

BOARD OF PAROLE HEARINGS

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



January 07, 2021

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

Subject: **NONVIOLENT PAROLE REVIEW DECISION**

Inmate's Name : WHITE, GARY,LYNN
CDCR# : AY2113
Location : California Health Care Facility
Court Case# : 14933, 15524

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: WHITE, GARY,LYNN
CDCR Number: AY2113
Institution: California Health Care Facility

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 White, Gary, AY2113: 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) mitigate the inmate's current risk of violence or significant criminal activity. The inmate was sentenced to a total term of nineteen (19) years and four (4) months on the current commitment offense(s). The commitment offense(s) is/are

White was convicted of two offenses in two separate cases as follows:

1. Conviction date: October 14, 2014

- PC 49800 Felon in Possession of a Firearm, 1 year & 4 months (1/3 consecutive midterm)

On July 6, 2014, officers from the United States Forest Service found White to be in possession of six Ziploc bags containing marijuana, marijuana seeds, a loaded firearm and other contraband. White was previously convicted of a felony.

2. Conviction date: July 24, 2015

- PC 459 First Degree Burglary, 8 years (midterm doubled)

- PC 667(a)(1) Prior Serious Felony Conviction 5 years

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On February 9, 2015, White broke into his acquaintance's and victim's Greco's residence and took a large amount of marijuana. Greco came home, discovered damage to his front and back residence doors. He caught White walking down the driveway and stopped White, who admitted that he broke into Greco's home and stole the marijuana.

After careful review and consideration of the aggravating and mitigating circumstances in all of the current crimes, there are no aggravating circumstances and the following mitigating circumstances make this a mitigating factor in the case:

No victims suffered physical injury or threat of physical injury.

Therefore, the current crimes are found to be a mitigating risk factor in the case.

Case Factor #2 - Prior Criminal Record

The inmate's prior criminal history began in 1997 and continued until the commitment offense(s) in 2015. 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:

YEAR OFFENSE

1978 PC 12020(a) Possession of a Deadly Weapon (not a firearm)
1979 U.S. Code 1324 Alien Smuggling
1985 PC 242 Battery - misdemeanor
1986 PC 242 Battery - misdemeanor
1992 PC 273.5(a) Inflict Corporal Injury on Spouse - misdemeanor
1995 PC 422 Terrorist Threats
PC 240 Assault - misdemeanor
1997 PC 245(a)(1) - misdemeanor
1999 PC 273.5(a) Inflict Corporal Injury on Spouse/Cohabitant
2001 PC 69 Resisting/Deterring Officer w/Threat of Violence
2004 PC 422 Terrorist Threats
2007 PC 594(b) Vandalism
PC 422 Terrorist Threat

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. White was released from his last prison term in November of 2010 and convicted of one of his current offenses four (4) years later in October of 2014.

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 White has failed to remain free from incarceration for a lengthy period of time, at least five (5) years or longer. He was released from his last prison term in November of 2014 and convicted of his current offenses in October of 2014. White was free in the community for only four years when he re-offended. His inability to remain free from incarceration is a circumstance that outweighs an absence of a "violent" felony conviction, as defined by Penal Code Section 667.5(c), because it indicates habitual criminality which increases White's risk of danger to the community.

Case Factor #3 - Institutional Adjustment

The inmate was received into the California Department of Corrections and Rehabilitation on the current commitment offense(s) since November 3, 2015, a period of approximately five (5) years.

The inmate has been involved in the following activities:

SERIOUS ADMINISTRATIVE AND OR VIOLENT RULES VIOLATION REPORTS

- September 10, 2019 Fighting
- August 26, 2019 Willfully Resisting a Peace Officer in the Performance of Duties
- August 14, 2019 Alteration of State Clothing
- December 18, 2018 Possession of Dangerous Contraband
- October 8, 2018 Fighting
- October 26, 2017 Fighting

CONFIDENTIAL INFORMATION

- None during this term of incarceration.

VOCATIONAL & WORK ASSIGNMENTS

- November 2020, Porter, 1 month
- June to July 2018, Yard Crew, 1 month
- June 2018, Yard Worker, 1 month
- September to November 2017, ADA Worker, 3 months
- May to September 2017, Adult Care Giver, 5 months

EDUCATIONAL ASSIGNMENTS

- August to October 2019, Voluntary GED, 3 months
- July 2018 to October 2019, Adult Basic Education II, 11 months
- May to June 2018, Voluntary Adult Basic Education, 2 months
- 2017 Voluntary Adult Basic Education
- April to December 2016, Adult Basic Education, 9 months
- February to March 2016, Voluntary Adult Basic Education II, 2 months

SELF-HELP/REHABILITATIVE PROGRAMS

- October 2019, Celebrate Recovery, 1 hour
- November 2018, Alcoholics Anonymous, 1.25 hours
- July 2018 to October 2019 Celebrate Recovery, 1 year & 4 months
- May to June 2018, Celebrate Recovery, 2 months

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:

1. There is no 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.
2. The inmate has successfully participated in vocational, educational, or work assignments for a sustained period of time. White's participation in two over two years of educational assignments rises to the level of sustained participation.

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 Violations Reports resulting in physical injury or threat of physical injury since his last admission to prison. White was found guilty of Fighting in 2017, 2018 and 2019.
2. The inmate has limited participation in available rehabilitative or self-help programming to address the circumstances that contributed to his criminal behavior. While White has participated in substance abuse programs extensively, his accomplishments thus far are insufficient to address the circumstances of his commitment offense.

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 White was found guilty of a rule violation for Fighting on 3 occasions, the most recent took place in September of 2019. He has also not yet successfully participated in rehabilitative programs to address the circumstances of his commitment offenses. He is incarcerated for First Degree Burglary, where he broke into his acquaintance's home and stole marijuana. He is also serving a term for illegally possessing a firearm due to his status as a convicted felon. White is commended for his participation in substance abuse programs, however, his efforts thus far fall short of addressing the circumstances that gave rise to his criminal behavior, therefore aggravating his current risk of danger to the community. Moreover, his rule violation for Fighting in 2019 indicates that he has a current propensity towards violence.

Case Factor #4 - Response to Legal Notice

There were response(s) to the Legal Notices in support of release from GARY WHITE, inmate self-support letter, dated November 5, 2020, which 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 and White's age, sixty-three years-old, , 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, while White's commitment offenses are factors that mitigate, his prior criminal record and institutional behavior are factors that aggravate his current risk of violence. He is serving his current incarceration for breaking into the victim's home and stealing the victim's marijuana. White is also serving a term for illegal firearm possession due to his status as a convicted felon. His criminal record indicates recidivist behavior as he has failed to remain free from incarceration for a lengthy period of time, which increases his risk of danger to the community. White's institutional adjustment weighs heavy against circumstances in mitigation because it took place more recent in time. He engaged in violence on three separate occasions. White has not yet successfully participated in rehabilitative programs to address the circumstances of either his commitment offenses or the violent behavior that he displayed during the current term of incarceration, therefore aggravating his current risk of violence to the community. The inmate is denied for release.



January 5, 2021

SIGNATURE

REVIEW DATE

DANG, MARY - 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.