

**EXECUTIVE REPORT
ON
PAROLE REVIEW
DECISIONS**

**DECISIONS FOR THE PERIOD
January 1, 2018 through December 31, 2018**



BY GOVERNOR EDMUND G. BROWN JR.



OFFICE OF THE GOVERNOR

**MESSAGE FROM THE GOVERNOR
CONCERNING
PAROLE REVIEW DECISIONS**

To the Members of the Senate and Assembly of the State of California:

In accordance with Article V, section 8(b) of the California Constitution, I submit this report on the actions I have taken in 2018 in review of decisions by the Board of Parole Hearings. Of these decisions, I reversed 28. I have included copies of each of my actions.

The report may be found at <https://www.gov.ca.gov/wp-content/uploads/2019/01/2018-Executive-Report-on-Parole-Review-Decisions.pdf>. You may also call the Governor's Office at (916) 445-2841 for a hard copy of the report.

Sincerely,

Edmund G. Brown Jr.

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

LESLIE VAN HOUTEN, W-13378
First Degree Murder (two counts)

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

In the late summer of 1968, 19-year-old Leslie Van Houten met Charles Manson and began living at Spahn Ranch. She was one of the youngest members of his cult, known as “the Family.” Manson believed that a civilization-ending war between the races—Helter Skelter—was imminent, and that the Family would emerge from hiding in the desert at the end of the war to take control of the world. By 1969, the Family’s members, including Van Houten, ardently embraced Manson’s apocalyptic and warped worldview. Manson eventually came to believe that the Family would have to trigger the race war by committing atrocious, high-profile murders of white victims to incite retaliatory violence against black people. (*See People v. Manson* (1976) 61 Cal.App.3d 102, 127-30). At some point, Manson approached Van Houten and asked her “if she was crazy enough to believe in him and what he was doing.” She responded, “Yes.”

On August 9, 1969, several Family members carried out the gruesome murders of Abigail Folger, Wojciech Frykowski, Jay Sebring, Steven Parent, and the eight-month pregnant Sharon Tate. Van Houten did not participate in the Tate murders, but she heard about them the next day from the news and Family members and reported that she felt “left out.”

On August 10, 1969, Manson instructed Van Houten and other Family members that the murders the previous night had been “too messy.” Manson told them they were going out again that night and he would show them how it should be done. As instructed by Manson, Van Houten took a change of clothes with her in case her clothes got bloody. At Manson’s direction, Linda Kasabian drove Manson, Van Houten, Charles “Tex” Watson, Patricia Krenwinkel, Susan Atkins, and Steve Grogan around for hours, making stops to allow Manson to locate potential murder victims. The group eventually stopped at the home of Rosemary and Leno LaBianca.

Manson entered the LaBianca home, tied up the couple, and returned to the car with Mrs. LaBianca’s wallet. His plan was to plant the wallet in an area with a large African-American population so they would be blamed for the murders, which in turn would initiate the race war. Manson told Van Houten, Krenwinkel, and Watson to go into the house. Once inside the LaBianca home, Watson told Van Houten and Krenwinkel to take Mrs. LaBianca into her bedroom and kill her. Krenwinkel retrieved knives from the kitchen and gave one to Van Houten. Van Houten put a pillowcase over Mrs. LaBianca’s head and wrapped a lamp cord around her neck. Mrs. LaBianca could hear the guttural sounds of her husband being stabbed to

death by Watson in the other room. She grabbed the lamp and tried to escape, but Van Houten knocked the lamp out of her hands and wrestled her back to the bed. Van Houten then pinned Mrs. LaBianca down while Krenwinkel stabbed her. Krenwinkel stabbed Mrs. LaBianca with so much force that the knife blade bent on Mrs. LaBianca's collarbone. Van Houten summoned Watson for assistance, and he came in the room with a bayonet. Watson stabbed Mrs. LaBianca several times with the bayonet and then handed a knife to Van Houten and told her to "do something." Van Houten said she "felt" Mrs. LaBianca was dead at that point, but she "didn't know for sure." She continued stabbing Mrs. LaBianca at least 16 times. Mrs. LaBianca was stabbed a total of 41 times according to autopsy reports. Mr. LaBianca had 13 stab wounds, in addition to scratches, and 14 puncture wounds from a carving fork which was left sticking out of his stomach. A knife was also found protruding from his neck. The word "War" was scratched on his stomach.

After the murders, Van Houten thoroughly wiped away fingerprints from the house while Krenwinkel painted "Death to the Pigs" on a wall in the living room, "Rise" over a door, and "Healter (sic) Skelter" on a refrigerator door using Mr. LaBianca's blood. Van Houten changed into Mrs. LaBianca's clothes and drank chocolate milk from the LaBianca's refrigerator before leaving. Back at Spahn Ranch, she burned Mrs. LaBianca's clothes and counted the money taken from the home. According to Family member Dianne Lake, Van Houten told her that "she had stabbed a woman who was already dead, and that the more she did it the more fun it was." While the residents of Los Angeles and the surrounding areas remained in terror, Van Houten hid out for over two months at a remote location in Death Valley hoping to seek refuge in the "bottomless pit" and fulfill Manson's prophecy. She was not arrested until November 25, 1969.

GOVERNING LAW

The question I must answer is whether Leslie Van Houten will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).) I am also required to give "great weight to any information or evidence that, at the time of the commission of the crime, the prisoner had experienced intimate partner battering." (Pen. Code, § 4801, subd. (b)(1).) In rare circumstances, the aggravated nature of the crime alone can provide a valid basis for denying parole, even when there is strong evidence of rehabilitation and no other evidence of current dangerousness. (*In re Lawrence, supra*, at 1211, 1214.)

DECISION

The Board of Parole Hearings found Van Houten suitable for parole on September 6, 2017, based on her growth and maturity while incarcerated, development of pro-social thought

processes and healthy coping mechanisms, educational achievements, lack of a significant juvenile or adult record, stable social history as an adult, expression of remorse and acceptance of responsibility, low risk of future violence, and parole plans.

I acknowledge that Van Houten's crime was committed when she was 19 years old and that she has since been incarcerated for 48 years. She is 68 years old and has made laudable strides in self-improvement in prison. The psychologist who evaluated her in 2016 noted that during Van Houten's incarceration, she has "exhibited pro-social behaviors throughout most of her imprisonment." She has never been disciplined for serious misconduct during her incarceration. She earned her bachelor's and master's degrees and has received exceptional work ratings as a tutor for the past decade. She also received positive commendations from staff, including several in 2017. She has participated in and facilitated numerous self-help programs, including Alcoholics and Narcotics Anonymous, Victim Offender Education Group, and Relapse Prevention. She served as Parliamentarian of the Women's Advisory Council. I carefully examined the record for evidence demonstrating Van Houten's increased maturity and rehabilitation, and gave great weight to all the factors relevant to her diminished culpability as a juvenile: her immaturity and impetuosity, her failure to appreciate risks and consequences, her dysfunctional home environment, the peer pressures that affected her, and her other hallmark features of youth. I also gave great weight to her subsequent growth in prison during my consideration of her suitability for parole, as well as evidence that she had been the victim of intimate partner battering at the hands of Manson. However, these factors are outweighed by negative factors that demonstrate she remains unsuitable for parole.

In the summer of 1969, Van Houten and other members of the Manson family began their quest to start a civilization-ending war between the races—known as Helter Skelter—by committing atrocious, high-profile murders to incite retaliatory violence. Van Houten played a vital part in the LaBianca murders, one of the most notorious of the Manson Family crimes. She chose to enter the LaBianca home, brutally stabbed Mrs. LaBianca numerous times, and then helped clean up the scene and dispose of evidence. The devastation and loss experienced by the LaBianca family and all the victims' families continues today.

The murders alone are not the only evidence that Van Houten remains unsuitable for parole. She has long downplayed her role in these murders and in the Manson Family, and her minimization of her role continues today. At her 2017 parole hearing, Van Houten claimed full responsibility for her crimes. However, she still shifted blame for her own actions onto Manson to some extent, saying, "I take responsibility for the entire crime. I take responsibility going back to Manson being able to do what he did to all of us. I allowed it." She later stated, "I accept responsibility that I allowed [Manson] to conduct my life in that way."

Van Houten's statements show that she still has not come to terms with her central role in these murders and in the Manson Family. Van Houten told the 2016 psychologist that when asked to join Charles Manson's "utopia" at the Spahn Ranch, she "bit into it, hook, line and sinker." By her own account, she idolized Manson and wanted to please him. At her 2017 hearing, Van Houten explained that she "desperately wanted to be what [Manson] envisioned us being." She admitted that following the Tate murders, she wanted to participate in the LaBianca murders

because she “wanted to go and commit to the cause, too.” Van Houten told the Board she committed the crimes in order to “prove my dedication to the revolution and what I knew would need to be done to, um, have proved myself to Manson.”

As the Los Angeles Superior Court found last year, Van Houten’s recent statements, “specifically her inability to discuss her role in the Manson Family and LaBianca murders without imputing some responsibility to her drug use and her danger of falling prey to the influence of other people because of her dependent personality,” have demonstrated a lack of insight into her crimes. “[She] was not violent before she met Manson, but upon meeting such a manipulative individual she chose to participate in the cold-blooded murder of multiple innocent victims.” The court continued, “While it is unlikely [Van Houten] could ever find another Manson-like figure if released, her susceptibility to dependence and her inability to fully recognize why she willingly participated in her life crime provides a nexus between the commitment offense and her current mental state, demonstrating she poses a danger to society if released on parole.”

Van Houten has made admirable efforts at self-improvement while incarcerated and appears more willing today to accept responsibility for the part she played in these crimes. I considered and gave great weight to evidence in the record that Manson was clearly abusive to her and other Family members at the time of the crime. But even today, almost five decades later, Van Houten has not wholly accepted responsibility for her role in the violent and brutal deaths of Mr. and Mrs. LaBianca.

