

BOARD OF PAROLE HEARINGS

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



February 05, 2024

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

Subject: NONVIOLENT PAROLE REVIEW DECISION

Inmate's Name : METCALFE, GARRETT,ANDREW
CDCR# : BU5721
Location : California State Prison, Sacramento
Court Case# : 201477, 21480, 201573

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: METCALFE, GARRETT,ANDREW
CDCR Number: BU5721
Institution: California State Prison, Sacramento

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 Metcalfe, Garrett, BU5721: 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) mitigate the incarcerated person's current risk of violence or significant criminal activity. The incarcerated person was sentenced to a total term of 8 years, 8 months on the current commitment offense(s). The commitment offense(s) is/are

PC 459 1st "burglary, first degree" (12-2-20) (2 years)
PC 29800(a)(1) "felon in possession of firearm" (12-2-20) (4 years, concurrent)
PC 30305(a) "possess ammo by prohibited person" (12-2-20) (4 years concurrent)
VC 10851 (a) "take/possess vehicle w/o owner consent" (10-29-20) (4 years, concurrent)
VC 10851(a) "take/possess vehicle w/o owner consent" (8-25-20) (4 years, concurrent)
PC 12022.1 "offense while on bail" enhancement (2 years)
PC 459 1st "burglary, first degree" (12-1-20) (4 years, concurrent)
PC 12022.1 "offense while on bail" enhancement (2 years)
PC 29800(a)(1) "felon in possession of firearm" (4-9-21) (1 year, 4 months)
PC 496(a) "receive stolen property" (4-9-21) (1 year, 4 months)

FACTS:

On October 29, 2020, the (IP) was seen driving a stolen vehicle that had been reported stolen from an Inn earlier that morning. A search of the vehicle uncovered three unpackaged syringes, one unopened syringe and one syringe loaded with heroin.

On August 25, 2020, the IP and an accomplice were captured on video stealing a vehicle. Detectives later learned the IP had a large key ring with keys belonging to other stolen vehicles.

On or about December 1, 2020, the IP broke into a shop and stole items, including an air compressor.

On 12-2-20, the IP committed a residential burglary and possessed firearms and ammunition.

On April 9, 2021, the IP and an accomplice were found in a stolen jeep. Inside the vehicle were four rifles that had been reported stolen from inside a victim's residence months earlier.

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:

1. The incarcerated person did not personally use a deadly weapon. There is insufficient evidence to conclude

the IP used a deadly weapon.

2. No victims suffered physical injury or threat of physical injury. There is insufficient evidence to conclude that any victims who suffered a physical injury or a threat of physical injury.

3. There were no convictions involving large-scale criminal activity. There is insufficient evidence to conclude that the commitment offenses were part of any large scale enterprise.

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

Case Factor #2 - Prior Criminal Record

The incarcerated person's prior criminal history began in 2016 and continued until the commitment offense(s) in 2021. 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:

2016 -- PC 459 2nd "burglary, second degree"

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. None noted.

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 or her current conviction(s). He was convicted on 1-13-16 and sentenced to 120 days of jail. There is no evidence in the file of how many days of credit he received, nor of when the IP was released from jail. On 9-25-18, his sentence was modified to serve 16 months prison; however, there is no record of CDCR receiving him. He was convicted herein on 2-2-21. Therefore, there is insufficient evidence to conclude he was released from custody within five years of the current conviction. The current conviction was not incurred within five years of the prior conviction.

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:

None.

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 he has no violent priors and was free of convictions for more than five years from his prior felony conviction. He showed the ability to avoid violence and remain law abiding for a significant period.

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 14, 2022, a period of approximately 1 year, 2 months.

The incarcerated person has been involved in the following activities:

SERIOUS RULE VIOLATION REPORTS: Continuous Refusal to Work (11-1-23), Disrespect With Potential for Violence (9-27-23), Fighting 1-3-23). The IP has three pending RVRs (tattoo paraphernalia, fermentation, drug paraphernalia) which were not considered.

CONFIDENTIAL INFORMATION: Memorandum dated 6-2-23 contains reliable confidential information showing the IP has engaged in criminal activity since he was last admitted to prison.

VOCATIONAL/EDUCATIONAL/WORK ACTIVITIES: ABE I (46.75 hr, 3/23 - 5/23), ABE III (17.25 hr, 12/23 - 1/24)

SELF-HELP: Red Ladder (16.25 hr, 10/23 - 1/24), CBI - Outpatient (29 hr, 8/23 - 11/23), Narcotics Anonymous (0 hr, 7/23), Alcoholics Anonymous (11.75 hr, 7/23 - 1/24)

NOTE: The IP participated in CDCR's MHSDS at CCCMS level for total of 13 hours of consultations, contacts, and evaluations. No relevant self-help or groups are noted.

NOTE: The IP participated in MAT with positive test results for non-prescribed substances as follows: Marijuana (12-11-23) (5-30-23), Amphetamine (12-11-23) (5-30-23), Alcohol (8-24-23), Gabapentin (9-12-23) (8-24-23).

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:

None.

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 Rules Violation Reports resulting in physical injury or threat of physical injury since their last admission to prison or has one or more recent serious institutional Rules Violation Reports. 15 CCR § 2449.5(f)(1). These include Disrespect with Potential for Violence and Fighting.
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 or her last admission to prison, specifically memorandum dated 6-2-23.
3. The incarcerated person has limited participation in available vocational, educational, or work assignments. He only participated in ABE for a small number of hours. No vocational or work activities are noted.
4. The incarcerated person has limited participation in available rehabilitative or self-help programming to address the circumstances that contributed to his or her criminal behavior. He participated in a small number of hours in substance abuse prevention programs (CBI & A.A.), but there are positive drug test results showing more programming is needed in this area.

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 are no mitigating circumstances to weigh against. He engaged in assaultive behavior, incurred confidential information and participated in rehabilitation in a very limited fashion. Overall, the IP has not yet participated in adequate and relevant self-help programming to address the causative factors of his criminal behavior in a program intensity and dosage sufficient to meet his current risk and needs and to mitigate his current risk of violence.

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 (1 year, 2 months), the incarcerated person's age (29), the incarcerated person's physical and cognitive limitations (none), 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 IP's record to determine all physical and cognitive disabilities for this IP. In reaching the decision articulated below, the author fully considered any mitigating impact of each documented disability on all the factors considered.

The prior record is mitigating. He incurred only one prior felony for second degree burglary in 2016. The commitment offenses are mitigating. Though numerous, there were no weapons used, no physical injury or threat of physical injury and no large scale criminal enterprise could be substantiated. Essentially, the IP committed burglaries, possessed stolen vehicles, and possessed firearms with ammunition. However, his institutional adjustment, which is more probative of current risk, is a stark contrast and an aggravating factor that outweighs the mitigating factors. The IP incurred RVRs for fighting and disrespect with potential for violence. He incurred confidential information showing ongoing criminal activity and his rehabilitative efforts are limited in intensity and dosage when compared to the current risk level. No vocational or work activities are noted. Therefore, he has not sufficiently reduced his risk for violence or of significant criminal activity. Thus, the IP poses a current, unreasonable risk of violence or a current, unreasonable risk of significant criminal activity to the community.

. The incarcerated person is denied for release.



SIGNATURE

CASTRO, ROSALIO - Deputy Commissioner

February 2, 2024

REVIEW DATE

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.