

BOARD OF PAROLE HEARINGS

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



July 31, 2024

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

Subject: **NONVIOLENT PAROLE REVIEW DECISION**

Inmate's Name : LUERAS, VICTOR
CDCR# : BG0122
Location : Sierra Conservation Center
Court Case# : 2015145

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: LUERAS, VICTOR
CDCR Number: BG0122
Institution: Sierra Conservation 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 Lueras, Victor, BG0122: 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 21 years on the current commitment offense(s). The commitment offense(s) is/are as follows:

Commitment Offenses

PC 182(a)(1) / PC 211 / PC 12022.6(a)(1) – Conspiracy to Commit Robbery 1st Degree with enhancement for Loss Exceeds \$65,000

PC 136.1(c) – Prevent/Dissuade Victim or Witness Under Specified Circumstances

Sentence Components

The incarcerated person was sentenced to a principal term of 12 years for the conviction of PC 182(a)(1) / PC 211 (six years doubled as a "second strike") and an additional 1 year for the offense enhancement pursuant to PC 12022.6(a)(1). The incarcerated person was sentenced to a consecutive term of 3 years for the conviction of PC 136.1(c). The incarcerated person was sentenced to an additional 5 years as a sentence enhancement pursuant to PC 667(a)(1) – Prior Felony Conviction Serious Offense. The total term is 21 years.

Facts of the Commitment Offenses

On 01/29/2015, law enforcement officers responded to a report of a home invasion robbery. The victims reported that the incarcerated person and accomplice entered their home armed with handguns. The intruders threatened to kill the victims if they moved and they taped the victims' hands and feet. The intruders repeatedly asked the victims about the location of gold and money inside the residence as if they were familiar with the premises. It was determined that the incarcerated person's brother previously worked as a caretaker for the victim's infirm mother and knew that gold and money had been bequeathed to the victims. The victims reported the following property as stolen: two revolvers; a large amount of marijuana; over \$3000 in cash; gold and jewelry valued at \$41,000; and a vehicle.

One hour later, highway patrol officers observed the incarcerated person and accomplice driving a vehicle matching a description given by the victims' neighbor. Officers stopped the vehicle. Both the incarcerated person and accomplice had large amounts of cash on their person. In addition, a search of the vehicle revealed a substantial amount of contraband including, but not limited to the following: four shotguns; two rifles; two revolvers; numerous bags and containers of jewelry, cash and gold & silver coins, several cell phones and several large trash bags containing over 62 pounds (over 28.5 kilograms) of 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:

- **The incarcerated person personally used a deadly weapon.** The incarcerated person and accomplice both used a handgun during the commission of the crimes.
- **There were one or more victims who suffered physical injury or threat of physical injury.** The incarcerated person and accomplice were armed with a handgun during the commission of the crimes. The perpetrators told the victims that they would kill them if they moved. They also told the victims that someone outside the residence would “burn it down with them in it” if they moved.
- **The convictions involve large-scale criminal activity which means criminal activity that was part of an exceptionally sophisticated and large-scale criminal enterprise.** A search of the incarcerated person's vehicle revealed numerous items and evidence of large-scale criminal activity. The vehicle contained numerous firearms (shotguns, rifles and revolvers), large amounts of cash, containers and bags holding jewelry and gold & silver coins including the \$41,000 of gold; as well as several large trash bags containing over 62 pounds (over 28.5 kilograms) of marijuana.

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 1992 and continued until the commitment offense(s) in 2015. 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:

Adult Felony Convictions

1992 PC 459 – Burglary 1st Degree
1992 PC 11377(a) – Possession Controlled Substance
1992 VC 2800.2(a) – Evade or Attempt Evade Peace Officer While Driving Recklessly
1996 VC 23153 / VC 23175 – Driving Under Influence with 3 Priors
2000 PC 484g(a) – Fraudulent Use Credit Card
2002 HS 11378 – Possession Controlled Substance for Sale **
2005 HS 11378 – Possession Controlled Substance for Sale **

*** Note: The convictions were subsequently discharged and dismissed pursuant to W&I 3200.*

Relevant Misdemeanor Convictions

1989 PC 242 – Battery
1995 PC 273.5(a) – Inflict Corporal Injury Spouse / Cohabitant

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 incarcerated person has not been convicted of a violent felony as defined in Penal Code 667.5(c) within the 15 years prior to this review.** The incarcerated person has no felony convictions, violent or otherwise, within the previous 15 years.
- **The incarcerated person 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 the incarcerated person's current convictions.** Although the incarcerated person has served several prior prison terms, the last period of incarceration ended on 09/26/2005.