These crimes stand apart from others by their heinous nature and shocking motive. By her own behavior, Van Houten has shown she is capable of extraordinary violence. There is no question that Van Houten was both fully committed to the radical beliefs of the Manson Family and that she actively contributed to a bloody horror that terrorized the nation. As our Supreme Court has acknowledged, in rare cases, the circumstances of a crime can provide a basis for denying parole. This is exactly such a case.

CONCLUSION

Therefore, for all the above reasons, I reverse the decision to parole Leslie Van Houten.

Decision Date: January 19, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ADRIAN GUTIERREZ, H-90159
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On September 18, 1992, Kelly Freed was riding in a car with Will Fitz, Rodney Fonts, and Johnna Clemons. Carlos Ojeda and Adrian Gutierrez pulled up next to Ms. Freed and her friends at an intersection. Mr. Fitz noticed that Mr. Ojeda's headlights were off, motioned to Mr. Ojeda, and said, "Your headlights are off." In response, Mr. Gutierrez pulled out a 9-millimeter M11 automatic handgun and pointed it at Mr. Fitz. Mr. Fitz drove away, and Mr. Ojeda pursued the vehicle. As Mr. Fitz pulled into a parking lot, Mr. Gutierrez fired at Mr. Fitz's car, shooting Ms. Freed in the chest, killing her. Police responded and Mr. Ojeda and Mr. Gutierrez fled at speeds reaching 95 miles per hour.

GOVERNING LAW

The question I must answer is whether Mr. Gutierrez will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Gutierrez suitable for parole based on his lack of serious misconduct while in prison for the past 14 years, his age at the time of the crime, unstable social history, substance abuse programming, work history, and stable relationships with inmates and staff.

I acknowledge that Mr. Gutierrez's crime was committed when he was 16 years old and that he has since been incarcerated for more than 25 years. He endured a turbulent childhood and was deserted by his parents at the age of six, due to their long-time addiction to drugs. He was raised by his grandmother; who would often discipline him rather severely, leaving bruises and welts

on his body. He grew up in a home where all of his male role models were uncles who had recently been released from prison, and were addicted to drugs. He began associating with gang members at the age of 14. I also acknowledge that Mr. Gutierrez is now 42 years old and has made some efforts to improve himself in prison. He has earned a GED and two vocations; he has received positive work reports and acted as a facilitator in self-help programs, including Alcoholics Anonymous/ Narcotics Anonymous and Breaking Barriers. Mr. Gutierrez has also been free of any disciplinary violation since 2003, and debriefed from the Northern Structure in 2011. I commend Mr. Gutierrez for taking these positive steps.

I carefully examined the record for evidence demonstrating Mr. Gutierrez's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole. But these factors are outweighed by evidence that demonstrates he is not yet suitable for parole.

Mr. Gutierrez committed a cold-blooded killing that took a beloved member of the Stockton community away from her family. In response to Mr. Fitz's friendly reminder to turn on his headlights, Mr. Gutierrez gunned down Ms. Freed through an incident of mistaken identity. This case garnered so much national attention, that a change of venue for the court proceedings was necessary. The case has infamously been regarded as a warning to never "flash" your lights at vehicles with their headlights off. I cannot fathom the pain that this crime has caused the Freed family over the years. Kristy Johnston-Fields, the victim's sister, spoke on behalf of her mother and deceased father about the devastating loss they have all suffered as a result of her sister's death. Moreover, 10 separate law enforcement agencies across California and Crime Victims United wrote in opposition to any grant of parole.

This is a crime that received such publicity, that citizens thereafter were told to curb their behavior based on the actions of Mr. Gutierrez. In 2017, Mr. Gutierrez explained himself to the psychologist by saying, "the violence I experienced growing up, my family situation my parents leaving, I never developed a true sense of self so I never was able to fully develop my character." He further explained to the Board, "I wanted to preserve my position in this world; what I felt the only thing I had left was my gang status." He said that he felt "disrespected" and "emasculated" by the driver of the vehicle. But, there is no reason that a mere warning from another driver to turn on the car's headlights should result in feelings of disrespect and emasculation, even for a 16-year-old gang member with low self-esteem.

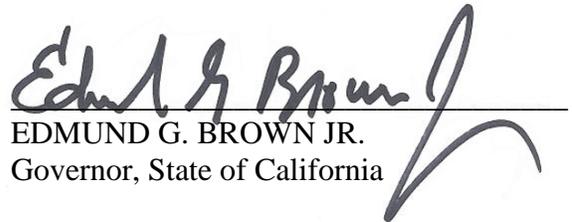
I am concerned with Mr. Gutierrez's extensive gang history. After joining the Sutter Street Gang when he was 14 years old, Mr. Gutierrez remarked how "I didn't have to get jumped in. I earned my - my right to be a part of the gang by constantly fighting with, uh, their enemies, even people who weren't gang related." It was this aggressive and violent attitude that led Mr. Gutierrez to join the Northern Structure while incarcerated. Mr. Gutierrez spent over a decade within the Segregated Housing Unit because of his gang affiliation and violence. In 2011, Mr. Gutierrez made the brave decision to debrief from the Northern Structure and began to transform his behavior. Since that time, he has not been disciplined for any misconduct. He has several positive reviews from correctional staff for his work with Criminals and Gangmembers

Anonymous, and has been honored for his work as an Inmate Peer Mentor for the Ironwood State Prison Youth Offender Program. Dr. Clarizio, the psychologist who examined him, gave an unusually insightful and detailed report and gave Mr. Gutierrez a low risk rating for current dangerousness. Looking at the way he is now conducting himself in prison, I believe Mr. Gutierrez is very close to reaching his goal of being suitable for release.

CONCLUSION

Given his years of commitment to violence and dedication as a dangerous gang member, I do not think the record as a whole supports release at this time. I believe a little more time would demonstrate whether any current dangerousness still remains. Therefore, I reverse the decision to parole Mr. Gutierrez.

Decision Date: January 26, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ROBERT SHIPPMANN, H-96002
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Robert Shippmann and Juli Shippmann had recently separated after two years of marriage. On April 23, 1993, Mr. Shippmann called his estranged wife and told her to come over to pick up her mail. Her vehicle was found at Mr. Shippmann's house with the engine running and the door open. Mrs. Shippmann had driven over to her husband's house to pick up the mail, but ended up in Mr. Shippman's car. Mr. Shippmann drove her to a remote clearing and apparently accused Mrs. Shippmann of having an affair with a man named "Dave," which she denied. They continued to argue and Mr. Shippmann grabbed a .22 caliber rifle from his truck. He shot her once in the chest and once in the head, killing her. Mr. Shippmann then shot himself three times. He was eventually transported to a hospital and survived.

GOVERNING LAW

The question I must answer is whether Mr. Shippmann will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Shippmann suitable for parole based on his lack of disciplinary violations during incarceration, his lack of a criminal history, parole plans, adjustment in the community prior to the life crime, and self-help efforts.

I acknowledge Mr. Shippmann has made efforts to improve himself while incarcerated. He has worked as the main plumber for the California Medical Facility since his placement in 2008. He is 80 years old and has not been disciplined for any serious rule violations during his almost 25 years of incarceration. He participated in some self-help programs including Domestic Violence Prevention, Anger Management, Men's Violence Prevention, and Alternatives to Violence. I

commend Mr. Shippmann for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Shippmann committed a cold and calculated murder. His claim that the murder was impulsive is not credible in light of the fact that he drove his estranged wife, who had a restraining order against him at the time, to a remote area with a .22 caliber rifle in his truck. Mr. Shippmann engaged Mrs. Shippmann in an argument about the accusations of infidelity and shot her in cold blood. This crime not only traumatized the family members of Mrs. Shippmann, but continues to instill fear in the small community where the family resides.

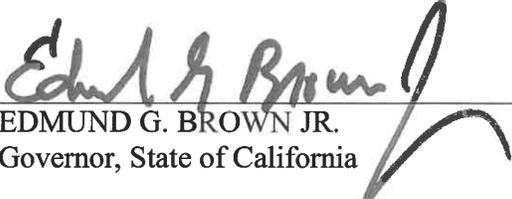
Mr. Shippmann continues to lack insight regarding his involvement in this crime and has yet to come to terms with his violent past behavior. During his psychological examination, he told the Board psychologist, "that his wife was clearly 'scared' of him, but he was unable to articulate why, and in fact explicitly stated that his wife's reasons for getting a restraining order were a 'mystery' to him." Mr. Shippmann, the psychologist wrote, "has yet to develop full insight into his prior actions." During his hearing, he still could not recall why the restraining order was issued to his wife, or why she was so afraid of him at the time. Additionally, his version of the crime does not account for disturbing aspects of the crime, including that her car was left running with the door open. Furthermore, his claim that he had no intention to harm his wife is not consistent with the fact that he brought along a .22 caliber rifle to "talk" with his wife. His story just doesn't tally with the facts.

Mr. Shippmann still minimizes his history of domestic violence and he still has rather limited insight into this crime. Until Mr. Shippmann can better acknowledge his past behavior and explain what led him to commit such acts, I do not believe he should be released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Shippmann is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Shippmann.

Decision Date: February 23, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

LINDA RICCHIO, W-32549
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

 X

STATEMENT OF FACTS

Ronald Ruse, Jr. and Linda Ricchio dated and lived together for approximately six years before Mr. Ruse moved out in April 1986. Mr. Ruse and Ms. Ricchio continued dating and maintained a sexual relationship until he met Vicky Woodruff in September 1987. Shortly after, Mr. Ruse and Ms. Woodruff began to share an apartment in a neighboring city. Because he was dating Ms. Woodruff, Mr. Ruse asked Ms. Ricchio to stop contacting him. When Ms. Ricchio learned Mr. Ruse was dating Ms. Woodruff, she called Mr. Ruse's sister and told her that she felt like killing him.

Utilizing Department of Motor Vehicle and telephone records, Ms. Ricchio was able to access Mr. Ruse and Ms. Woodruff's home address. She began harassing Mr. Ruse and Ms. Woodruff by showing up at sporting events, harassing Ms. Woodruff's family, and scratching Ms. Woodruff's vehicle. In late October 1987, Ms. Ricchio showed up at Mr. Ruse's job for the third time in five days. She kept trying to touch him and he snapped her with a shop rag. Mr. Ruse was cited for battery.

