

BOARD OF PAROLE HEARINGS

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



August 31, 2020

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

Subject: **NONVIOLENT PAROLE REVIEW DECISION**

Inmate's Name : BURNS, DENNIS,MICHALE
CDCR# : F40967
Location : Kern Valley State Prison
Court Case# : 112041

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: BURNS, DENNIS, MICHAEL
CDCR Number: F40967
Institution: Kern Valley 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 Burns, Dennis, F40967: 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 13 years on the current commitment offense(s). The commitment offense(s) is/are

(2011) PC 245(c) Assault with a Deadly Weapon on Peace Officer/Fireman, second strike, with an 8 year term, convicted 8/20/2012;

(2009) VC 2800.2(a) Evade or Att to Evade Peace Officer while Driving Recklessly, Second Striker, concurrent term of 6 years, convicted 6/15/2010;

(2011) HS11377(a) Possession of Controlled Substance, with a 1 year and 4 month term concurrent (reduced to misdemeanor per Prop 57) convicted 8/20/2012;

Enhancement:

PC667(a)(1) Prior Felony Conviction of Serious Offense, with a 5 year term;
Three counts PC667.5(b) with 3 years concurrent.

Statement of Facts:

12/22/2011, Officers saw the inmate on the Main Street of Weed, California, who was known to have an active warrant. Near the rear of an apartment, up a flight of stairs, Inmate was approached and told he was under arrest. Inmate was subjected to a search and a white substance and smoking pipe were found on his person. Inmate then pushed an officer/victim backwards down a flight of stairs, causing officer/victim to suffer at least one broken rib and other injuries. The inmate then fled the scene, but was later arrested at a residence.

12/19/2009, Officer attempted to conduct a traffic stop. Instead of pulling over, inmate led officers on a high speed chase in an attempt to evade capture.

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 multiple victims who suffered physical injury or threat of physical injury. The inmate pushed victim/officer down a flight of stairs, breaking his rib. Also, the inmate's recklessly evading placed the pursuing officers and the public at great risk of physical injury.

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 1995 and continued until the commitment offense(s) in 2011. 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:

1995 PC 459 Burglary 1st Residential
1999 VC 10851 Vehicle theft
2006 PC 245 Assault
2006 HS 11377 Possession of controlled substance
2004/2006 PC 4532 Escape by force or violence, released on 08/29/2009

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:

The inmate was incarcerated for a felony conviction within five years prior to his current convictions. Inmate was released to parole on 8/29/2009, and he was convicted of his current crimes in 2010 and 2012, which is less than 5-years later.

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 while the inmate has not been convicted of a felony pursuant to 667.5(c) in the past 15 years, this is outweighed by the short amount of time between release from a prior term and the current convictions. Inmate was in the community for less than 5-years before he was convicted of his current crimes. The inability of inmate to remain free from criminal conduct while in the community for such a short period of time is indicative of a current risk of violence. Accordingly, the prior criminal record is overall aggravating.

Case Factor #3 - Institutional Adjustment

The inmate was received into the California Department of Corrections and Rehabilitation on the current commitment offense(s) since September 18, 2012, a period of approximately 7 years and 11 months.

The inmate has been involved in the following activities:

Serious Rule Violation Reports:
Fighting (1/11/2020)
Battery Causing Serious Injury (2/24/2018)
Battery on a prisoner (1/2018)
Delaying a Peace Officer in the Performance of Duties (9/2017)
Disrespect w/ Potential for Violence/Disruption (3/2017)
Fighting (9/2016)
Fighting (1/2016)
Fighting (11/2014)
Fighting (8/2013)

Confidential information:
Memorandum dated 7/23/17
Memorandum dated 7/12/17
Memorandum dated 8/20/16
Memorandum dated 5/12/15

Vocational training: Computer literacy completed in 2016
Educational courses: None
Work assignments:
Porter - 2014: 97 hours, 2016: 400 hours, 2018: 13 hours, 2019: 7 hours, 2020: appx 110 hours
Yard crew 1.2 years

Substance abuse/Self-improvement programming:
NA - 1 month
Alternative to violence

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:

None

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 Rules Violations Reports resulting in physical injury or threat of physical injury since his last admission to prison. The most recent serious and violent RVR occurred as of 1/11/2020. This is given great weight in this review period.
2. There is 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 limited participation in available vocational, educational, or work assignments. While, over the years, the inmate has had some work assignments, the hours have not been sustained. Since his last NV Review, the inmate has only appx. 110 additional work assignment hours as a Porter.
4. The inmate has limited participation in available rehabilitative or self-help programming to address the circumstances that contributed to his criminal behavior. Inmate has been involved in a great deal of violence this term, as is established by all the rule violations he has incurred for Fighting, including the recent RVR on 1/11/2020. The inmate's commitment offense include substance abuse and violent behavior; neither issue has yet been addressed with sustained programming.

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 while the inmate has some work assignment hours, this is outweighed by the lack of sustained programming that addresses substance abuse and violent behavior, and that the inmate has a recent and serious RVR for fighting as of 1/11/2020. The inmate has exhibited violent behavior on an ongoing basis throughout his term, which demonstrates that he is a current, unreasonable risk of violence. Accordingly, the institutional adjustment factor is overall aggravating.

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 the passage of time, 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.

Under the review criteria, the inmate's current commitment offense, prior criminal record, and institutional behavior are considered aggravating. The inmate's current offense involved physical injury to a victim/officer and the threat of physical injury to victims as he evaded police while driving recklessly. The inmate's prior record demonstrates an inability to follow the rules and norms of society as he was free from incarceration for a relatively short period of time before being convicted of the current offenses. The inmate continues to exhibit violent, assaultive behavior by incurring RVRs for Fighting as recently as January 2020, which is given great weight. For these reasons, the inmate poses a current, unreasonable risk of violence or a current, unreasonable risk of significant criminal activity to the community. The inmate is denied for release.



August 27, 2020

SIGNATURE

REVIEW DATE

ADAMS, ELEANORE - 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.