

BOARD OF PAROLE HEARINGS

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



October 30, 2023

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

Subject: **NONVIOLENT PAROLE REVIEW DECISION**

Inmate's Name : LEE, JOSHUA,PAUL
CDCR# : AX0248
Location : Folsom State Prison
Court Case# : 191823, 13102, 192107

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: LEE, JOSHUA,PAUL
CDCR Number: AX0248
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 Lee, Joshua, AX0248: When considering together the findings on each of the incarcerated person's four case factors, the incarcerated person 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 incarcerated person's current commitment offense(s) aggravate the incarcerated person's current risk of violence or significant criminal activity. The incarcerated person was sentenced to a total term of 13 years on the current commitment offense(s). The commitment offense(s) is/are under case number 192107: PC245(a)(4)-Assault with Force Likely to Produce GBI (4 years doubled to 8 years); PC245(a)(4)-Assault with Force Likely to Produce GBI (2 years, consecutive); PC29800(a)(1)-Poss/Own F'Arm by Felon or Addict (3 years concurrent) and under case number 191823: PC69-Resisting/Deterring Officer w/ Threat/Violence (3 years, concurrent);VC2800.2-Evade or Att to Evade Peace Officer while Driving Recklessly (3 years, concurrent); PC30305(a)-Possess Ammunition by Prohibited Person (3 years, concurrent); UI2101(a)-False Statement to Obtain Unemployment (3 years, concurrent); PC118-Perjury (2 years, consecutive);k PC118-Conspiracy Perjury (1 year, consecutive) for a total 13 years. He was convicted of these offenses on 2/22/2022.

On 10/6/2019, two women, mother and a daughter, were attacked and struck by the incarcerated person with a gun. The daughter saw the incarcerated person attacked her mother, so she went across the street to defend her mother. The co-defendant (a female named Jessica Martinez) grabbed the daughter by the hair and took her to the ground and the incarcerated person then kicked her in the face numerous times. The incarcerated person hit the mother with a black handgun numerous times and he pointed the handgun at her 4 times.

On 9/1/2019, the incarcerated person was operating a motor vehicle and evaded the officer's lawful detention by disregarding traffic laws and safety of persons and property. He was in possession of ammunition.

On or about 2/2/2020 through 12/22/2020, the incarcerated person was in Siskiyou County Jail when he made false statement and representation to obtain unemployment insurance benefits in the amount of \$19,682. He was not eligible for those benefits because he was not available to work because he was incarcerated during that period.

On 2/2/2020, the incarcerated person spoke with a co-conspirator, informing that person that everyone is applying for unemployment benefits because the benefit department is not checking. The co-conspirator agreed to apply for benefit in the incarcerated person's name and then they agreed that they can split the money unlawfully received.

On 9/5/2019, the incarcerated person unlawfully attempted by means of threats and violence to deter a deputy from performing his lawful duty.

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. The incarcerated person personally used a deadly weapon (handgun); and
2. There were multiple victims who suffered physical injury or threat of physical injury because he used a handgun to assault at least one victim and he beat another victim, causing physical injuries to both victims. In addition, the incarcerated person caused a threat of physical injury to the officers, motorist, and the community when the incarcerated person evaded the officers' lawful detention by driving recklessly.

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

Case Factor #2 - Prior Criminal Record

The incarcerated person's prior criminal history began in 1997 and continued until the commitment offense(s) in 2022, date of conviction. The incarcerated person's prior criminal record is a factor aggravating the incarcerated person's current risk of violence or significant criminal activity. The incarcerated person has the following adult criminal convictions:

