

BOARD OF PAROLE HEARINGS

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



January 12, 2024

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

Subject: NONVIOLENT PAROLE REVIEW DECISION

Inmate's Name : DELOGE, JOSEPH,KYLE
CDCR# : BH8796
Location : High Desert State Prison
Court Case# : 151344, 151148

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: DELOGE, JOSEPH,KYLE
CDCR Number: BH8796
Institution: High Desert 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 Deloge, Joseph, BH8796: 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 30 years, 4 months on the current commitment offense(s). The commitment offense(s) is/are on 9/26/2018, the Incarcerated Person (Deloge) (IP) was convicted of the following:

Case #15-1344--VC 10851, auto theft, two counts (each adding one year, four months, 2 years, 8 months).

On 8/18/15 and 8/20/15, the IP stole cars from two separate victims and was convicted on 9/27/16.

Case #15-1148--The following crimes occurred between 8/18/15 and 8/22/15, and the facts are obtained from the appellate court's opinion.

PC 273.5, Corporal Injury of Spouse (6 years)
PC 236, False Imprisonment (1 year, 4 months)
PC 245(A)(4), Assault With Force Likely To Result In Great Bodily Injury (GBI) (2 years)
PC 136.1, Intimidation To Dissuade Witness From Reporting To Police (6 years)
PC 236, False Imprisonment (Stayed four years)
PC 245(A)(1) Assault With A Deadly Weapon (Gun) (2 years)
PC 245(A)(4) Assault With Force Likely To Result In GBI (2 years)
PC 273.5 Corporal Injury of Spouse (2 years)
PC 422 Criminal Threats (Stayed four years)
PC 422 Criminal Threats (1 year, 4 months)

Additionally, a 5-year enhancement was added because of a prior serious felony conviction per PC 667(a), and a Term case was doubled based on the prior felony convictions.

The IP (IM) and victim 1 (V1) were in an on-and-off relationship for 13 years and had three children. V1 indicated the IP became physically abusive in 2007 and had threatened to kill her more than 10 times over the years. The IP committed numerous crimes of domestic violence against V1 and crimes against victim 2 (V2), a man in V1's life.

On 8/18/15, the IP found V1 and their children in a car with V2. The IP told V2 to stay away from V1, that he knew where V2 lived, and would burn his house down and kill V2. V2 and V1 left in V2's car and went to V2's home, where the IP showed up, banged on the door, and threatened to kill V2. The IP left when V2 hit his house alarm.

On 8/20/15, the IP arrived at V1's home and was refused entry. The IP entered through a bedroom window

where V1 and her daughter were in bed. IP refused to let V1 leave the room. Later, in the living room, IP had a handgun and was waving it around, pointing it at V1, and pretending to shoot her with the gun. IP punched the V1 in the back and side, kicked her in the shins, and again prevented her from leaving the residence.

On 8/21/15, V1 sent the kids away, fearing further domestic violence. The IP arrived, punched her, knocked the wind out of her, prevented her from leaving, threatened to rip her earring out because IP thought V1 was recording him, burned her leg with a cigarette, dragged her down a hall by her hair, forced her to have sex, bit her, choked her, and smothered her with a pillow. The violence lasted the entire night and ended when someone knocked on V1's door. The Victim was able to escape to a neighbor's and call the police. V1 had multiple injuries to her head and body.

The IP's total term is 30 years, 4 months.

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 IP personally used a deadly weapon, a handgun, during the commission of some of the crimes. He waved the gun at V1, threatened to shoot her, and hit her while the gun was in his hand.
2. There were one or more victims who suffered physical injury or threat of physical injury. V1 suffered physical injuries from domestic violence, V2 was under a threat of violence, and the children were presumptively injured or threatened with injury by being present during two domestic violence events and watching their father threaten and abuse their mother.

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 1993 and continued until the commitment offense(s) in 2018. The incarcerated person's prior criminal record is a factor mitigating the incarcerated person's current risk of violence or significant criminal activity. The incarcerated person has the following adult criminal convictions:

1993--PC 459 Burglary: Second Degree;
1995--PC 245(d)(1), Assault with a Firearm on Peace Officer-Firemen;
2000—two counts of PC 12020 Possession of a Dangerous Weapon;
2008--HS 11377 Possession of a Controlled Substance;
3/3/2009--PC 12021, felon in possession of a firearm.

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:

-- The IP has not been convicted of a violent felony as defined under PC 667.5 (c) in the past 15 years.

--The IP was free from incarceration for a misdemeanor conviction involving physical injury to a victim or a felony conviction within five years prior to this current conviction(s).

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:

None

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 mitigate the incarcerated person's current risk of violence or significant criminal activity because the IP does not have a violent felony under PC 667.5(c) (mitigating factor), and the IP was in the community for longer than five years without obtaining a felony conviction. There are no aggravating factors. Thus, the mitigating factors outweigh the aggravating factors.

