

**BOARD OF PAROLE HEARINGS**

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



December 06, 2023

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

**Subject: NONVIOLENT PAROLE REVIEW DECISION**

Inmate's Name : FERGUSON, JUSTIN,CURTIS  
CDCR# : BB5000  
Location : Kern Valley State Prison  
Court Case# : 2014308, 2014775, 20151513, 2010597

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: FERGUSON, JUSTIN,CURTIS  
CDCR Number: BB5000  
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 Ferguson, Justin, BB5000:** 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 thirteen (13) years and four (4) months on the current commitment offense(s). The commitment offense (s) is/are

CONVICTION DATES: September 28, 2010; October 15, 2014; October 11, 2016; and January 19, 2016

##### CODE / OFFENSE/ SENTENCE

1. PC 1320.5 Failure to Appear / 3 years
2. PC 459 Second Degree Burglary / 8 months consecutive
3. PC 450 Second Degree Burglary / 8 months consecutive
4. PC 140(a) Use of Force/Threat of Violence on Victim/Witness / 1 year consecutive
5. PC 459 First Degree Burglary / 6 years concurrent

- \* PC 12022.1 Offense Committed While Released on Bail / 2 years consecutive
- \* PC 12022.1 Offense Committed While Released on Bail / 2 years consecutive
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- \* PC 12022.1 Offense Committed While Released on Bail / 2 years consecutive

The incarcerated person was convicted of the offenses listed above in five separate cases as follows:

On March 8, 2010, the incarcerated person broke into a commercial building with the intent to commit a larceny and or any felony.

On July 24, 2013, the incarcerated person stole a stereo from Walmart.

On July 30, 2014, the incarcerated was released from custody on bail or on his own recognize pending felony charges and failed to appear in court for said charges.

On September 25, 2015, the incarcerated person attacked and pushed a female victim. He also challenged a male victim to a fight and punched the window of his vehicle.

On September 22, 2016, the incarcerated person broke into a residence where the victim was present and sleeping. The victim fled downstairs into the yard when she heard the suspects. A male suspect approached her in the yard, the victim yelled at him to "Get out of the area," and he fled the scene. The victim suspected someone was still inside of her residence. Officers entered the residence, located and arrested the incarcerated

person. The incarcerated person's plea agreement with Siskiyou County reflects that the PC 667.5(c) allegation was dismissed (pg. 2).

On June 7, 2017, while incarcerated in state prison for the offenses listed above, he committed a Battery with Serious Injury and was sentenced to two years consecutive to his current offenses. He is not yet serving his Tate Term, which will be discussed in the Institutional Adjustment portion of this decision.

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:

There were one or more victims who suffered physical injury or threat of physical injury. In one case he physically attacked two victims. In another case, the incarcerated person broke into a residence with a person present inside, which is inherently dangerous and poses the threat of violence.

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 2010 and continued until the commitment offense(s) in 2017. 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:

The incarcerated person has no prior adult felony convictions or assaultive misdemeanor convictions.

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:

1. The incarcerated person 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.

2. 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 his current convictions because he is serving his first prison term.

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:

There are no aggravating circumstances.

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 no aggravating circumstances. He does not have a statutorily-defined violent felony conviction and he is serving his first prison term. His prior criminal record is not probative of his current risk of violence and significant criminal activity.

### **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 15, 2016, a period of approximately seven (7) years.

The incarcerated person has been involved in the following activities:

#### **SERIOUS RULE VIOLATIONS**

1. May 10, 2023 Fighting
  2. January 22, 2023 Battery on a Prisoner
  3. May 5, 2022 Participation in a Riot
  4. April 27, 2022 Behavior which could Lead to Violence
  5. September 26, 2021 Fighting
  6. October 14, 2019 Fighting
  7. June 11, 2019 Fighting
  8. October 29, 2018 Fighting
  9. June 8, 2018 Battery on an Inmate
  10. November 24, 2017 Possession of Alcohol
  11. June 7, 2017 Battery Causing Serious Injury – Tate Term
  12. March 10, 2017 Delaying a Peace Officer in the Performance of Duties
  13. March 10, 2017 Possession of Alcohol
- \* September 23, 2023 Possession of a Deadly Weapon (This Rule Violation is pending and was not considered in this decision.)

#### **RELIABLE CONFIDENTIAL INFORMATION INDICATING CRIMINAL ACTIVITY**

- June 8, 2023
- October 13, 2021

#### VOCATIONAL & WORK ASSIGNMENTS

- Yard Worker  
October 2022 – September 2023 (1,093 hours)
- Porter  
May 2021 – August 2022 (2,704 hours)
- Inmate Advisory Commission  
May – December (534 hours)

#### EDUCATIONAL PROGRAMS

- Transitions  
May – September 2021 (106 hours - completed)

#### SELF-HELP & REHABILITATIVE PROGRAMS

- Integrated Substance Use Disorder Treatment (ISUDT) Outpatient  
September 2022 – January 2023 (94 hours – completed)

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. He participated in approximately 3,800 hours of work assignments and completed the Transitions Program, which is substantial and deemed to be sustained.

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:

1. The incarcerated person has been found guilty of institutional Rule Violation Reports resulting in physical injury or threat of physical injury since their last admission to prison. He has ten Rule Violations for violence, the most recent took place seven months ago in May of 2023.
2. 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 last admission to prison as outlined above.
3. 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 gang involvement. His completion of the ISUDT Outpatient did not impact his negative behavior because he continued to accrue Rule Violations.

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 there is confidential information in his central file reporting that he committed criminal activity. Further, he continues his violent behavior as reported in his Rule Violations and has not mitigated his propensity towards violence by participating in self-help programs. He is incarcerated for numerous offenses, one involving overt violence because he physically attacked victims in 2015. He continued his violent behavior into his current term as demonstrated in his ongoing violent institutional misconduct as recently as seven months ago. While he has completed some programs, he has not done enough to mitigate the violence that he demonstrated during his commitment offenses and institutional misconduct.

#### **Case Factor #4 - Response to Legal Notice**

The Board of Parole Hearings received responses to the legal notices regarding the incarcerated person's nonviolent review. The following responses were reviewed and considered in this decision: VICTIM, dated November 20, 2023 and DISTRICT ATTORNEY SAN JOAQUIN COUNTY, dated November 9, 2023. There are responses to previous reviews which were also 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 the incarcerated person's age, thirty-six years-old, 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 incarcerated person's record to determine all physical and cognitive disabilities documented for this incarcerated person. In reaching this decision, the author fully considered any mitigating impact of each documented disability on all of the factors considered.

While the incarcerated person's prior criminal record is a factor that mitigate, his commitment offenses and

institutional behavior are factors that aggravate his current risk for violence and significant criminal activity. Heavier weight was given to his commitment offenses because they are probative of his risk for violence. He is incarcerated for numerous offenses and several cases. In one case he attacked two victims. In another case, he broke into a residence with a victim present inside, posing the threat of violence to that victim. Heavy weight was also given to his institutional behavior because he has ten Rule Violations for violence, as recently as seven months ago for Fighting. The incarcerated person has not completed enough self-help programs to mitigate the propensity for violence that he demonstrated during his commitment offenses and current term. The incarcerated person is denied for release.



December 5, 2023

**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.