In November 1987, Ms. Ricchio called Mr. Ruse's friend and said that she was going to "blow [Mr. Ruse's] ass away" and then kill herself. Following her threat, Mr. Ruse obtained a mutual temporary restraining order against Ms. Ricchio. Five days after the restraining order was issued, Ms. Ricchio purchased a .38 caliber revolver.

In early December 1987, Mr. Ruse and Ms. Woodruff moved to a different apartment in an attempt to escape Ms. Ricchio's harassment. Undeterred, Ms. Ricchio tracked them down and left a letter, addressed to Ms. Woodruff, on their doorstep. The letter ended with, "I'm going to tear the two of you to the bone. I warned you from the start to back-off, you didn't listen." Three days after leaving the letter, Ms. Ricchio went to a shooting range with an acquaintance who taught her how to use her gun. On the same day, Ms. Ricchio applied to rent the apartment directly next door to Mr. Ruse and Ms. Woodward.

Five days after moving into the apartment, on December 14, 1987, Mr. Ruse returned to his apartment to find Ms. Ricchio standing on the landing, armed with a .38 caliber revolver. Ms. Ricchio shot five-to-six times in Mr. Ruse's direction and fled. Two shots hit him in the side and back. He died within an hour of being flown to the hospital.

GOVERNING LAW

The question I must answer is whether Ms. Ricchio will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Ms. Ricchio suitable for parole based on her remorse, lack of other violent criminal history, disciplinary record in prison, participation in self-help classes, and a low risk of reoffending.

I acknowledge that Ms. Ricchio is now 57 years old and has been incarcerated for 30 years. She has only one serious rule violation and has made efforts to improve herself while incarcerated. She earned her Associate of Arts degree and a certificate in Paralegal Studies. She has participated in self-help. In 2016, the psychologist evaluated her as low risk. I commend Ms. Ricchio for taking these positive steps. But they are outweighed by negative factors that demonstrate she remains unsuitable for parole.

This brutal crime was the culmination of a calculated, all-out campaign to ruin Ronald Ruse's life. After Ms. Ricchio stalked, harassed, and threatened Mr. Ruse for months, she moved into the apartment directly next to his, and shot him multiple times in the side and back as he fled for his life. Her actions devastated Mr. Ruse's family and friends, who have spoken movingly about their continuing sense of pain and loss as well as their fear that Ms. Ricchio or her family will come after them.

Ms. Ricchio has made many attempts over the years to manipulate the facts of her crime in order to put her actions in a less-callous light. While her version of the crime has come closer to the facts in the record, she still struggles to confront the reality of her actions. In 2016, Ms. Ricchio told the psychologist that she was not stalking Mr. Ruse but simply looking for an opportunity to talk to him. She conceded at her 2017 hearing, "I think initially I didn't feel like I was stalking him, I think I was just wanting my boyfriend to come home, but I think overall now? Yes." She asserted to the psychologist that she bought the gun only because Mr. Ruse had threatened to kill her and she made a point of saying that Ms. Woodruff threatened to beat her up. Ms. Ricchio insisted, both in her 2016 psychological evaluation and 2017 parole hearing, that she reached out to touch his thigh while he was on the ground after she shot him.

Unfortunately, none of these statements are corroborated by the evidence in the record. Her comments and reluctance to characterize her actions as stalking minimize the terror she inflicted on Mr. Ruse and Ms. Woodruff for the last two months of Mr. Ruse's life: she showed up uninvited to his home, his job, and sporting events, contacted his family and friends for information regarding the name of his new girlfriend and the location of their new apartment,

searched DMV records for information about Ms. Woodruff, and wrote to her. She downplayed her almost-daily harassment of the couple and masked her true reason for purchasing the gun. There is no indication that Ms. Ricchio's story about reaching out to touch Mr. Ruse has any foundation in the truth. Actually, Ms. Ricchio immediately fled the scene and Mr. Ruse was able to stagger to a neighbor's apartment before he fell to the floor and lost consciousness. I am concerned that Ms. Ricchio still does not fully apprehend the gravity of her actions and has yet to acknowledge the true nature of her crime. She must do much more to show that she has an adequate understanding of how she came to commit such a manipulative and callous crime.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Ms. Ricchio is currently dangerous. When considered as a whole, I find the evidence shows that she currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Ms. Ricchio.

Decision Date: March 9, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

ERNESTO SERRANO, H-43694
Second Degree Murder (3 counts)

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Ernesto Serrano was involved in the murder of five people. On May 15, 1990, Jesse Wells and Robert Cheatum were at Mr. Serrano's cousin's house waiting to buy cocaine from Perry Wagner and Gary Henderson. After Mr. Wells and Mr. Cheatum left without buying the cocaine, Mr. Wagner and Mr. Henderson told Mr. Serrano he would be killed unless he set up Mr. Wells and Mr. Cheatum. Mr. Serrano shot Mr. Wells three times in the back of the head, killing him. His cousin shot and killed Mr. Cheatum. The bodies of Mr. Wells and Mr. Cheatum were later discovered in the trunk of Mr. Wells' car.

On August 28, 1990, Mr. Serrano was riding in car with Mr. Henderson, and his cousin, Frank. They drove to Dee Nichol's house to discuss a prior drug deal. When the three of them arrived, Mr. Henderson approached the house and asked for Ms. Nichols. Virgil Castleman opened a window and told Mr. Henderson that Ms. Nichols was not home at the time. Mr. Henderson told Mr. Castleman, "You better watch your family" through the window and walked back to the car. Mr. Castleman jumped out of the window, followed Mr. Henderson to his car, and asked him what he said. While Mr. Castleman was talking to Mr. Henderson, Mr. Serrano pointed a shotgun at Mr. Henderson and fired one shot into Mr. Castleman's chest, killing him. Mr. Castleman's wife, who also came out of the house, began to run inside. Mr. Serrano's cousin fired several shots with a .45 handgun, but none of them hit her. All three men fled.

On September 18, 1990, Mr. Serrano's cousin arranged to purchase a pound of methamphetamine from Robby Rasco and Augusto Gomez. Mr. Rasco showed up at Mr. Serrano's cousin's house with Mr. Gomez. Mr. Gomez admitted that they did not have the methamphetamine and took the money. Mr. Serrano's cousin pointed a .45 caliber pistol at Mr. Gomez and ordered him and Mr. Rasco to move from the front seat of the car into the back seats. Mr. Serrano and his brother got into the front seats of the car, Mr. Gomez threatened Mr. Serrano's cousin, and his cousin shot Mr. Gomez with the pistol, killing him. Mr. Rasco began threatening Mr. Serrano, so Mr. Serrano's brother duct taped Mr. Rasco's hands, legs, and mouth, and started driving. Mr. Rasco continued to threaten Mr. Serrano and his cousin, so his brother pulled the car over, and Mr. Serrano shot Mr. Rasco, killing him. Mr. Serrano and his cousin took the bodies to the desert, poured gasoline on the bodies, and set them on fire.

GOVERNING LAW

The question I must answer is whether Mr. Serrano will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Serrano suitable for parole based on his age at the time of the crime, self-help classes, acceptance of responsibility, growth and maturity, and psychological risk assessments.

I recognize that Mr. Serrano was only 16 when he committed these murders. He lacked positive influences in his life and was heavily influenced by his maternal uncle, who got him involved in narcotics trafficking. I acknowledge Mr. Serrano has made efforts to improve himself while incarcerated. He earned his GED in 2005, completed vocational training, and participated in extensive self-help programming, including Alcoholics Anonymous, Anger Management, and Criminal Gangmembers Anonymous. He received positive ratings from his work supervisors, as well as commendations from correctional staff for his positive work ethic, success with programming, and participation in a youth diversion program. He also served as a Chairman for the Men's Advisory Council. He has served over 26 years in prison, is now 44 years old, and has not been disciplined for institutional misconduct since 2003. He also had the courage to debrief from the Mexican Mafia in 2000, an action few gang members are willing to undergo. I commend Mr. Serrano for taking these positive steps. I carefully examined the record for evidence demonstrating his increased maturity and rehabilitation, and gave great weight to all the factors relevant to diminished culpability as a juvenile, the hallmark features of youth, and his subsequent growth in prison. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Serrano's crimes were senseless. On three separate occasions, Mr. Serrano and his cousin participated in drug transactions, murdering a total of five people when the transactions did not go according to plan. I am troubled that Mr. Serrano believed that violence was the only means to resolve conflict and that he "couldn't fathom any alternatives."

I do not find Mr. Serrano's explanations for committing these acts completely convincing. Mr. Serrano told the psychologist who evaluated him in 2016 that he "made a string of bad choices which got progressively worse." He explained that he was "deeply immersed in a gang and criminal lifestyle" that was "careless and reckless." He added that he committed these crimes because he was "ambitious, but misdirected." Such explanations are not sufficient. His conduct

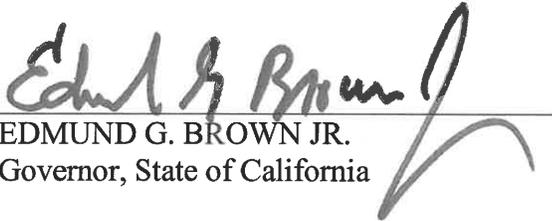
was far more than careless and reckless. He exhibited a level of violence that resulted in five deaths.

It is true that Mr. Serrano is now pursuing a very positive path – he debriefed from the Mexican Mafia, has had no misconduct of any kind since 2003, and has engaged in significant inmate leadership positions. Nevertheless, I believe more time is needed to demonstrate that he has fully separated himself from the gang mentality that led him to commit such terrible crimes.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Serrano is currently dangerous. When considered as a whole, I find the evidence shows that he is not yet ready to be released.