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 there are several mitigating circumstances and no aggravating circumstances. The incarcerated person has not been convicted of a violent felony as defined by PC 667.5(c) within the past 15 years. The incarcerated person has been free from incarceration for a criminal conviction (a misdemeanor involving physical injury or felony of any nature) for 5 or more years prior to the current conviction.

Therefore, the prior criminal record is found to be a mitigating risk factor in this case.

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 April 17, 2018, a period of approximately 6 years & 3 months.

The incarcerated person has been involved in the following activities:

Rules Violation Reports

12/23/2023 – Possession of Dangerous Contraband
09/10/2023 – Possession of Cellular Telephone
04/18/2023 – Possession of Cellular Telephone

Confidential Information

05/31/2023 – Confidential Memorandum

Vocational Assignments

06/01/2023 to 06/13/2023 – Vocational Welding [11.25 Hours]
07/13/2022 to 04/28/2023 – Vocational Computer & Related Technology [187.5 Hours]
05/18/2022 to 06/08/2023 – Vocational Computer & Related Technology [8 Hours]

Educational Assignments

06/11/2022 to 04/28/2023 – Literacy Student III [61 Hours]
04/26/2022 to 05/05/2022 – Peer Literacy Mentor Program [No Hours Recorded]
03/17/2020 to 09/16/2020 – Adult Basic Education II [152 Hours]
09/21/2018 to 01/15/2020 – Voluntary Adult Basic Education II [314 Hours]

Work Assignments

03/19/2024 to Current – Camp Firefighter (Baker) [573.5 Hours]
11/21/2023 to 01/19/2024 - Camp Firefighter (Prep Cook) [256 Hours]
10/17/2023 to 11/21/2023 - Camp Firefighter (Cook) [208 Hours]
10/12/2023 to 10/16/2023 - Camp Firefighter (Firefighter) [8 Hours]
07/08/2023 to 09/19/2023 - Camp Firefighter (Cook) [360 Hours]
06/13/2023 to 07/08/2023 - Camp Firefighter (Prep Cook) [176 Hours]
05/25/2023 to 05/26/2023 – Physical Fitness Training [No Hours Recorded]
12/14/2019 to 03/02/2020 – Plumber [244.5 Hours]
10/09/2018 to 12/13/2019 – Porter [508 Hours]

Rehabilitative or Self-Help Programming

09/17/2021 to 04/28/2023 – Al Anon [41.25 Hours]
06/04/2019 to 07/16/2021 – Alcoholics Anonymous [65 Hours]
03/20/2019 to 04/28/2023 – Narcotics Anonymous [67.25 Hours]
01/09/2019 to 07/27/2021 – Al Anon [116 Hours]

The incarcerated person's participation in the Mental Health Services Delivery System ("MHSDS") at the Correctional Clinical Case Management System ("CCCMS") level of care (between 04/24/2018 and 06/29/2018) including the educational opportunities and individual and group therapy have been considered in rendering 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:

- **The incarcerated person has successfully participated in vocational, educational or work assignments for a sustained period of time.** As the incarcerated person's current crimes appear, at least in part, to be financially motivated, upgrading in the areas of vocational, education and employment skills is of particular importance for the incarcerated person's development of marketable skills in order to obtain gainful, lawful employment and otherwise successfully re-integrate into the community upon release from custody. A review of the central file shows that the incarcerated person has participated in approximately 206 hours of vocational training between May 2022 and June 2023. The incarcerated person has also participated in approximately 527 hours of educational assignments between September 2018 and April 2023. Finally, from October 2018 to the current date, the incarcerated person has participated in several work assignments as follows: Porter (508 hours); Plumber (244.5 hours) and Camp Firefighter (1581 hours total). Thus, the incarcerated person has upgraded both vocationally and educationally. Accordingly, the incarcerated person's participation in available vocational, educational or work assignments has been sustained over a sufficient period of time and to degree that can be considered successful under the relevant review standards.

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:

- **The incarcerated person has been found guilty of institutional Rules Violation Reports resulting in physical injury or threat of physical injury since the last admission to prison or has one or more recent serious institutional Rules Violation Reports.** Since April 2023, the incarcerated person has been found guilty of three (3) serious Rules Violation Reports (Possession of Cellular Telephone on 04/18/2023 &

09/10/2023 and Possession of Dangerous Contraband on 12/23/2023). When considering the large-scale criminal activity underlying the commitment offenses, the incarcerated person's continued negative institutional behavior reflected in the recent and serious Rules Violation Reports demonstrates ongoing criminal activity which aggravates the incarcerated person's current risk of violence or significant criminal activity .

