

BOARD OF PAROLE HEARINGS

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



December 30, 2021

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

Subject: **NONVIOLENT PAROLE REVIEW DECISION**

Inmate's Name : WHITE, GARY,LYNN
CDCR# : AY2113
Location : Mule Creek State Prison
Court Case# : 14933, 15524

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: WHITE, GARY,LYNN
CDCR Number: AY2113
Institution: Mule Creek 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 White, Gary, AY2113: 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 19 years and 4 months on the current commitment offense(s). The commitment offense(s) is/are :

PC 49800 Felon in Possession of a Firearm, 1 year & 4 months. Conviction date: October 14, 2014.
PC 459 First Degree Burglary, 8 years [Double pursuant to PC 667(b)-(i) or PC 1170.12]. Conviction date: July 24, 2015.

There were two enhancements as follows: PC 667(a)(1) Prior Serious Felony Conviction 5 years; PC 667(a)(1) Prior Serious Felony Conviction 5 years.
Total term, 19 years and 4 months.

On July 6, 2014, officers from the United States Forest Service found White to be in possession of six Zip loc bags containing marijuana, marijuana seeds, a loaded firearm and other contraband. White was previously convicted of a felony.

On February 9, 2015, White broke into his acquaintance's and victim's Greco's residence and took a large amount of marijuana. Greco came home, discovered damage to his front and back residence doors. He caught White walking down the driveway and stopped White, who admitted that he broke into Greco's home and stole the marijuana.

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:

One or more victims suffered physical injury or threat of physical injury, when the inmate entered the victims dwelling house while the home owner/victims was present, creating a threatening confrontation.

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 1978 and continued until the commitment offense(s) in 2015. 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: 1978 PC 12020(a) Possession of a Deadly Weapon (not a firearm)

1979 U.S. Code 1324 Alien Smuggling
1995 PC 422 Terrorist Threats
1999 PC 273.5(a) Inflict Corporal Injury on Spouse/Cohabitant
2001 PC 69 Resisting/Deterring Officer w/Threat of Violence
2004 PC 422 Terrorist Threats
2007 PC 594(b) Vandalism; and, PC 422 Terrorist Threat

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

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.

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 was incarcerated for a felony conviction within five years prior to his current convictions. White was released from his last prison term in November 6, 2010 and convicted of one of his current offenses four (4) years later in October 14, 2014.
2. The inmate's prior criminal convictions coupled with his current convictions show a pattern of assaultive behavior, because the inmate was convicted of two independent criminal threats, corporal injury to a spouse, resisting an officer with threats of violence. These coupled with the aggravating commitment offense represent a pattern of assaultive criminality.

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 a pattern of assaultive criminality and repetitive crimes within five years of the commitment offenses, demonstrate a trait for violence. Despite the absence of a violent felony within 15 years, during the same period a pattern of assaultive crimes occurred.

Case Factor #3 - Institutional Adjustment

The inmate was received into the California Department of Corrections and Rehabilitation on the current commitment offense(s) since November 3, 2015, a period of approximately 6 years and 2 months.

The inmate has been involved in the following activities:

SERIOUS ADMINISTRATIVE AND OR VIOLENT RULES VIOLATION REPORTS

- September 10, 2019 Fighting
- August 26, 2019 Willfully Resisting a Peace Officer in the Performance of Duties
- December 18, 2018 Possession of Dangerous Contraband
- October 8, 2018 Fighting
- October 26, 2017 Fighting

CONFIDENTIAL INFORMATION

- None during this term of incarceration.

VOCATIONAL & WORK ASSIGNMENTS

- November 2020 to July 26, 2021, Porter, 6 hours
- June to July 2018, Yard Crew, 85 hours
- June 2018, Yard Worker, 27 hours
- September to November 2017, ADA Worker, 112 hours
- May to September 2017, Adult Care Giver, 542 hours

EDUCATIONAL ASSIGNMENTS

- August to October 2019, Voluntary GED, 3 months
- July 2018 to October 2019, Adult Basic Education II, 11 months
- May to June 2018, Voluntary Adult Basic Education, 2 months
- 2017 Voluntary Adult Basic Education
- April to December 2016, Adult Basic Education, 9 months
- February to March 2016, Voluntary Adult Basic Education II, 2 months

SELF-HELP/REHABILITATIVE PROGRAMS

Individual and group therapy sessions through the inmate's participation in the Mental Health Services Delivery System at the Correctional Clinical Case Management System (currently EOP); however he has refused to attend most of the therapy sessions since the last review.

- October 2019, Celebrate Recovery, 1 hour
- November 2018, Alcoholics Anonymous, 1.25 hours
- July 2018 to October 2019 Celebrate Recovery, 1 year & 4 months
- May to June 2018, Celebrate Recovery, 2 months

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.
2. The inmate has successfully participated in vocational, educational, or work assignments for a sustained period of time. Inmate White's participation in over two years of educational assignments and a pattern of work assignments accumulating over 700 hours; these taken together, rises to the level of sustained participation.

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 Rule Violations Reports resulting in physical injury or threat of physical injury since his last admission to prison. White was found guilty of Fighting in 2017, 2018 and 2019.
2. The inmate has limited participation in available rehabilitative or self-help programming to address the circumstances that contributed to his criminal behavior. While White has participated in substance abuse programs extensively, his accomplishments thus far are insufficient to address all the circumstances contributing to his commitment offenses and rule violations.

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 White was found guilty of a rule violation for Fighting on 3 occasions, the most recent took place in September of 2019. He has also not yet successfully participated in rehabilitative programs and refused to attend therapy secessions to address the circumstances of his commitment offenses. He is incarcerated for First Degree Burglary, where he broke into an occupied home with the victim present.

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: From GARY WHITE, inmate self-support letter, dated 11/25/2021 & 11/5/2020,

SUMMARY: When reviewing all of the case factors as documented above, and taking into account the totality of the circumstances, including the passate of time and the inmate's age, 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.

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.

All criteria are aggravating: Mr. White is serving his current incarceration for breaking into the victim's home while the victims was present. His criminal record indicates recidivist behavior as he has failed to remain free from incarceration for a lengthy period of time, and the records shows he has a pattern of assaultive convictions, increasing his risk of danger to the community. White's institutional adjustment weighs heavy against release because it took place most recent in time. He engaged in violence on three separate occasions. White has not yet successfully participated in rehabilitative programs to address the circumstances of either his commitment offenses or the violent behavior that he displayed during the current term of incarceration, therefore aggravating his current risk of violence to the community. The inmate is denied for release.

Walter Johnson

December 29, 2021

SIGNATURE

REVIEW DATE

JOHNSEN, WALTER - 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.