Decision Date: March 9, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

SCOTT DUVAL, P-45496

First Degree Murder

AFFIRM:

MODIFY:

REVERSE:

 X

STATEMENT OF FACTS

Scott Duval and Margaret Fleming were married for eight years, but had trouble in their relationship. On August 31, 1996, Mr. Duval and Ms. Fleming got into an argument and Mr. Duval beat her to death. To cover up his crime, Mr. Duval decided to cut up Ms. Fleming's body with a circular saw. He cut her legs off at the knee and waist levels, and disposed of the pieces of her body in a river. On September 9, nine days after killing her, Mr. Duval reported his wife as a missing person. He talked to her family regularly in the weeks that followed to ask if they had heard from Ms. Fleming or if they had come up with any leads on her whereabouts. He continuously lied to investigators, who ultimately obtained a search warrant and found evidence of Ms. Fleming's blood on the carpet in the house. On October 26, 1996, after being arrested for murder, Mr. Duval finally confessed to killing his wife, but continued to lie about where he had disposed of her body. Over a month later, detectives were finally able to find the pieces of Ms. Fleming's body in the river.

GOVERNING LAW

The question I must answer is whether Mr. Duval will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Duval suitable for parole based on his lack of other criminal history, stable social history and employment in the community, lack of violence in prison, low risk rating, age, vocational and educational accomplishments in prison, laudatory chronos, relapse plans for anger management and relationship issues, and parole plans.

I acknowledge Mr. Duval has made efforts to improve himself while incarcerated. He has participated in self-help groups including Domestic Abuse, Anger Management, Conflict Resolution, and Victim Awareness. He has had only two rule violation reports, last over a

decade ago. He has furthered his education, tutored other inmates, and worked in the Prison Industry Authority. Mr. Duval has been commended by correctional staff for his positive attitude, respect for others, work ethic, and rehabilitative efforts. I commend Mr. Duval for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Duval beat his wife to death because she was leaving him. He desecrated her body by dismembering her with a circular saw and dumped her into a river. He then put on a charade of distress for her well-being, reporting her missing, feigning concern with her family members, and lying to investigators.

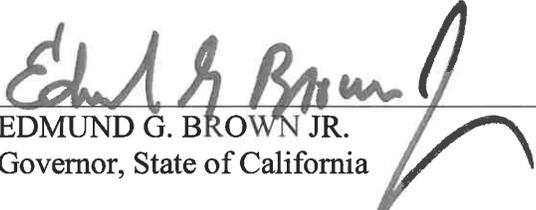
I am troubled that Mr. Duval cannot better explain how he came to commit this brutal crime. He told the Board that he felt upset, betrayed, and rejected that she was moving out of the home and claimed that he intended to “take control of the situation” to try to keep the relationship going. He did not want his father to find out that his marriage was not working out. Mr. Duval reported that he “abandoned [his] morals and [his] values” and “became violent.” He said that he “wanted Maggie to feel the pain and the hurt and the resentment that I was feeling.” When asked why he used the circular saw to cut up her body, he reported that he was “in a total cover-up mode” to hide from everyone that he knew that he “could have been such a monster to have done something like this.” He said that he “was just strictly thinking about saving my own bacon,” that “the thinking process I was going through was not a very solid one at the time,” and that “it was desperation to cover this up.”

These explanations are superficial and do little to convince me that Mr. Duval has overcome what it was that caused him to commit this crime. The psychologist who evaluated him in 2017 took issue with similar “perfunctory replies” and encouraged Mr. Duval to “speak about ways in which he made their conflict more contentious and how he escalated anger into rage in a short time.” Many marriages dissolve, leaving people with feelings of anger, betrayal, and abandonment. It remains unclear why Mr. Duval reacted to the dissolution of this marriage with such extreme violence that he beat Ms. Fleming to death. And while many seek to cover up their crimes, it is highly unusual to see a man willing to mutilate the body of someone he purported to love. The desire to get away with a crime does not explain how Mr. Duval could bring himself to carry out such an act.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Duval is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Duval.

Decision Date: March 16, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

LESLIE CLOSNER, D-84378
Second Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ **X** _____

STATEMENT OF FACTS

On October 16, 1987, Leslie Closner and his girlfriend Jan Ferguson checked into a motel for a wedding. The next day, they attended the wedding and reception of Ms. Ferguson's daughter, and returned to their motel room where they argued. Mr. Closner shoved Ms. Ferguson onto the floor and strangled her to death. He moved Ms. Ferguson's body onto the bed and ripped off her clothes. Mr. Closner had sex with her corpse and then attempted to give the corpse mouth-to-mouth resuscitation. Mr. Closner left the hotel room, in an attempt to escape, but remembered he left his wallet inside the motel room. He returned to the motel room, through a back window, and had sex with Ms. Ferguson's corpse again. He then bit off both of Ms. Ferguson's nipples and swallowed them. He fled the motel, and turned himself in to Oregon police two days later.

GOVERNING LAW

The question I must answer is whether Mr. Closner will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Closner suitable for parole based on his lack of misconduct in prison, demonstration of remorse, vocational upgrades, positive programming, and his risk assessment.

I acknowledge Mr. Closner is 70 years old, has been incarcerated for over 30 years, and has made efforts to improve himself while incarcerated. He has never been disciplined for misconduct during his incarceration. He has participated in self-help programming including Alcoholics and Narcotics Anonymous, Breaking Barriers, Nonviolent Communication, Victim Awareness, and Framework for Recovery. I commend Mr. Closner for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

I reversed Mr. Closner's last grant of parole in 2016 based on the crime, his history of sexual and domestic violence, and his lack of insight. I had concerns that he did not have clear insight into what drove him to commit this crime. This problem continues to persist with Mr. Closner.

Mr. Closner's acts were disturbing. In a rage of anger, he strangled his girlfriend to death and then defiled her body by having sex with her corpse twice and biting off her nipples. During the five year relationship between Mr. Closner and Ms. Ferguson, he repeatedly inflicted both physical and mental abuse. During a short separation, Mr. Closner "follow[ed] [Ms. Ferguson] around to the point of obsessing over her." He told the Board, "I was really obsessed with her, and this-- obsession was sexual, um, and it just -- it just spiraled into even more and more heightened tension, uh, between us." This act of obsession was of great concern during Mr. Closner's 2016 grant of parole. In addition to Ms. Ferguson, Mr. Closner admitted to a highly abusive relationship with his ex-wife. In one instance, he attempted to strangle her to the point "of restrict[ing] her ability to breathe." This relationship ended in a divorce, after his ex-wife filed a restraining order.

I am troubled that Mr. Closner continues to lack insight into his violent nature. When discussing why he defiled Ms. Ferguson's corpse by having sex with it twice, he responded, "I had intercourse with her because I felt really angry, uh, towards myself for what I did to her, and I projected this anger at her corpse, her body, knowing that I would not get rejected. A little more, uh, insight into the dynamics of what was going on with my sexuality at the time, uh, defiling her body was -- was my dysfunctional thinking of destroying...-- destroying what made me feel weak as a man." He further explained that the "feeling of rage" made him lose control. When asked by the Board why he committed such an appalling crime, he said "My view is still that I was dealing with some, you know, negative core issues that extend back from early childhood and in -- in relationship with my mother. No doubt about that." It is clear that Mr. Closner is still unable to appreciate what truly led him to commit such a horrible crime.

I am not convinced that Mr. Closner has properly addressed what it was that caused him to kill Ms. Ferguson or to defile and mutilate her body. When discussing his past, he continued to blame his behavior on acts of aggression suffered from his mother at a young age. When discussing with the Board why he had troubles in the relationship with Ms. Ferguson, Mr. Closner responded saying, "Oh, total miscommunication. Could not communicate. I didn't know how to communicate. I acted out violently and impulsively and negatively 'cause I couldn't communicate. I couldn't communicate my feelings and needs, and it was kind of a dual action going on there. Um, the more we tried to figure things out, the worse it got." Mr. Closner still appears to be missing the mark.

The psychologist who evaluated Mr. Closner in 2014 opined that it was "extremely unlikely" that he would commit another violent crime again and that it was "probable" that "had Closner not been under the influence of intoxicants at the time, that the homicide would never have occurred." I disagree. This analysis by the psychologist seems to neglect the more than 17 years of prior violence against women. Five years prior to the crime, he engaged in a strikingly similar incident with his wife and had a history of raping and abusing Ms. Ferguson and his wife. Many individuals engage in a lifestyle filled with drugs and alcohol, but somehow avoid killing their girlfriends and defiling their corpses. His belief that he was so wounded by being physically

abused as a child and seeing his mother's naked body that he could commit such a crime against Ms. Ferguson as a 39 year old man is bizarre. Furthermore, it seems clear that whatever sexual issues potentially caused by his relationship with his mother that may have contributed to this crime have yet to be resolved. The 2014 psychologist noted that Mr. Closner spoke of his mother "sometimes with anger and sometimes with a lustful voice" and that during the interview at one point he "seemed to become sexually excited as he described watching his mother undress." I am not convinced that Mr. Closner truly understands the level of his depravity towards Ms. Ferguson in the commission of this crime. Until he can show otherwise, I do not believe he can be released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Closner is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Closner.

Decision Date: March 23, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

RICHARD GREGG, D-87878

Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Richard Gregg began dating Eva Woo in early 1987. On the night of October 22, 1987, Ms. Woo and Mr. Gregg went out to dinner, where they argued because Ms. Woo finished their soda and because Mr. Gregg was admiring a girl in tight pants. Once at the apartment, Ms. Woo returned to the car to retrieve some paper towels. When she walked back through the front door, Mr. Gregg was waiting in the living room with a revolver pointed at her, and shot her in the chest. When police arrived and asked Ms. Woo what had happened, Mr. Gregg immediately stated, "The gun fell off the T.V. and went off. It got her in the chest." Ms. Woo then told the officer, "It was an accident." She died early the next morning. During trial, a number of witnesses testified that Mr. Gregg was abusive and controlling of Ms. Woo and had threatened to kill her. Mr. Gregg's sister called him "jealous, unstable, and suicidal," and stated she heard her brother argue with Ms. Woo and threaten to "[blow] her head off" in the days before the murder. Ms. Woo told her parents she would be moving out of the apartment she shared with Mr. Gregg and back into their home on October 24, 1987, because Mr. Gregg was "mean and violent."