- **There is reliable information 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.** The confidential memorandum is dated 05/31/2023.

- **The incarcerated person has limited participation in available rehabilitative or self-help programming to address the circumstances that contributed to his criminal behavior such as substance abuse for a sustained period of time.** When considering the aggravating nature of the commitment offenses as well as the incarcerated person's continued criminality and dangerous behavior exhibited during the current term, the incarcerated person would clearly benefit from sustained programming in relevant areas that have been problematic for the incarcerated person in the past in order to avoid future criminality. A review of the central file shows that, in addition to the incarcerated person's brief period of participation in the MHSDS, the incarcerated person has participated in several programs during the current term (AA, NA and AI Anon). However, the incarcerated person's participation in rehabilitative or self-help programming to date has not successfully and sufficiently addressed the circumstances that contributed to the incarcerated person's criminal behavior. First, in light of the level of violence and assaultive behavior reflected in the current crimes, the incarcerated person's programming to date has not sufficiently addressed the incarcerated person's risk factors and criminogenic needs. Second, while the incarcerated person has not participated in any self-help programming since April 2023, the incarcerated person has been found guilty of three (3) serious Rules Violation Reports since that time. The incarcerated person's recent and repeated misconduct also shows that the incarcerated person has not sufficiently addressed the relevant risk factors and criminogenic needs. Third, records reflect that the incarcerated person has engaged in the recent and/or continued use of methamphetamine as reflected in the toxicology screenings dated 01/16/2024 and 01/05/2024. Considering the large-scale criminal activity underlying the commitment offenses, the incarcerated person's ongoing use of controlled substances displays ongoing criminal behavior and the failure to address the circumstances that contributed toward the criminal behavior through rehabilitative and/or self-help programming.

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 positive efforts the incarcerated person has demonstrated during the current term such as the successful participation in vocational, educational or work assignments while notable are insufficient to outweigh the aggravating circumstances. First, the incarcerated person's recent and continued involvement in unlawful or prohibited conduct as reflected in the Rules Violation Reports and the criminal activity addressed by the reliable confidential information are highly probative of the incarcerated person's current risk of violence or significant criminal activity. Second, for the reasons set forth above, the incarcerated person has failed to mitigate the risk to reoffend by successfully participating in positive programming for a sustained period of time in order to address the incarcerated person's criminogenic needs as well as the underlying causative factors and relevant risk factors. As such, the incarcerated person clearly requires a lengthier period of behavioral stability and rehabilitation in order to adequately mitigate the current risk of violence or significant criminal activity.

Overall, the circumstances of the incarcerated person's institutional adjustment and behavior are found to be aggravating.

Case Factor #4 - Response to Legal Notice

The Board of Parole Hearings received responses to the legal notices regarding the incarcerated person nonviolent review. The following responses were reviewed and considered in this decision: None.

Note: No responses have been received subsequent to issuance of the most recent Nonviolent Offender Review on the Merits Decision. However, all responses previously received by the board including those received and documented in prior NVRM decision dated 07/28/2023 has been reviewed and considered in the formulation of the decision herein.

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.

While the incarcerated person's prior criminal record is a mitigating factor, the commitment offense coupled with the incarcerated person's negative institutional adjustment are a more recent and more probative reflection of the incarcerated person's current and unreasonable risk of violence or significant criminal activity. The violent and assaultive nature of the commitment offenses and the incarcerated person's continued criminal and prohibited conduct exhibited during the current term are highly probative of the risk of violence or significant criminal activity the incarcerated person currently poses to the public. Additionally, the incarcerated person has failed to sufficiently address the circumstances and salient issues contributing to the incarcerated person's criminal behavior through sustained and successful participation in rehabilitative or self-help programming. As a result, the incarcerated person has failed to mitigate the current unreasonable risk of violence or significant criminal activity which the incarcerated person would pose to the community upon release.

For these reasons and those addressed in this decision, the incarcerated person poses a current, unreasonable risk

of violence or a current, unreasonable risk of significant criminal activity to the community. The incarcerated person is denied for release.



July 30, 2024

SIGNATURE

REVIEW DATE

BRUECKNER, MATTHEW - 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.