances against the mitigating circumstances, they tend to show that the circumstances of the inmate's prior criminal record aggravate the inmate's current risk of violence or significant criminal activity because there are no mitigating circumstances, the inmate previously suffered a violent felony conviction in the last 15 years and failed to remain free of custody for 5 or more years. Thus, the inmate's prior criminal record is aggravating.

Case Factor #3 - Institutional Adjustment

The inmate was received into the California Department of Corrections and Rehabilitation on the current commitment offense(s) since September 25, 2018, a period of approximately 1 year and 11 months.

The inmate has been involved in the following activities:

Serious Rule Violation(s):

None.

Confidential Memorandum(s):

None.

Work Assignment:

There was no evidence of work assignments at this time.

Education:

01/08/2019 - 04/16/2019: Vocation Career Core; Completed, 4 months.

Vocation:

04/17/2019 - Present: Vocation HVAC; 16 months.

02/08/2019 - Present: Central Service College; no attendance.

Self-Help/Rehabilitation:

01/27/2020 - March 2020: SELF AWARENESS AND IMPROVEMENT GROUPS Getting Out by Going In (GOGI); 8 hours.

09/18/2019 - March 2020: SELF AWARENESS AND IMPROVEMENT GROUPS; 10.75 hours.

05/15/2019 - March 2020: YOUTH DIVERSION PROGRAMS; 11 months.

12/04/2018 - 12/06/2018: SUBSTANCE ABUSE RECOVERY SUPPORT GROUPS N/A; 1.0 hours.

08/08/19: CDCR 128B, annual relay for life fundraiser.

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:

The inmate has not been found guilty of institutional Rules Violation Reports resulting in physical injury or threat of physical injury since his last admission to prison and does not have any recent serious institutional Rules Violation Reports.

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 inmate has successfully participated in vocational, educational, or work assignments for a sustained period of time. The inmate has sustained participation in HVAC vocation, which will assist the inmate in obtaining lawful employment upon his release and deter the inmate from engaging in property crimes for financial gain.

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:

The inmate has limited participation in available rehabilitative or self-help programming to address the circumstances that contributed to his criminal behavior, such as substance. The inmate indicated that he was under the influence of methamphetamine at the time of the offense. The inmate's self-help for substance is minimal at this time.

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 mitigate the inmate's current risk of violence or significant criminal activity because the inmate has abstained from institutional violence, threats of violence or continued criminal activity. The inmate's self-help was aggravating, however, the inmate's commitment conduct did not include violence or threats of violence. The lack of violence in the commitment conduct ultimately resulted in a reduced demand for self-help, which lessened the weight of the aggravating self-help, thus, the inmate's lack of violent serious rules violations and confidential memorandums outweigh the aggravating circumstances. Therefore, the inmate's institutional adjustment is mitigating.

Case Factor #4 - Response to Legal Notice

There were response(s) to the Legal Notices in support of release from the inmate, received 06/29/20 and Jennifer Arfsten, included with inmate's letter, which were reviewed and considered in this decision.

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, the factors mitigating the inmate's current risk of violence outweigh the factors aggravating the inmate's current 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 below, the author fully considered any mitigating impact of each documented disability on all of the factors considered.

The inmate's prior criminal history is aggravating as the inmate was free of custody less than five years and has suffered a P.C. 667.5(c) in the past 15 years. However, the inmate's commitment offense and institutional adjustment are mitigating. The lack of violence in the commitment conduct and institutional adjustment received significant weight.

Therefore, the mitigating factors outweigh any aggravating factors at this time.

In weighing these factors, and taking into account the totality of the circumstances, the circumstances mitigating the inmate's risk outweigh those aggravating the inmate's risk. It is, therefore, determined at this time that the inmate does not pose a current, unreasonable risk of violence, or a current, unreasonable risk of significant criminal activity. The inmate is approved for release.



August 14, 2020

SIGNATURE

REVIEW DATE

HICKEY, RYAN - 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.