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 November 20, 2018, a period of approximately 5 year, 2 months

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The incarcerated person has been involved in the following activities:

Work Assignments:

11/30/2023-Assigned-currently--Trash Truck -Trash Operations-Job-14.75 Hours
11/16/2022-Reassigned-on-11/29/2023--Main Kitchen Cook-Job-834 Hours
03/29/2022-Reassigned-on-11/15/2022--Laundry (Job)-Job-396 Hours
10/02/2021-Reassigned-on-03/28/2022-Main Kit Butcher-Main Kitchen Worker-Job-455 Hours

07/17/2021-Reassigned-on-10/01/2021--Main Kitchen Cook-Job-198 Hours
-----Total-Apprx. 1800 Hours

Vocational assignments:
None

Educational assignments:
None

Self-help and rehabilitative programming:

09/28/2023-Unassigned-on-11/15/2023-Narcotics Anonymous 2-Substance Abuse Recovery Support Groups-Self-Help-Zero Hours
08/12/2023-Assigned-currently---Tattoo Removal Program-Self-Help-No Documented Hours (NDH)
05/24/2023-Unassigned-on-05/30/2023--Alternatives To Violence-Self-Help-18 Hours
01/13/2022-Unassigned-on-03/01/2022-Narcotics Anonymous-Substance Abuse Recovery Support Groups-Self-Help-1.25 Hours
10/11/2019-Unassigned-on-01/10/2020-Criminal And Gangmembers Anon.-Criminal And Addictive Thinking Recovery Groups-Self-Help-Zero Hours
08/13/2019-Unassigned-on-01/10/2020-Fatherless Fathers B5-Parenting-Family Support-Self-Help-16 Hours
-----Total -35.25 Hours

The IP participated in individual and group therapy sessions through the Mental Health Services Delivery System at various levels of care. The IP has participated in the following groups: 4 hours of current events.

Certificates and Chronos:
5/28/2023 – AVP Basic – 20 Hours

Confidential Information:
10/26/2022

Rules Violations:
None.

Note: A pending RVR for Conspire Distribution of a Controlled Substance is noted in the file but not considered in this decision

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 IP has not been found guilty of institutional rules violation resulting in physical injury or threat of physical injury since the last admission to prison.

2.The IP has successfully participated in work-assignments for a sustained period. The IP has participated in education, worked, and has vocation experience for many months since reception into the department. Additionally, the IP has participated in 1800 work hours, supporting a sustained finding.

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:

a. There is reliable information in the confidential section of the IP's central file indicating the IP has engaged in criminal activity since the last admission to prison. The IP has a memorandum dated 10/26/2022 is reliable and indicates criminal activity.

b. The IP has limited participation in available rehabilitative or self-help programming to address the circumstances that contributed to the criminal behavior, such as domestic violence. In a review of the above, the IP's records contain around 36 hours of participation in self-help and the 20-hour course with AVP, which is positive but does not support a sustained period of participation in rehabilitative or self-help programming relevant to the current case factors (domestic violence prevention programs).

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 the IP's lack of a sustained period of self-help or rehabilitative programming provides the most aggravating weight in this review. The IP's commitment offense involved threats of physical injury to others and physical injury in a domestic violence situation. As a result, the IP entered prison with an enhanced risk of violence or significant criminal activity. To reduce such enhanced risk, the IP must participate in programming that addresses the issues leading to the commitment offense for a sustained period. Because the IP has limited participation in programming, there is insufficient evidence that the IP has materially reduced such enhanced risk. As a result, that aggravating circumstance is entitled to significant weight. By contrast, the lack of rules violations for violence is entitled to less weight given that the IP has not adequately addressed the domestic violence concern, and even though the IP has been free from violence in the prison setting for just over five years, the IP has not addressed the underlying issues related to violence that occurs in a relationship. Such a period of crime and violence-free behavior is commendable but insufficient to evidence a material reduction in risk of violence or significant criminal activity related to domestic violence. Thus, the aggravating factors outweigh the mitigating.

Case Factor #4 - Response to Legal Notice

There were no responses to Legal Notices.

SUMMARY: When reviewing all of the case factors as documented above, and taking into account the totality of the circumstances, including passage of time, 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 author reviewed the Disability and Effective Communication System as well as the IP's record to determine all physical and cognitive disabilities documented for this IP. In reaching the decision articulated below, the author fully considered any mitigating impact of each documented disability on all of the factors considered.

The aggravating factors make this decision a denial of release. First, the IP's current criminal commitment offense is heavily weighted aggravation because of the injurious violence directed at the victims and included the use of a gun at times. The domestic violence victim was injured as well. Second, the institutional adjustment is aggravating based on the lack of a sustained period of programming related to domestic violence. These two factors are heavily weighted aggravation. When these aggravating factors are combined, they outweigh the mitigating factor (the prior criminal record). The incarcerated person is denied for release.



January 11, 2024

SIGNATURE

REVIEW DATE

WEILBACHER, JAMES - 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.