

BOARD OF PAROLE HEARINGS

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



January 22, 2021

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

Subject: NONVIOLENT PAROLE REVIEW DECISION

Inmate's Name : FYLER, COLIN,THOMAS
CDCR# : BG0121
Location : California Correctional Center
Court Case# : 2016825, 20171631

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: FYLER, COLIN,THOMAS
CDCR Number: BG0121
Institution: California Correctional Center

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 Fyler, Colin, BG0121: 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) aggravate the inmate's current risk of violence or significant criminal activity. The inmate was sentenced to a total term of 13 years on the current commitment offense(s). The commitment offense(s) is/are

- (1) PC 26100(d) shooting from a motor vehicle for which the inmate received a term of 3 years
- (2) PC 29800(a)(1) possession of a firearm by a felon for which he received a term of 3 years (stayed)
- (3) PC 29800(a)(1) possession of a firearm by a felon for which he received a term of 6 years (stayed)
- (4) There were two an enhancement pursuant to PC 667(a)(1) for a prior serious or violent felony convictions of 5 years each for a total of 10 years

With respect to the PC 26100(d) and PC 29800(a)(1) on 12/14/15, the inmate pulled over to the shoulder of the road, grabbed a rifle, pointed it out the window of his vehicle and shot two eagles who were feeding on a carcass. The inmate was released on probation for this offense.

With respect to the other PC 29800(a)(1) on 11/05/17, the inmate had in his custody and control a .22 caliber rifle

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 one or more victims who suffered physical injury or threat of physical injury. The inmate's crime of shooting the two eagles from his vehicle involved cruelty to animals which is considered presumptive of threat of violence.

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 2003 and continued until the commitment offense(s) in 2017. 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:

- 2003 – PC 459 first degree burglary
- 2003 – HS 11350(a) possession of narcotic substance
- 2003 – HS 11350(a) possession of narcotic substance
- 2003 – PC 459 first degree burglary

2003 – PC 368(d) theft from elder or dependent
2003 - PC 470(d) false checks/records/certs

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 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.
2. 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 inmate was released from his last commitment on 04/20/05 and he was convicted of his commitment offenses on 09/28/16 at the earliest. Thus, the inmate managed to remain conviction free in the community for over 10 years.

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

1. The inmate's prior criminal convictions coupled with his current convictions show a pattern of similar criminal conduct that is increasing in severity. While the inmate prior crimes involved weapons, drugs and theft, his commitment offense was one which carried a presumptive threat of violence.

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 the inmate demonstrated a propensity for non-violence by having never been convicted of a 667.5(c) violent offense and he demonstrated a propensity not to recidivate by remaining conviction free in the community for over 10 years. On the other hand, while the inmate's criminality did escalate to a threat of violence when he shot the eagles from his vehicle, this circumstance is given less weight because the inmate did not actually perpetuate any violence on a person.

Case Factor #3 - Institutional Adjustment

The inmate was received into the California Department of Corrections and Rehabilitation on the current commitment offense(s) since April 17, 2018, a period of approximately 2 years and 9 months.

The inmate has been involved in the following activities:

Rules Violations

- None

Confidential Information

- None

Vocational Assignment Participation

- PIA Furniture 09/01/18 to 11/29/18 (approximately 2 months for 355 hours)
 - Physical Fitness Training 06/08/19 to 06/21/19 (completed)(approximately 2 weeks for 65 hours)
 - Fire Fighter Training 06/22/19 to 07/05/19 (approximately 2 weeks for 58 hours)
 - Camp Firefighter 07/18/19 to present (approximately 1 year and 6 months for 1134 hours)
 - There is a Chrono for 8 to 16 hours of Power Saw Training, dated 07/27/19
- Total approximately 1 year and 9 months for 1,620 hours

Work Assignment Participation

- Dining Room Line Server 05/21/19 to 06/07/19 (approximately 2 weeks)

Educational Assignment Participation

- College Correspondence 08/04/20 to present (approximately 5 months)

Program Participation

- Narcotics Anonymous 07/28/18 to 08/07/18 (approximately 1 week for 1 hour)

A letter of recommendation dated 10/30/18 from Larry Haws the inmate's supervisor commends the inmate work in the PIA furniture factory

A laudatory chrono, dated 11/12/20, states the inmate worked as a Top Swamper and in that capacity made a series of decisions on 09/09/20 which saved a Cal Fire Handcrew from casualties when their escape route was cut off due to a fast moving wild fire. On a more general level the chrono praises the inmate for working many hours, participating in numerous trainings and exceptional execution of duties in his leadership position.

In correspondence the inmate reports he has received his GED and is currently in charge of the Engraving Shop and that he has taken programs in the "chow halls" for which there are no chronos

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. The inmate has not been found guilty of serious institutional Rules Violations Reports since his last admission to prison.
2. 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.

3. The inmate has successfully participated in vocational, educational, or work assignments for a sustained period of time. The inmate has shown he can conform to the rules and put himself in a position where he is less likely to commit crimes with his assignment participation which included 2 weeks of work assignments, 5 months of college and 1 year and 9 months of vocational assignment participation during which he fought fires and saved his fire crew from casualties.

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 limited participation in available rehabilitative or self-help programming to address the circumstances that contributed to his criminal behavior the inmate's commitment offenses involved shooting wildlife and weapons possession. He has only participated in one hour of programming to address this 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 mitigate the inmate's current risk of violence or significant criminal activity because the inmate's limited programming to address the anti-social circumstances of his commitment offense is outweighed by his pro-social behavior while incarcerated which includes not only being institutionally compliant, but also engaging in extensive vocational assignment participation as a fire fighter during which casualties were averted due to the inmate's leadership.

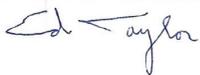
Case Factor #4 - Response to Legal Notice

There were response(s) to the Legal Notices in support of release from inmate, dated 12/01/20 (with enclosure) 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 inmate's age, 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 prior record to determine the physical and cognitive disabilities documented for this inmate. In reaching the decision articulated, the author fully considered any mitigating impact of each disability on all the factors considered.

In summary, the mitigating factors of the inmate's prior criminal history and institutional adjustment outweigh the aggravating factor of the inmate's commitment offense during which he used a gun to shoot two eagles from a vehicle. The inmate's prior criminal history was given weight in mitigation because the inmate's prior offenses were all non-assaultive theft, drug and weapons possession related and because the inmate was able to remain free of criminal convictions in the community for over 10 years after his last release. Moreover, by far the greatest weight in mitigation is given to the inmate's institutional adjustment. This is because the inmate not only avoided rules violations and reports of criminal activity, but because the inmate demonstrated a clear pro-social orientation by engaging in over 1,620 hours of assignment participation mainly as a firefighter. A laudatory chrono praising the inmate for averting casualties to his crew and for his hard work and leadership as a firefighter is particularly indicative of current pro-social, non violent and non-criminal orientation. The inmate is approved for release.



January 20, 2021

SIGNATURE

REVIEW DATE

TAYLOR, EDWARD - 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.