GOVERNING LAW

The question I must answer is whether Mr. Gregg will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Gregg suitable for parole based on his level of remorse, age at the time of crime, acceptance of responsibility, and self-help programming.

I recognize Mr. Gregg was only 22 when he committed this crime. He grew up in an unstable family environment that was riddled with drug and alcohol abuse. His father left when he was two-years-old due to issues with drugs. He endured what he called a “turbulent” relationship with his mother who was both physically and emotionally abusive. Mr. Gregg’s mother would hit him with her “hands, bats, belts, [and] fists.” Mr. Gregg described his stepfather as secretly addicted to alcohol, who would often hit him often with his fists. At the age of nine, Mr. Gregg was sodomized by an uncle. When Mr. Gregg turned 12, his mother abandoned the family to live with another woman. This disruption in his family life caused Mr. Gregg to be shuttled between close family members until the age of 17, when he gained the right to live as an independent adult.

I acknowledge Mr. Gregg has made efforts to improve himself while incarcerated. He completed vocational training programs, has not been disciplined for serious misconduct since 1994, and received above average ratings from his work supervisors. He has participated in self-help programming including Alcoholics and Narcotics Anonymous, Breaking Barriers, Victim Impact, Anger Management, Men’s Violence Prevention, and Domestic Violence.

I carefully examined the record for evidence demonstrating Mr. Gregg’s increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his youthfulness at the time of this crime, and his subsequent growth in prison during my consideration of his suitability for parole. But these factors are outweighed by evidence that demonstrates he is not yet suitable for parole.

I reversed Mr. Gregg’s last grant of parole in 2013 based on his minimization of his role in the crime, history of domestic violence, and lack of programming. I was concerned that he continued to paint this crime as an accident and was not examining his acts of aggression towards women. It is clear from the record that this problem still exists.

The full circumstances of this crime remain unclear, but what we do know is that Mr. Gregg acted recklessly and with the purpose of intimidation and control. Without warning, Mr. Gregg fatally shot Ms. Woo in the chest. Ms. Woo told the police it was an accident, even though now we know it was not. At the time of the crime, Mr. Gregg insisted that it was an accident and continued this charade for over 30 years. Mr. Gregg was aware that Ms. Woo was no longer happy in the relationship and was making plans to leave him. She told her parents days before the murder that she planned to move out of the apartment with Mr. Gregg and return to their home. Unfortunately, Mr. Gregg killed Ms. Woo before she could leave. I am still not convinced that Mr. Gregg is providing us with an honest description of what led to this killing.

Mr. Gregg told the Board, “I started using the weapon to intensify sexual intercourse, so I thought. But the reality was, like, Eva would see me load it and then I would dump out the shells and go ‘Eva, look’ and I'd put it to my head and click, click, click and she'd go ‘You son of a bitch’... We'd wrestle, start giggling, laughing, next thing you know, we're having sex for a long period of time.” When asked why he chose to point the weapon at Ms. Woo, instead of himself, which was common in their relationship, he responded, “You know, with that being the first time, and I think that it's, uh, in my twisted way, the way I was back then is that I was maybe

hoping to get, uh, better sex by taking and intimidating her with the gun like that.” This new story of sexual arousal appears to be an attempt to conceal what actually happened. As far as we know, Mr. Gregg had never before pointed his gun at Ms. Woo. I believe all this indicates that Mr. Gregg continues to minimize his intentional shooting of Ms. Woo.

This was not the first instance of violence against a woman perpetrated by Mr. Gregg. Mr. Gregg admitted that he would “fist fight” with another girlfriend, Bernice. Mr. Gregg’s ex-wife, Angelina, described instances in which he threatened to kill her, their daughter, his father-in-law, his mother, and Angelina’s lawyer. In one instance, Mr. Gregg held a knife to Angelina’s throat, and, in another, he threatened “to cut [her and their daughter] up into little pieces and nail parts of [them] to the wall and plead insanity.” He claimed that during a relationship with a former girlfriend, he “engaged in mutual arguments and fights” and that he ultimately left “because it was an abusive relationship.” While discussing his first marriage with wife Angelina, he told the psychologist in 2016 that he “did push her once”, but also conceded that he “threatened Angelina with a knife once, and also ‘threatened to hurt’ their daughter.” He later admitted to “backhand[ing] her” during a dispute. When questioned about Angelina’s testimony with regards to the scratch marks and bloody knuckles she observed while Mr. Gregg was dating Ms. Woo he stated he was “punching a telephone pole.” When asked by the Board in 2017 whether he had threatened to shoot Ms. Woo, Mr. Gregg admitted to having a discussion with Ms. Woo’s co-workers where he asked whether he should “stay with her or get rid of her.”

Although Mr. Gregg is making impressive efforts to improve himself through vocational training and numerous self-help programs he has not yet given a clear and convincing explanation for the murder in this case.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Gregg is currently dangerous. When considered as a whole, I find the evidence I have discussed shows why he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Gregg.

Decision Date: March 23, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

VICTOR MASSO, E-46387
Second Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ X

STATEMENT OF FACTS

On October 31, 1989, Victor Masso got into a fist fight with Luis Hinojos and lost. Mr. Masso left the area and returned with a .25 caliber handgun. He shot Mr. Hinojos, killing him. Mr. Masso also shot Danilo Casteneda in the hand, but Mr. Casteneda survived. Mr. Masso fled, but was pursued by several men who had witnessed the shooting. Mr. Masso threatened several motorists as he fled, attempting to commandeer their vehicles, but was unsuccessful. A police officer heard the gunshots and went to investigate, and followed the men chasing Mr. Masso. Mr. Masso saw the officer and shot at him, but missed. The officer cornered Mr. Masso nearby and arrested him.

GOVERNING LAW

The question I must answer is whether Mr. Masso will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Masso suitable for parole based on his current age and apparent cognitive decline.

I acknowledge that Mr. Masso is now 80 years old and has been incarcerated for over 28 years. He has participated in self-help groups including Alcoholics Anonymous and Alternatives to Violence. He worked as a gardener and as a dining room worker. He also participated in charitable events. I commend Mr. Masso for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Masso shot another man over a mere fistfight. After arguing over a loan that was owed to Mr. Masso, he left the fistfight in anger. Not wanting to be embarrassed, Mr. Masso returned with a gun and shot Mr. Hinojos. Mr. Masso continued to aggressively approach witnesses of

the crime in an attempt to commandeer a vehicle to escape, even firing a shot at one witness and injuring him in the hand. Mr. Masso then, in a final attempt to escape, fired shots at a police officer that was responding to the crime.

Mr. Masso continues to minimize his participation in this senseless crime. The 2017 psychologist stated that “Mr. Masso continues to attempt to rationalize his actions during the life crime by claiming he acted in self-defense. His account of the crime left out key details, suggesting that the inmate was attempting to minimize his behaviors.” He denied shooting at the police officer during his 2017 Board hearing claiming, “If you shoot a police, uh, officer, it’s impossible because if you shoot a police officer you -- they will shoot you back and they will kill you. And that’s something impossible.” Mr. Masso also denied firing his weapon and injuring another witness of the crime. This lack of memory appeared to be selective and only manifested when Mr. Masso was charged with taking responsibility for events he disagreed with.

I am most concerned with Mr. Masso’s recent acts of violence. In 2010, Mr. Masso slashed another inmate with a razor and hit a second inmate with a cane. This crime was committed when Mr. Masso was 73-years-old. When discussing this act of violence, Mr. Masso told the Board, “And I cut his face and he -- he deserved it. He deserved it. Yes. Both of them deserved it. Yes. Both of them deserved it.” In 2011, Mr. Masso threatened the life of another inmate based on a cell re-assignment. It is quite unusual to see such violent acts from someone at this stage in their life. Mr. Masso denied issuing the threat to his cellmate and continued to assert that he had valid reasons to assault the two men in the 2010 incident. These acts of violence do not cast Mr. Masso as a peaceful man awaiting release from prison. I believe that Mr. Masso must show a sustained period of nonviolence before he can be released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Masso is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Masso.

Decision Date: March 23, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

KENNETH KOVZELOVE, E-44065

Two Counts of First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

 X

STATEMENT OF FACTS

On November 9, 1988, Kenneth Kovzelove and Dennis Bencivenga drove around looking for “Mexicans” to rob or kill. As Mr. Bencivenga drove, Mr. Kovzelove laid down in the bed of the pickup truck, armed with an assault rifle. Mr. Kovzelove was wearing black clothing, a bulletproof vest, and draped a black shirt around his head to conceal himself. After they turned down a dirt road, Mr. Kovzelove spotted Hilario Salgado and Matilde Delasancha walking. Mr. Kovzelove hit the roof of the cab and said, “Two walkers,” so Mr. Bencivenga pulled his truck over. Mr. Kovzelove described that he had enough time to then “pop up [out of the truck bed], lock in sight, lock and load, a second to two seconds. I had to lock the bolt to the rear.” He then fired 18 rounds from the assault rifle while screaming, “Die.” Mr. Salgado was hit 5 times in the chest, abdomen, and leg. Mr. Delasancha was shot 8 times in the legs, abdomen, arm, and hand. Once Mr. Kovzelove saw the men fall to the ground, he dropped down and told Mr. Bencivenga to drive away. Both Mr. Salgado and Mr. Delasancha died.

Mr. Kovzelove confessed to the shooting and said that he “just wanted to shoot someone” and he “did not like Mexicans.” Mr. Kovzelove told officers that after shooting the victims, “I was kind of motivated. I just wanted to go for it...I wish there were like 40 of them and they just rushed me so I could go off on everybody.” When an officer asked Mr. Kovzelove if he was still willing to kill someone if he had the chance, he replied, “Yes sir, I just wish I could do it in a more just way.” He told the officer, “I guess I’m just going to have to get into a mercenary field when I get out. There wouldn’t be much more for me.” He said, “There’s like a violence dial on me, it has to be turned down somehow.”

GOVERNING LAW

The question I must answer is whether Mr. Kovzelove will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate’s pre- or post-incarceration history, or the inmate’s current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give “great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any

subsequent growth and increased maturity of the prisoner” when determining a youthful offender’s suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Kovzelove suitable for parole based on his age at the time of the crime, maturity, current lack of racial animosity, participation in self-help programs, and risk assessment.