PC212.5(A)-ROB:1ST DEG:CAB/ETC/INHAB DWELL (5/15/1997);
PC12021.1(A)-POSS F/ARM W/PR VIOL:MURDER/ETC (4/8/2003); 11377(A) HS-POSSESS CONTROLLED SUBSTANCE (4/8/2003); PC273.5(A)-INFLICT CORPORAL INJ SPOUSE/COHAB (4/8/2003); PC12316(B)(1)-PROHIBITED OWN/ETC AMMO/ETC
*DISPO:CONVICTED (4/8/2003);
VC2800.2(A)-EVADE PEACE OFCR:DISREGARD SAFETY (5/4/2004); PC4532(B)(1)-ESC JAIL/ETC:CHARGE/ETC W/FEL -W/PRIOR PRISON (5/4/2004);
PC243(C)(2)-BATTERY AGAINST POLICE OFFICER -W/PR FEL CONV (5/4/2004);
PC273.5(A) PC-INFLICT CORPORAL INJ SPOUSE/COHAB -USE WEAPON, PC 245(A)(1) ASSAULT WITH A DEADLY WEAPON, PC417.8-EXHIBIT FIREARM/ETC TO RESIST ARREST, PC29800(A)(1)-FELON/ADDICT POSS/ETC FIREARM, PC237(a)-FALSE IMPRISONMENT WITH VIOLENCE WITH STREET GANG ACT (6/16/2015 and paroled on 6/13/2019).

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

1. The incarcerated person 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 incarcerated person's prior criminal record that aggravate the incarcerated person's current risk of violence or significant criminal activity are:

1. The incarcerated person's prior criminal convictions for PC273.5(A)-INFLICT CORPORAL INJ SPOUSE/COHAB -USE WEAPON, PC 245(A)(1) ASSAULT WITH A DEADLY WEAPON, PC417.8-EXHIBIT FIREARM/ETC TO RESIST ARREST, , PC237(a)-FALSE IMPRISONMENT WITH VIOLENCE WITH STREET GANG ACT coupled with their current conviction-s how a pattern of assaultive behavior; and
2. The incarcerated person was incarcerated for felony conviction within five years prior to his current conviction because he was released from prison on 6/13/2019 for prior convictions, while he was convicted of the current commitment offenses on 2/22/2022, which was within less than 2 years.

Analysis: When balancing the aggravating circumstances against the mitigating circumstances, they tend to show that the circumstances of the incarcerated person's prior criminal record aggravate the incarcerated person's current risk of violence or significant criminal activity because although the incarcerated person was not convicted of a statutory violent felony within the past 15 years, great weight was given to the fact that the incarcerated person was incarcerated for multiple prior felony convictions within less than two year from the current commitment offense. He has a pattern of criminal behavior that are assaultive behavior. His prior convictions for domestic violence, false imprisonment, assault with a deadly weapon were assaultive conduct that are more probative of his current risk of violence. Therefore, it has been determined that his prior criminal record aggravates his current risk of violence.

Case Factor #3 - Institutional Adjustment

The incarcerated person was received into the California Department of Corrections and Rehabilitation on the

current commitment offense(s) since May 23, 2022, a period of approximately 1 year and 5 months.

The incarcerated person has been involved in the following activities:

RVRS:
None

CONFIDENTIAL:
Confidential Memorandum (2/10/2023).

WORK/EDUCATION/VOCATION:
PIA Career Technical Education - AutoCAD from 6/2023 to 10/2023 (576.75 hours).
Porter from 8/2022 to 2/2023 (340.50 hours).
Vocation Computer & Related Technology from 8/2022 to 5/2023 (188.59 hours).
Certificate Revit for Architecture (8/23/2023).
Support Letter seeking job (5/6/2022).
High School Diploma/GED (5/2022).
Laudatory chrono from Vocational Instructor: Computer & Related Technology (4/28/2023).

SELF-HELP OR REHABILITATIVE PROGRAM:
CBI - Outpatient-ISUDT for 10/23 (4 hours).
Narcotics Anonymous from 1/2023 to 5/2023 (24 hours).
Laudatory chrono from CCI Lu (4/28/2023)

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

1. The incarcerated person has not been found guilty of institutional Rules Violation Reports resulting in physical injury or threat of physical injury since their last admission to prison and does not have recent institutional Rules Violation Reports, as classified by the department as serious, as specified in subdivision (a) of section 3315 of article 5 of subchapter 4 of chapter 1 of Division 3 of this title; and
2. The incarcerated person has successfully participated in vocational, educational, or work assignments for a sustained period of time. He is commended for obtaining his High School Diploma, for working in various work assignments, and for participating in vocational assignment. He has marketable skills to get a job in the community to promote prosocial activity.

