

BOARD OF PAROLE HEARINGS

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



January 12, 2023

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) aggravate the inmate's current risk of violence or significant criminal activity. The inmate was sentenced to a total term of 19 years, 4 months on the current commitment offense(s). The commitment offense(s) is/are

PC 459 first degree burglary, with a prior strike conviction per PC 667(b)-(i)/1170.12, and two prior serious felony convictions per PC 667(a). The conviction dates were 7/24/15 (burglary) and 10/14/14 (firearms).

On 2/9/15, the inmate was at an acquaintance's home and left with the acquaintance (victim) to be dropped off. The inmate returned to the home, kicked open the door and went inside. The victim returned home to find the inmate leaving with about a pound of marijuana. The victim confronted the inmate who returned the marijuana and left.

On 7/6/14, the inmate was contacted by law enforcement in the back of a U-Haul truck at a mining claim. The inmate was in possession of marijuana, several handguns and a shotgun, and ammunition.

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 was one victim who suffered threat of physical injury. A resident who is at home or returns home while a burglary is in process is presumed to be in danger of injury because either the resident would want to protect the home with force exposing the resident to injury should the burglar resist, or a burglar who wants to escape could use violence while fleeing. Furthermore, a burglary with these facts is considered a violent felony by Penal Code section 667(c), which speaks to the threat this type of burglary presents.

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 1978 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:

1995: PC 422 threatening to kill or inflict great bodily injury on another person (criminal threats).

1999: PC 273.5 inflicting injury on girlfriend/spouse (domestic violence).

2001: PC 69 resisting peace officer with force/violence

2004: PC 594(a)(2), vandalism and PC 422 criminal threats.

The circumstances of the inmate's prior criminal record that mitigate the inmate's current risk of violence or significant criminal activity are:

1. 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 assaultive behavior. The current offense, PC 459 first degree burglary with the resident present during the crime threatens injury to the resident and is a crime of assaultive behavior. Past convictions for assaultive behavior are: PC 422 criminal threats (two counts), PC 273.5 domestic violence, and PC 69 resisting peace officer with force/violence. The number of convictions involving injury or the threat of injury to others establish that the inmate has a pattern of committing assaultive behavior.

2. The inmate was incarcerated for a misdemeanor conviction involving physical injury to a victim or a felony conviction within five years prior to his current convictions. The inmate was released from a prior prison term on 11/6/2010. On 10/14/2014, about four years later, the inmate was convicted of one of the current commitment offenses.

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 the inmate's pattern of assaultive behavior and quick return to prison are indicators of recidivism that carry great weight and outweigh the lack of a violent felony conviction within the last 15 years. Though the inmate has not had a violent felony conviction in the last 15 years, the inmate has committed multiple crimes of assaultive behavior throughout his criminal history, most recently in 2015 with the commitment offense (burglary while the resident was present). The other prior convictions are for PC 422 criminal threats, PC 273.5 domestic violence, PC 69 resisting arrest with force/violence, and another count of PC 422 criminal threats. In addition, the inmate's return to prison within five years indicates prison terms are not a deterrent to committing more crimes. All these factors indicate the inmate is likely to recidivate, which means the inmate is a current risk of violence or significant criminal behavior to the community. The inmate's prior record is an aggravating risk factor in this review.

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 7 years and 2 months.

The inmate has been involved in the following activities:

RULES VIOLATIONS (RVR'S)

8/26/19: Resisting peace officer performance of duties. The inmate physically resisted being cuffed up by thrashing his body while standing up and on the ground.

12/18/18: Possession of dangerous contraband (blade of a razor)

10/8/18: Fighting

10/26/17: Fighting

WORK PROGRAMMING

10/30/2020 07/26/2021 Porter. 5.5 hours.

06/22/2018 07/13/2018 Yard Worker. 84 hours.

06/15/2018 06/21/2018 Yard Worker. 26.5 hours.

10/11/2017 11/03/2017 ADA Worker - Non-Skilled. 47.75 hours.

09/27/2017 10/10/2017 ADA Worker - Non-Skilled. 64 hours.

05/24/2017 09/26/2017 Adult Care Giver. 558.25 hours.

VOCATIONAL PROGRAMMING: None.

EDUCATIONAL PROGRAMMING

08/23/2022 08/31/2022 Alternative Education I. 0 hours.