I acknowledge that Mr. Kovzelove’s crime was committed when he was 17 years old and that he has since been incarcerated for over 29 years. Mr. Kovzelove described to the psychologist in 2017 that he had a very chaotic and dysfunctional childhood, during which he experienced physical and psychological abuse when he lived with his father, and financial instability and homelessness when he lived with his mother. Mr. Kovzelove told the Board that he was “overwhelmed” and tried to gain “control” over his home life through “violent fantasies” about joining the military. He reported that his mother started giving him drugs and alcohol at age 9, and that he went on to abuse alcohol, marijuana, prescription drugs, LSD, and other substances. He has not been disciplined for serious misconduct since 1999. He has participated in self-help programs, including Life Awareness Program, Denial Management, and Family Relationships. Mr. Kovzelove earned his GED, vocational certification, and positive work ratings. In 2016, he was commended by a work supervisor for his “maturity, responsibility, and positive attitude” and opined that Mr. Kovzelove “possesses the people skills necessary and work ethic necessary to be a productive member of society.” I acknowledge that Mr. Kovzelove has taken these positive steps, but they are outweighed by the negative factors that demonstrate that he remains unsuitable for parole.

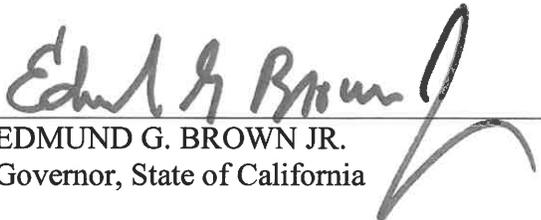
This crime was shocking and senseless. Mr. Kovzelove stated that his friend wanted to go “target shooting” and that they should “go to a specific area because there would be illegal immigrants there to kill.” Mr. Kovzelove and his friend then intentionally drove around looking to rob and kill human beings based on their race. They killed two unsuspecting victims based on their subjective view of their immigration status. In 2016, I reversed Mr. Kovzelove’s parole grant based on the crime and his inadequate explanations for committing such a horrific crime. Although the Board found him suitable for parole again in 2017, my concerns have not been alleviated.

It is still not clear to me why Mr. Kovzelove participated in a racially motivated crime. He told the psychologist who evaluated him in 2017 that he had “anger and frustration that he had not deal with,” adding, “I didn’t care about my life or anyone else’s.” Mr. Kovzelove reported to the Board that he had been diagnosed with post-traumatic stress disorder due to his abusive childhood experiences. He also told the Board that he didn’t participate in any incidents involving any racism or bigotry and that he had friends of different nationalities. Mr. Kovzelove has not sufficiently explained what drove him to commit such an awful crime. I encourage Mr. Kovzelove to continue participating in self-help classes to assist him in gaining a better understanding of why he committed these acts. Until he does so, I do not believe he is ready to be released from prison.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Kovzelove is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Kovzelove.

Decision Date: March 30, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

GERARDO ZAVALA, F-53298
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On January 24, 2001, Gerardo Zavala, Gerardo Soto, and Tyrone Ebaniz invited 17-year-old Eric Jones to smoke methamphetamine at Juan Soto's house. When they arrived, they went into the garage where Juan and Daniel Portugal were waiting for them. Mr. Zavala punched Mr. Jones in the face, knocking him to the ground. He and Daniel Portugal then bound Mr. Jones with an electrical cord while Gerardo Soto pointed a .30 caliber AK-47 assault rifle at Mr. Jones. Jorge Vidal and Keith Seriales arrived. Mr. Vidal jumped on Mr. Jones, slammed his head onto the cement floor, and hit him in the face with a pipe. Mr. Vidal said, "You want to steal my shit, nigger?" Mr. Jones started crying and asked, "What did I do?" Mr. Vidal asked Mr. Jones why he tried to steal Mr. Vidal's car, and Mr. Jones said, "It wasn't me man." Mr. Vidal picked up a screwdriver, stabbed Mr. Jones, and said, "Hey, remember you wanted to take my car. Hey, I'm returning your screwdriver, here."

Mr. Ebaniz and Daniel Portugal used a box cutter to strip the electrical cord and expose the wires. Mr. Vidal taped the wires to Mr. Jones's fingers, and plugged the other end of the cord into a wall outlet, shocking Mr. Jones. Mr. Vidal told Mr. Jones, "Today, you're going to die." Mr. Zavala and Mr. Seriales got plastic and duct tape, because Mr. Vidal wanted to cut Mr. Jones "like Jeffrey Dahmer." One of the men removed the electrical cord. Mr. Ebaniz and Daniel Portugal bound Mr. Jones's ankles and wrists with duct tape. Mr. Ebaniz and Daniel Portugal used scissors and box cutters to strip off Mr. Jones's clothes. Mr. Vidal picked up a squeegee and removed the handle. Mr. Vidal poured motor oil into Mr. Jones's buttocks, then inserted the handle into Mr. Jones's rectum four or five times. Mr. Ebaniz took the handle, inserted the handle into Mr. Jones's rectum once, and kicked the handle while it was inserted into Mr. Jones's body.

Mr. Ebaniz and Zavala wrote "Pepe's bitch" in permanent blue ink on Mr. Jones's back. Mr. Zavala and Mr. Seriales put Mr. Jones into the trunk of Gerardo Soto's car. Mr. Zavala, Mr. Vidal, Daniel Portugal, Mr. Seriales, Mr. Ebaniz, and Gerardo Soto drove out to a remote road. Mr. Zavala and Mr. Seriales pulled Mr. Jones out of the trunk and threw him onto the ground, still bound and gagged, and with the handle still in his rectum. Mr. Vidal walked up to Mr. Jones, and shot him with a 9 millimeter handgun once in the face, and nine times in the shoulder at point-blank range, killing him. The men drove back to Juan Soto's house where they drank beer and smoked methamphetamine, then used money they stole from Mr. Jones to purchase

more methamphetamine. Mr. Zavala was arrested on January 28, 2001. On the same day, he confessed to Mr. Jones' torture and murder.

GOVERNING LAW

The question I must answer is whether Mr. Zavala will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Zavala suitable for parole based on the plausibility of his claim of innocence, his remorse, stellar disciplinary record while incarcerated, lack of criminal history, educational and vocational upgrades, increased maturity, and parole plans.

I acknowledge Mr. Zavala has made efforts to improve himself while incarcerated. He has participated in self-help groups, including Alcoholics Anonymous, Getting Out by Going In and Correcting Destructive Behavior. Mr. Zavala has furthered his education and received a vocational certificate. Mr. Zavala has remained discipline-free throughout his 17 years of incarceration. I commend Mr. Zavala for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Zavala's crimes were horrifying and disturbing. Mr. Zavala assisted his crime partners in the torture, kidnapping, and shooting of Mr. Jones. After being called racial epithets, beaten with a pipe, cut, electrocuted, and rammed in the rectum with a squeegee handle, Mr. Jones was thrown into a field where he was shot 10 times at point-blank range, killing him. The callousness and brutality displayed in this murder is unfathomable.

I have serious doubts that Mr. Zavala has been honest and forthcoming about the killing in this case. Mr. Zavala's initial confession was extremely detailed, as if he were present while the crime was being committed. The amount of detail provided suggests Mr. Zavala was far from a passive participant in these crimes. By his own admission, he lured Mr. Jones to Juan Soto's house under the promise of getting high. Shortly after arriving, Mr. Zavala punched Mr. Jones and bound him with duct tape. Mr. Jones was then brutally tortured by Mr. Zavala's crime partners. After Mr. Jones had been tortured for hours, Mr. Zavala shoved Mr. Jones into the trunk of a car, pulled Mr. Jones out of the car, and dropped him on the side of the road. The level of detail in his initial confession also throws doubt on his subsequent recantation. Mr. Zavala now claims he was not present at the scene of the crime, was unaware that a crime was occurring, and was forced by Mr. Seriales to provide a false confession. I am not convinced that Mr. Zavala's confession was false, and given that, it does not appear that Mr. Zavala has confronted or addressed what it was that led him to participate in such a terrible crime.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Zavala is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Zavala.

Decision Date: March 30, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

NATHAN MCBRIDE, J-55720
Second Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ **X** _____

STATEMENT OF FACTS

Nathan McBride¹ and John Nulle had an on-and-off relationship for several years. On September 26, 1992, Ms. McBride and Mr. Nulle were engaging in sexual intercourse when they got into an argument. The argument escalated, and Ms. McBride choked Mr. Nulle until he was unconscious. Ms. McBride retrieved a steak knife from the kitchen and stabbed Mr. Nulle several times in the chest, killing him. Ms. McBride then castrated Mr. Nulle and fled the scene.

GOVERNING LAW

The question I must answer is whether Ms. McBride will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Ms. McBride suitable for parole based on her age at the time of the crime, disciplinary history in prison, lack of criminal history, acceptance of responsibility, increased insight, vocational achievements, and viable parole plans.

I acknowledge that Ms. McBride's crime was committed when she was 19 years old and that she has since been incarcerated for 24 years. Ms. McBride suffered serious physical and sexual abuse at the hands of her family members starting at the age of six; her father threatened to kill the whole family if he didn't get custody of Ms. McBride, then continued abusing her for years. Even after she reported the abuse, Ms. McBride said that no one believed her because so many

¹ According to the 2017 psychological evaluation and hearing transcript, Ms. McBride now identifies as female. For that reason, I refer to her using female pronouns throughout this decision.

men in her family were “in on it.” She was placed in foster care several times before leaving the house as a teenager to live with a much older man at her mother’s suggestion. She had very little stability or guidance in her life as she grew up. I also acknowledge that Ms. McBride has made some efforts to improve herself in prison. She has only been disciplined four times for misconduct, and has never participated in violence or drug activity. She earned several vocational certifications and routinely received above average to exceptional work ratings. Ms. McBride participated in self-help programs including Developing Insight, Restorative Justice, Understanding Anger, and Anger Management. I carefully examined the record for evidence demonstrating Ms. McBride’s increased maturity and rehabilitation. I gave great weight to all the factors relevant to her diminished culpability as a young person, her traumatic upbringing and the effect it had on her ability to appreciate the consequences of her actions, her immaturity at the time of the crime, and her subsequent growth in prison during my consideration of her suitability for parole. But those factors are outweighed by negative factors that demonstrate she remains unsuitable for parole.