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

1. There was reliable information, dated 2/10/2023, in the confidential section of the incarcerated person's central file indicating the incarcerated person has engaged in criminal activity since his or her last admission to prison.
2. The incarcerated person has limited participation in available rehabilitative or self-help programming to address the circumstances that contributed to his or her criminal behavior. He is commended for participating in ISUDT and Narcotics Anonymous. In the current commitment offense, the incarcerated assaulted two women and used a handgun to assault at least one of them. He evaded officers by driving recklessly, causing a threat of physical harm to the officers and to the community. He has been incarcerated for more than one year and has not consistently taken available programming to address his criminal behavior. He needs to investigate why he was violent against two women and why he committed the current commitment offenses and address all of his causative or risk factors on this current incarceration. Without consistent and a sustained period of time working on rehabilitative programming, he will continue to face criminal thinking and criminal behavior, as evident of his current commitment offenses. He is encouraged to complete live programming or correspondence program to address his criminal behavior.

Analysis: When balancing the aggravating circumstances against the mitigating circumstances, they tend to show that the incarcerated person's institutional behavior, work history, and rehabilitative programming aggravate the incarcerated person's current risk of violence or significant criminal activity because great weight was given to the fact that the incarcerated person has a confidential memorandum indicating the incarcerated person has engaged in criminal activity, demonstrating that he has not changed his criminal thinking and behavior. Great weight was given to the fact that the incarcerated person has limited participation in self-help or rehabilitative programming to address his criminal behavior in the community. Less weight was given to the fact that he has marketable skills to promote pro-social activity because his marketable skills will not address his criminal thinking and behavior. Without the self-help or rehabilitative programming to address his criminal behavior, he will and has continued to re-offend, as a prior incarceration has not deterred his criminal behavior. Therefore, it has been determined that his institutional behavior aggravates his current risk of violence in the community.

Case Factor #4 - Response to Legal Notice

The Board of Parole Hearings received responses to the legal notices regarding the incarcerated person's nonviolent review. The following responses were reviewed and considered in this decision:

Mr. Lee, the incarcerated person, by letter dated 10/5/2023, supporting release;

Jessica Martinez, significant other, by letter dated 10/8/2023, supporting release;

Victim Gonzales, by letter dated 9/21/2023, opposing release;

Siskiyou County District Attorney's Officer, by letter dated 9/21/2013, opposing early release; and

All prior responses to legal notices regarding this review process, 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 incarcerated person's age, the incarcerated person's physical and cognitive limitations, the factors aggravating the incarcerated person's current risk of violence outweigh the factors mitigating the incarcerated person's current risk of violence or significant criminal activity.

To prepare for this review, the panel reviewed the Disability and Effective Communication System as well as the incarcerated person's record to determine all physical and cognitive disabilities documented for this incarcerated person's. In reaching the decision articulated below, the panel fully considered any mitigating impact of each documented disability on all the factors considered.

Great weight was given to the current commitment offense, the prior criminal record, and the institutional adjustment. In the current commitment offense, Mr. Lee used a handgun to assault a victim. He also beat two victims, causing physical injury and a threat of physical injury. In the prior criminal record, he had multiple prior convictions that consisted of assaultive conduct. Prior incarceration for multiple felony offenses has not deterred him from committing the current commitment offense, which also involved violence. In the institutional adjustment, he needs to take all available self-help rehabilitative programming for a sustained period in order to change his violent criminal and addictive behavior and thinking. In addition, he a recent confidential memorandum indicating that he has engaged in criminal activity, demonstrating that he has not changed his criminal thinking and behavior. He has not taken any rehabilitative programming to address his assaultive conduct in the current commitment offense. Accordingly, based on the totality of the circumstances, he poses a current, unreasonable risk of violence to the community . The incarcerated person is denied for release.



October 27, 2023

SIGNATURE

REVIEW DATE

MEIGHAN, TERESA - 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.