04/15/2022 05/03/2022 Adult Basic Education III. No hours reported.

07/14/2018 10/04/2019 Adult Basic Education II. 468 hours.

08/13/2019 10/04/2019 Voluntary GED. 24.75 hours.

04/12/2018 01/28/2019 Voluntary ABE II. 6.25 hours.

02/27/2017 11/09/2017 Voluntary ABE II. No hours reported.

04/16/2016 12/08/2016 Adult Basic Education II. 263 hours.

04/05/2016 08/16/2016 Voluntary ABE II. 0 hours.

03/11/2016 04/01/2016 Voluntary ABE II. 9 hours.

02/17/2016 02/29/2016 Voluntary ABE II. 2 hours.

SELF-HELP/REHABILITATIVE

09/24/2019 10/04/2019 Celebrate Recovery. 1 hours.
11/01/2018 12/18/2018 AA. 1.25 hours.
10/02/2018 09/10/2019 Celebrate Recovery. 36 hours.
08/21/2018 10/04/2019 Celebrate Recovery. 64.5 hours.
07/12/2018 08/21/2018 Celebrate Recovery.
07/01/2018 08/02/2018 NA. 1 hour.
06/26/2018 06/26/2018 Celebrate Recovery. 0 hours.
04/26/2018 06/14/2018 Celebrate Recovery. 4 hours.

CONFIDENTIAL: None

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.

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 inmate has two RVRs for fighting, one for possession of a razor blade, and one for struggling with officers who were trying to cuff the inmate.

2. The inmate has limited participation in available vocational, educational, or work assignments. In 2016 to 2018, the inmate was creating a solid number of hours in educational and work programming. However, since that time, his programming has dropped precipitously. The inmate's programming in this area is not sustained.

3. The inmate has limited participation in available rehabilitative or self-help programming to address the circumstances that contributed to his criminal behavior. The inmate's entire effort has been in substance abuse which was limited to two years in 2018 and 2019 and was not sustained thereafter. The amount of participation in self help programming is minimal given the number of years the inmate has been in prison and lacks breadth. The inmate needs additional programming in more than just "Celebrate Recovery" that addresses the factors that have led to his criminality.

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 been found guilty of multiple RVRs that carry at least a threat of injury, and has not completed a sustained period of programming to address the factors that have led to his criminality. Fighting with other inmates and possessing a razor blade are indicators of future risk of violence, as is resisting peace officers with force. Criminal thinking is present in those activities. When negative behavior ceases and a sustained period of self-help programming is accomplished that shows true change of behavior, this factor will be mitigating. But until then, the inmate's institutional adjustment is an aggravating factor in this review.

Case Factor #4 - Response to Legal Notice

The Board of Parole Hearings received responses to the legal notices regarding the inmate's nonviolent review. The following responses were reviewed and considered in this decision:

There were no responses submitted for the current review, but there were responses received in prior reviews that were read and considered in making 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, the inmate's age, the inmate's physical and cognitive limitations, 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.

In addition, the inmate's participation in the Mental Health Services Delivery System at the EOP level of care have been considered in rendering this decision.

All the risk factors in this review are aggravated, indicating the inmate poses a risk of violence or significant criminal behavior to the community. The inmate's commitment offense is aggravated because the inmate committed a residential burglary when the resident was present. Injury or the threat of injury in a criminal offense is a factor that increases the risk of recidivism. The inmate's prior criminal record is aggravated because the inmate has committed multiple crimes of assaultive behavior, and was convicted of the current offense within five years of release from a

prior prison term. The inmate's multiple convictions establish a pattern of assaultive behavior, meaning the inmate has a tendency to assault people, which creates a risk that future behavior will follow the pattern and involve threat of injury or injury to others. The inmate's quick return to prison following release is an indication that jail terms do not deter the inmate from criminal misbehavior, and without deterrence, there is great risk the criminal behavior will continue. Lastly, the inmate committed rules violations during this term and has limited self-help/rehabilitative programming to significantly address the reasons for his criminal behaviors. There is no objective indication the inmate has rehabilitated himself. The weight of the factors indicate the inmate poses a current risk of violence or significant criminal behavior to the community. The inmate is denied for release.



January 11, 2023

SIGNATURE

REVIEW DATE

WOODWARD, CORY - 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.