Ms. McBride perpetrated an extremely shocking crime. While having sex with Mr. Nulle, an argument escalated and she strangled him until he passed out, stabbed him multiple times, and castrated him with a knife.

Ms. McBride’s explanations are totally inadequate in view of the violence and horror that she inflicted on Mr. Nulle. At her 2017 parole hearing, Ms. McBride explained that she had previously learned that Mr. Nulle found out he was HIV-positive but had not told her about his diagnosis. She said that they argued and separated, but got back together before the day of the crime. Ms. McBride explained that after they had sex, she asked again when Mr. Nulle had been planning to tell her about his diagnosis; when she thought his response was dismissive, she “snapped.” She said, “[T]hat was the straw that broke my camel’s back,” and explained that she directed her anger towards all her prior abusers at Mr. Nulle. Ms. McBride said, “I remember, you know, thinking...if I just get rid of what’s causing all this headaches for me, and that’s when I castrated him, and I know that’s what kept going through my mind...this just brings problems. Everybody just wants to use me, and nobody really cares, and I’m not thinking of [Mr. Nulle] at the time. It’s everybody else going through my mind.”

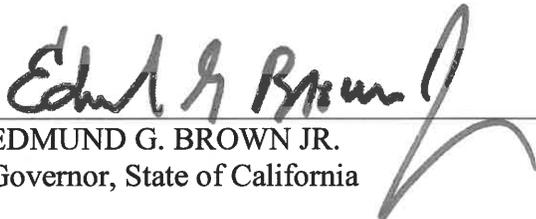
These statements might help explain how Ms. McBride became angry at the victim, but they do little to account for the extreme violence she unleashed on Mr. Nulle, a man who she purportedly cared about. It is difficult to reconcile her explanation that she just “snapped” with her admission that she and the victim had previously discussed his diagnosis and its effects on their relationship. While I do not discount the significant abuse she suffered in her youth, I am not convinced that Ms. McBride understands how she came to react so suddenly and direct such violence towards this victim. In her hearing, she acknowledged that she has not taken any courses on domestic violence. The psychologist who evaluated Ms. McBride in 2017 concluded that she posed a moderate risk of future violence and noted that she “showed little emotion and empathy for her victim” when discussing the crime. The psychologist wrote that she had “concerns regarding [Ms. McBride’s] ability to manage intense emotions, particularly when provoked, or when she feels angry or betrayed.” Ms. McBride must do more to demonstrate that

she understands how she came to commit this shocking crime and how she is prepared to respond differently in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Ms. McBride is currently dangerous. When considered as a whole, I find the evidence shows that she currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Ms. McBride.

Decision Date: April 6, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

LARRY BUNKE, C-67777
Second Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ **X** _____

STATEMENT OF FACTS

Larry Bunke and his wife, Linda Bunke, were on a trial separation from their marriage. Mr. Bunke had been staying at his parent's home out of town for approximately a week. On May 28, 1982, Mr. Bunke drove to the family home, parked his car in the garage, and went to bed. Mrs. Bunke returned to the house early in the morning, and Mr. Bunke approached her in the doorway. Mrs. Bunke screamed and ran to the street, where Mr. Bunke grabbed her and demanded to know where she had been. Mrs. Bunke continued to scream, and Mr. Bunke punched her multiple times in the face until she stopped screaming. Mr. Bunke got into his car and drove away, but noticed he had punched Mrs. Bunke so hard the tendons and bones in his own hands were visible. When Mr. Bunke returned to his wife, she was still lying in a driveway across the street. Mr. Bunke picked her up and took her into their house, dropping her onto the ground at one point. Mr. Bunke placed Mrs. Bunke on the kitchen floor. He took off his belt and whipped Mrs. Bunke with it multiple times. He then called the police and was arrested immediately upon their arrival. Mrs. Bunke died in the hospital five days later of multiple traumatic head injuries. The coroner reported that she suffered lateral and basal skull fractures, lacerations and contusions to the brain, facial fractures causing the bones to break loose from her skull, lacerations over both eyes, the bridge of her nose, her scalp, cheek, shoulder, and forearm, and bruising to her back and abdominal cavity causing damage to her pancreas and internal bleeding.

GOVERNING LAW

The question I must answer is whether Mr. Bunke will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Bunke suitable for parole based on his minimal prior criminal history, institutional behavior, improved insight into his domestic violence, and his elderly parole status.

I also acknowledge that Mr. Bunke has taken steps to improve himself while incarcerated. He has completed several vocational training programs. He has been free of any violent institutional misconduct for almost 10 years. He participated in self-help programming, including Narcotics Anonymous, Anger Management, Domestic Violence, Alternatives to Violence, and Victim Awareness. I commend Mr. Bunke for taking these steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Bunke committed a brutal crime with complete disregard for Mrs. Bunke's suffering. Mrs. Bunke made every attempt that night to escape from her husband. She ran away from him, screamed for help, and even attempted to escape to a next door neighbor's home. Despite all of these attempts, Mr. Bunke beat his wife mercilessly in the middle of their driveway. Mr. Bunke struck his wife so hard that he exposed the tendons in his own hands. Almost every bone in her skull was fractured. Then, after striking her, Mr. Bunke brought Mrs. Bunke into their home and continued to beat her with a belt. At no time did he render any aid while she laid on their kitchen floor lifeless. Mrs. Bunke remained in the hospital for five days in pain, until she finally died.

This was not the first time Mr. Bunke inflicted physical harm upon his wife. During his 2017 hearing, Mr. Bunke admitted that he "openhandedly slapped [Mrs. Bunke] across the face." He added that this slap "also slammed her head against the wall, and she developed a couple of black eyes because of it." In addition, he referenced an incident where he "grabbed [Mrs. Bunke] on the stairway and pulled her backwards and—and she just literally fell." When discussing this incident with members of Mrs. Bunke's family at the same hearing, her sister detailed Mrs. Bunke telling her "[Mr. Bunke] just picked me up and threw me down the stairs. Please don't say anything." I am also troubled that Mr. Bunke denies ever harming Mrs. Bunke outside of these two incidents. A prosecution witness related that, ten days prior to the murder, that Mrs. Bunke came to her residence dressed only in a robe and appeared to be physically and mentally upset, asking for the neighbor to call the police. Mr. Bunke affirms this interaction with the neighbor, indicating that he and Mrs. Bunke were arguing and she "crawled out the bedroom window and ran across the street to the neighbor's' house and asked the neighbor for help." Mr. Bunke could not answer the Board why his wife had to escape from a bedroom window to seek help from a neighbor. This incident alone makes it clear that Mr. Bunke is not being completely honest about his violent behavior with his wife. During his 2017 psychological examination, he commented that he "began to fear his wife was becoming 'a whore' like his mother" and would often call her derogatory names. He also discussed that his children were present at times for arguments between him and his wife.

Mr. Bunke continues to minimize his level of violence in this crime and additional violence over the years. He continues to say that he only hit his wife "three times very hard." The coroner's report contradicts this assertion. Mrs. Bunke's face was so badly injured, the area from her lip to her nose was completely lacerated exposing the bone. She suffered 12 fractures to her facial bones. Her skull was so damaged, the doctors were forced to remove it to relieve the swelling on her brain. This level of violence is quite disturbing and clearly resulted from more than three blows. It is clear that Mr. Bunke is continuing to minimize his violent behavior during his

marriage to Mrs. Bunke. Until he can properly address the extent to which he terrorized not only Mrs. Bunke, but the rest of his family, I believe Mr. Bunke remains a danger to society.

After serving over 35 years in prison, Mr. Bunke has demonstrated consistent self-help and has been void of serious and violent rule violations. I do not lightly overlook the fact that Mr. Bunke has only committed one violent 115 during his entire time in prison. Nevertheless, the allegations of molestation that have been made by Mrs. Bunke's family are troubling. I would highly encourage the Board to address these allegations at the next hearing and question Mr. Bunke on them.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Bunke is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Bunke.

Decision Date: April 20, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

LARRY JAY, B-79273
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On May 6, 1976, Larry Jay went to a bar in Ventura, drank beer, and played several games of pool with other patrons and bartender Naomi Harris. Around 11:30 p.m., Mr. Jay called his girlfriend to establish an alibi for himself and told her he was at a different bar in Oxnard when he was actually still at the bar in Ventura. As the bar started to close, Mr. Jay hid in the bathroom until all of the customers left. After Ms. Harris locked the front door, Mr. Jay came out of the restroom, approached Ms. Harris, and demanded money. After securing approximately \$168, Mr. Jay grabbed a hammer and hit Ms. Harris numerous times in the back of the head, killing her. Ms. Harris' body was found lying face down on the floor with her head rested on her folded hands, her legs straight out, and her feet together. The injuries suggested that Mr. Jay struck Ms. Harris once while she was standing, ordered her to lie face down, and then killed her by inflicting multiple blows to the back of her skull, fracturing it completely.

GOVERNING LAW

The question I must answer is whether Mr. Jay will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Jay suitable for parole based on his length of incarceration, current age, lack of recent misconduct, participation in self-help programming, parole plans, and low risk rating for future violence.

Mr. Jay is now 70 years old, and has been in prison for over 41 years. I acknowledge that he has made efforts to improve himself while incarcerated. He has not been disciplined for serious misconduct since 1998. He participated in self-help programs including Celebrate Recovery and Relapse Prevention. He served on the Inmate Advisory Council and received above average work ratings. He also volunteered as part of the Hooks and Needles program. I commend Mr.

Jay for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Jay created a false alibi, lied in wait, and attacked Ms. Harris when she was alone and vulnerable. Even though Ms. Harris complied with his demand for money, he struck her head with a hammer until she died. The fear and terror he subjected upon Ms. Harris was exceptionally callous, and his brutal beating of her demonstrated a shocking amount of violence.

