

BOARD OF PAROLE HEARINGS

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



January 20, 2023

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

Subject: NONVIOLENT PAROLE REVIEW DECISION

Inmate's Name : DELOGE, JOSEPH,KYLE
CDCR# : BH8796
Location : High Desert State Prison
Court Case# : 151344, 151148

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: DELOGE, JOSEPH,KYLE
CDCR Number: BH8796
Institution: High Desert 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 Deloge, Joseph, BH8796: 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 30 years, 4 months on the current commitment offense(s). The commitment offense(s) is/are

Case #151344

VC 10851, auto theft, two counts, On 8/18/15 and 8/20/15, the inmate stole cars from two separate victims and was convicted on 9/27/16.

Case #151148

The following crimes occurred between 8/18/15 and 8/22/15 and the facts are obtained from the appellate court opinion.

PC 273.5, inflicting injury on the mother of IM's children
PC 236, false imprisonment with use of force or violence.
PC 245(a)(4), assault with force likely to result in great bodily injury (GBI).
PC 136.1, intimidation to dissuade witness from reporting to police.
PC 236, false imprisonment through use of force/violence.
PC 245(a)(1) assault with a deadly weapon (gun).
PC 245(a)(4) assault with force likely to result in GBI.
PC 273.5, inflicting injury on the mother of IM's children.
PC 422 threat to inflict GBI or death on another person.
PC 422 threat to inflict GBI or death on another person.

The terms imposed in both cases were doubled because of a prior strike conviction per PC 667(b-(i))/1170.12, and five years was added because of a prior serious felony conviction per PC 667(a).

The inmate (IM) and victim 1 (V1) were in an on and off relationship for 13 years and had three children. V1 indicated the inmate became physically abusive in 2007 and had threatened to kill her more that 10 times over the years. The inmate committed numerous crimes of domestic violence against V1 and crimes against victim 2 (V2), a man in V1's life.

On 8/18/15, the inmate found V1 and their children in a car with V2, the inmate told V2 to stay away from V1, that he knew where V2 lived and would burn his house down and kill V2. V2 and V1 left in V2's car and went to V2's home where the IM showed up, banged on the door, and threatened to kill V2. The IM left when V2 hit his house alarm.

On 8/20/15, the IM arrived at V1's home and was refused entry. The IM entered through a bedroom window where V1 and her daughter were in bed. IM refused to let V1 leave the room. Later in the living room, IM had a handgun and was waving it around and pointing it at V1 and pretending to shoot her with the gun. IM punched the victim in the back and side, kicked her in the shins, and again prevented her from leaving the residence.

On 8/21/15, the victim had sent the kids away fearing further domestic violence. The IM arrived, punched her, knocked the wind out of her, prevented her from leaving, threatened to rip her earring out because IM thought V1 was recording him, burned her leg with a cigarette, dragged her down a hall by her hair, forced her to have sex, bit her, choked her, and smothered her with a pillow. The violence lasted the entire night and ended when someone knocked on V1's door and she was able to escape to a neighbor's and call police. V1 had multiple injuries about her head and body.

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, a handgun, during the commission of some of the crimes. He waved the gun at V1, threatened to shoot her, and hit her while the gun was in his hand.
2. There were one or more victims who suffered physical injury or threat of physical injury. V1 suffered physical injuries from the domestic violence, V2 was under a threat of violence, and the children were presumptively injured or threatened with injury by being present during two domestic violence events and watching their father threaten and abuse their mother.

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 1993 and continued until the commitment offense(s) in 2018. The inmate's prior criminal record is a factor mitigating the inmate's current risk of violence or significant criminal activity. The inmate has the following adult criminal convictions:

1993: PC 459 second degree burglary.

1995: PC 245(d)(1), assault on a peace officer with a firearm.

2000: PC 12020, two counts, possession of a dangerous/deadly weapon

2008: HS 11377 possession of a controlled substance, 365 days jail and 60 months probation.

3/3/2009: PC 12021, felon in possession of a firearm. 5 years probation, no jail sentence indicated but at most it would have been 365 days (1 year), which still would place it outside 5 years prior to the most recent current convictions ib 9/27/16.

