

BOARD OF PAROLE HEARINGS

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



December 02, 2020

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

Subject: NONVIOLENT PAROLE REVIEW DECISION

Inmate's Name : EMERSON, MICHAEL,LORY
CDCR# : AZ9790
Location : California State Prison, Corcoran
Court Case# : 16367, 151508

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: EMERSON, MICHAEL,LORY
CDCR Number: AZ9790
Institution: California State Prison, Corcoran

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 Emerson, Michael, AZ9790: 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 eleven years on the current commitment offense(s). The commitment offense(s) is/are PC 422 (threat to cause harm or death), for which the inmate received a sentence of three years, and VC 2800.2 (reckless evasion), for which the inmate received a concurrent sentence of four years. The sentence also includes seven one-year enhancements in accordance with PC 667(a) and PC 677.5(b) for prior strikes and a one-year enhancement in accordance with PC 12022 for personal use of a deadly weapon.

On 11/5/15, the parolee threatened to bash his sister's head with a baseball bat. He swung the bat violently and smashed a nearby table.

On 3/24/16, the parolee attempted to evade a law enforcement officer while riding a motorcycle. The parolee drove in excess of 90 miles per hour and crossed into the opposing lane of traffic, forcing two other vehicles to leave the roadway.

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 inmate personally used a deadly weapon, specifically, a baseball bat.
- 2.There were one or more victims who suffered physical injury or threat of physical injury. The parolee threatened the safety of other drivers on the highway with his reckless conduct, and he directly threatened another victim with a baseball bat.

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 2009 and continued until the commitment offense(s) in 2016. 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: 2009: PC 594(a)(b)(1), vandalism; PC 459, seven counts; PC 664/459, attempted burglary.

2012: PC 666(a), petty theft with a qualifying prior conviction, four counts; PC 664/666(a), attempted petty theft with a qualifying prior conviction.

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's prior criminal convictions coupled with his current convictions show a pattern of similar criminal conduct that is increasing in severity. His past offenses were non-violent theft-related offenses, and his current commitment offenses involved assaultive conduct. His conduct has therefore escalated in its severity.
- 2.The inmate was incarcerated for a felony conviction within five years prior to his current convictions. He was released on parole on 1/21/15 following his 2009 convictions, and the dates of his current convictions were 12/15/15 and 5/17/16.

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 although he has not incurred convictions for offenses deemed violent by statute, by his prior and current convictions, the inmate has demonstrated a pattern of criminal conduct that is increasing in severity. His past periods of incarceration, including one that ended less than a year prior to one of his current convictions, have had little apparent effect.

Case Factor #3 - Institutional Adjustment

The inmate was received into the California Department of Corrections and Rehabilitation on the current commitment offense(s) since May 20, 2016, a period of approximately four and a half years.

The inmate has been involved in the following activities:

Education:
None noted.

Vocation:
None noted.

Work:
Porter 4/4/19 - 4/1/20; 5/19/20 - present.

Self-Help/Rehabilitation:
Cognitive Behavioral Intervention (CBI) 10/1/20 - present.
Substance Use Disorder Treatment 4/20/19 - 12/17/19 (325 hours).

The inmate has been found guilty of serious RVRs issued on the following dates:

Fighting - 12/27/18; Battery - 6/6/18 and 11/3/17.

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:

There are no applicable circumstances in mitigation of risk.

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 Violation Reports resulting in physical injury or threat of physical injury since his last admission to prison. The inmate has sustained three rule violations involving violence, most recently on 12/27/18.
- 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. A confidential memorandum dated 1/18/18 relates to the inmate's 11/3/17 battery of another inmate. The information was taken into account for this review because it indicates that the inmate has engaged in gang activity while incarcerated.
- 3.The inmate has limited participation in available vocational, educational, or work assignments. He has worked as a porter for approximately one and a half years. In comparison to his criminal history and his need to gain experience and marketable skills, his current amount of participation cannot be considered adequate.
- 4.The inmate has limited participation in available rehabilitative or self-help programming to address the circumstances that contributed to his criminal behavior, such as substance abuse or gang involvement. His completion of a SUDT program is laudable, but his participation was relatively brief and recent. Overall, the inmate has not adequately addressed his history of substance use, violence, and gang involvement.

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 the inmate has engaged in multiple acts of violent behavior, and he has yet to adequately and meaningfully address his criminogenic needs of employable job skills, sustained substance abuse program participation, and gang involvement cessation.

There are no mitigating circumstances.

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.

All factors are in aggravation of risk. The inmate's commitment offenses demonstrated reckless and assaultive conduct twice in short period of time and soon after his release from incarceration for several prior felonies. He has engaged in gang-related violence in prison, and his overall institutional record does not yet reflect successful rehabilitation. The inmate is denied for release.



November 30, 2020

SIGNATURE

REVIEW DATE

BLAKE, DANIEL - 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.