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.
2. The inmate 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. The inmate was paroled from a prior prison term on 10/02/2002. While there was a subsequent conviction in March of 2009 which resulted in felony probation and a local jail term, even a March 2010 release is outside five years from the earliest current conviction of 9/27/16. Because significant time has passed (more than five years) between release from jail and new conviction, the inmate's prior criminal record is considered to be a mitigating factor in determining the inmate's future risk.

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

There are no aggravating factors.

Analysis: When balancing the aggravating circumstances against the mitigating circumstances, they tend to show that the circumstances of the inmate's prior criminal record mitigate the inmate's current risk of violence or significant criminal activity because there are no aggravating factors to consider. The inmate has not been convicted of a violent felony within the last 15 years, and his last release from jail/prison was in 2009-2010 (the exact date of release cannot be determined from the inmate's file), more than five years before the current convictions. Because of the passage of time, the prior criminal behavior is not an indicator of future violence or significant criminal activity. In addition, the inmate cannot be said to have a pattern of assaultive behavior because the only prior conviction that is considered assaultive in nature is the 1995 conviction for assault with a firearm. Because about twenty-three years have passed between the 1995 crime and the 2018 convictions, the inmate cannot be said to have a pattern of assaultive behavior. Similarly, the inmate's behavior cannot be said to be increasingly severe because he did commit an assault with a firearm on a peace officer in 1995. Under review criteria, while there are many more assaultive crimes in the commitment offenses, the nature of the crimes are not considered more severe than the assault with a firearm in 1995. Consequently, the inmate's prior criminal record is a mitigating 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 19, 2018, a period of approximately 4 years and 2 months.

The inmate has been involved in the following activities:

RULES VIOLATIONS (RVR'S): None.

WORK PROGRAMMING

11/16/22 to present: Kitchen Cook. 135 hours.
03/29/22 to 11/15/22: Laundry. 395 hours.
10/02/21 to 3/28/22: Kitchen Worker. 366 hours.
07/17/21 to 10/01/21: Kitchen Cook. 198 hours.

VOCATIONAL PROGRAMMING: None.

EDUCATIONAL PROGRAMMING: None.

SELF-HELP/REHABILITATIVE

1/13/22 to 3/1/22: NA. 1.25 hours.
10/11/19 to 01/10/20: CGA. 0 hours, 5.75 unexcused absences.
08/13/19 to 01/10/20: Parenting. 16 hours, 4 unexcused absences.

CONFIDENTIAL: See report dated 10/26/22.

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. The inmate has not been found guilty of institutional Rules Violations Reports resulting in physical injury or threat of physical injury since his last admission to prison.
2. The inmate has successfully participated in vocational, educational, or work assignments for a sustained period of time.

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. 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. See report dated 10/26/22.
2. The inmate has limited participation in available rehabilitative or self-help programming to address the circumstances that contributed to his criminal behavior such as domestic violence among others. The inmate has less than two hours in substance abuse programming and 16 hours of parenting. This is very limited programming and indicates the inmate has not addressed many of 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 gravity of the inmate's commitment offenses require a sustained period of self-help programming, especially in domestic violence, to address the reasons for his criminal behavior and he has not done that while in prison. Commendably, there are no rules violations and his work programming is good, but these two areas are only part of the equation of rehabilitation and risk determination. There is confidential information of the inmate engaging in criminal behavior, but even without that, because the inmate has not addressed the reasons for his past criminality, the inmate's institutional adjustment is an aggravated risk factor in this review.

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 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.

The inmate's participation in the Mental Health Services Delivery System at the Correctional Clinical Case Management System (CCCMS) level of care has been considered in rendering this decision.

The current commitment offenses involving domestic assault are crimes of severe violence and is an aggravated risk factor, as is the inmate's institutional adjustment by failing to participate in sufficient self-help programming to address his prior criminality. The inmate's prior criminal record was a mitigating factor primarily because of the passage of time, but does not outweigh the severity of the commitment offenses and the inmate's failure to address the reasons that led him to that behavior. In sum, the persuasive weight of the aggravating factors indicate the inmate poses a current risk of violence or significant criminal activity to the community. The inmate is denied for release.



January 19, 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.