I reversed Mr. Jay's last grant of parole in 2015 based on his inadequate explanations for his previous violence and his failure to acknowledge his level of planning for Ms. Harris' murder. Although the Board found Mr. Jay suitable for parole again in December 2017, I still believe he poses an unreasonable risk of danger to the public if released from prison.

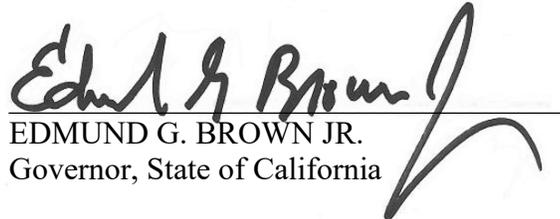
By this murder alone, Mr. Jay demonstrated that he was very willing to kill without provocation. Questions also remain about some incidents raised by the Ventura County District Attorney's office for which Mr. Jay has not been convicted. In 1972, he was apparently involved in a murder plot – his friend Tommy Marks hired him to kill his wife, Judy, by throwing gasoline on her and setting her on fire. Mr. Jay has admitted to going to Judy's house, and told the Board that he "agreed to destroy [her] car," but claimed "there was no conspiracy to murder Judy at any time." Additionally, according to the District Attorney's office, Mr. Jay also remains a suspect in the unsolved murder of 21-year-old Lynn Mueller in 1975. Ms. Mueller was stabbed over 40 times in her home. Mr. Jay admitted to arguing with Ms. Mueller over religious differences, and a neighbor saw a car that looked like his and a person matching his description at Ms. Mueller's house the night she was killed. The next day, Mr. Jay painted his car and ripped out part of the interior. He continues to deny any involvement in that murder, too. It is further unsettling that Ms. Harris, who Mr. Jay admits killing, was interviewed as a witness to verify an alibi Mr. Jay had provided for the time Ms. Mueller was killed.

Mr. Jay also has yet to address the level of planning that precipitated Ms. Harris' murder. He told the Board, "I didn't run back there with intentions of killing her. I just glimpsed a hammer on that machine and picked it up and hit her with it." He further elaborated, "I don't think that when I hit her with that hammer, I don't think it was to kill her. I think my intention was to knock her out or something. There's no explanation for it." Mr. Jay's claim that he did not intend to kill Ms. Harris is unconvincing. The record shows that he had a plan – he told his girlfriend he was at a different location to create a false alibi and he hid in the bathroom waiting for Ms. Harris to be there alone. If this was really just a robbery, as Mr. Jay insists, and not a premeditated murder, he could have easily accomplished his goal of obtaining money without viciously striking her multiple times as she laid helplessly on the floor. Simply put, I am disturbed by the level of Mr. Jay's violence and am not convinced that he has adequately confronted the nature of his actions.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Jay is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Jay.

Decision Date: April 20, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

RONALD ANDERSON, C-17565

First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On June 24, 1979, Leonard Luna was house sitting for his employer. Late that night, Marty Spears and Daniel Geysler came to the door and asked Mr. Luna to sell them some gasoline because their car's gas tank was empty. The two left after Mr. Luna provided the gasoline, but returned 15 minutes later and asked to use the telephone. After Mr. Luna let them inside, one of the men pointed a pistol at him and told him to hit the floor and close his eyes. The men called in several associates, including Ronald Anderson. They hit Mr. Luna in the head and put him on a couch in another room. Mr. Anderson helped hog-tie Mr. Luna. The men ransacked the home and stole a large safe, several guns, a switchblade knife, and two watches. Mr. Luna survived.

On June 25, 1979, Mr. Spears, Mr. Anderson, Jeffrey Maria, and Darren Lee planned to burglarize the home of Phillip and Kathryn Ranzo. Once there, Mr. Anderson waited in the car while the other men approached the home. Armed with pistols, a sawed-off rifle, and knives, they knocked on the door. Mr. Ranzo answered, and the men pretended to be out of gas and asked to use the Ranzos' telephone. The phone wasn't working, so Mr. Ranzo offered to give them a can of gas and opened the garage door. They followed Mr. Ranzo to the garage, and Mr. Spears pulled out a gun and pointed it at Mr. Ranzo. Mr. Spears then hit Mr. Ranzo in the head approximately six times with a bat or axe handle. Mr. Ranzo was hog-tied; a rope was placed around his neck and tied to his hands and feet. Mr. Spears also cut Mr. Ranzo's face and head, and stabbed and slashed his neck, killing him. They then went into the living room where they found Mrs. Ranzo. Mr. Spears ordered Mrs. Ranzo at gunpoint to go upstairs. Once upstairs, Mr. Spears raped Mrs. Ranzo, and then hog-tied her and beat her in the head with a blunt object. Mr. Spears also slashed Mrs. Ranzo's throat and stabbed her neck several times, killing her. While Mr. Spears was with Mrs. Ranzo, Mr. Maria and Mr. Lee ransacked the home and took \$2,000 in cash, a shotgun, and two diamond pendants. Mr. Lee and Mr. Maria came out a short time later and Mr. Anderson drove them away. Mr. Anderson returned and picked up Mr. Spears, then they left together.

GOVERNING LAW

The question I must answer is whether Mr. Anderson will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-

incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Anderson suitable for parole based on the length of incarceration, his remorse, acceptance of responsibility, self-help programming, good behavior in prison, and parole plans.

I acknowledge that Mr. Anderson was 18 years old when he participated in these crimes. He told the 2016 psychologist that he was sexually abused by another child when he was 11 years old and that he was "whipped a lot" by his father. He failed the second grade due to problems at home. He dropped out of high school and used marijuana and LSD. The psychologist who evaluated him in 2016 noted that in committing this crime, Mr. Anderson "displayed behaviors indicative of a juvenile delinquent. He was immature, impulsive, reckless, and attempted to win the approval of his antisocial crime partners." Over his lengthy incarceration, Mr. Anderson has made efforts to improve himself in prison. He is now 57 years old and has been incarcerated for over 38 years. He has obtained his GED, earned vocations, and has participated in self-help classes, including Alcoholics Anonymous, Narcotics Anonymous, Celebrate Recovery, and other programs. I carefully examined the record for evidence demonstrating Mr. Anderson's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his hallmark features of youth, and his subsequent growth in prison during my consideration of his suitability for parole. However, these factors are outweighed by evidence that he remains unsuitable for parole.

These crimes were merciless. This group of teenagers preyed on the good nature of Mr. Luna and the Ranzos. On the first night, after giving them a tank of gas and allowing them to use the phone, Mr. Luna was hog-tied and pistol-whipped. Multiple items were stolen from the home, including a switchblade that may have been used to kill Mrs. Ranzo. The following night under the same ruse, Mr. Ranzo opened the door of his home, willing to help what appeared to be teenagers in distress. After providing gas to Mr. Spears, Mr. Maria, and Mr. Lee, Mr. Ranzo was hogtied, beaten, and brutally stabbed in the neck. His wife, Mrs. Ranzo, was ordered by Mr. Spears to go upstairs, where she was hogtied, stabbed in the throat, and raped. When Mr. Spears, Mr. Maria, and Mr. Lee were finished, Mr. Anderson drove them away. Many, including the family of Phillip and Kathryn Ranzo, Senator Cathleen Galgiani, and Assemblymember Heath Flora, have written to oppose parole in this matter. They spoke of their fear of the prospect that Mr. Anderson, Mr. Spears, and Mr. Maria will be released into the community.

It is unclear to me that Mr. Anderson fully understands why he went to the Ranzos house with his friends. He claimed at his parole hearing that he went along with the plan because he wanted to be accepted by the group and that he was afraid that Mr. Spears would make him move out of

their shared home if he did not participate. He told the psychologist that he now knows that he was guilty because he did not go to the police before the crime happened, but the psychologist opined that Mr. Anderson's comments still minimized his participation in the crime. While it is clear from the record that Mr. Anderson tried to dissuade his crime partners from robbing the Ranzos, and that he did not know the two victims were being killed, it is also clear that he voluntarily joined Mr. Spears to commit this robbery despite knowing of the group's propensity to hogtie and beat their victims. Mr. Anderson sat as a lookout during the commission of these crimes. And even after being told that the Ranzos were murdered, Mr. Anderson accepted stolen money from the house from Mr. Spears.

Mr. Anderson has spent a very long time in prison – 39 years. While early in his incarceration Mr. Anderson was disciplined for drug use and fighting, for more than a decade. He has made tremendous strides to improve his conduct and better himself. He actively participates in and facilitates many self-help groups and has completed several vocational training programs. I encourage Mr. Anderson to continue on this positive path.

CONCLUSION

I have considered this record and am not yet prepared to release Mr. Anderson. Therefore, I reverse the decision to parole him.

Decision Date: May 4, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

WILLIAM BRADFORD, T-59708
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

William Bradford and Barbara Joan Bradford had a bitter five-year divorce that resulted in Mr. Bradford being ordered to pay over \$30,000 in retroactive child support. On September 16, 1988, after learning that the retroactive child support, as well as additional funds, would be deducted from his portion of the sale of the family home, Mr. Bradford went to his former home, where Mrs. Bradford still lived. Mr. Bradford entered and shot Mrs. Bradford five times at close range with a .357 magnum revolver, killing her. Mr. Bradford fled through the back of the home. Two of their children came home and found their mother lying in a pool of blood. Mr. Bradford was arrested later that month, but released four days later after the district attorney's office declined to file charges. Mr. Bradford was arrested again in 2001 after the district attorney's office reopened the case and filed charges against him. In 2002, Mr. Bradford was tried and convicted by a jury and sentenced to 26-years-to life for the murder.

GOVERNING LAW

The question I must answer is whether Mr. Bradford will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Bradford suitable for parole based on his lack of criminal history, his disciplinary record in prison, and his cognitive issues and current health. I acknowledge Mr. Bradford has made efforts to improve himself while incarcerated. He is now 85 years old and has never been disciplined for misconduct during more than 17 years in prison. He participated in a few self-help classes, including Houses of Healing and a veterans group. He worked as a peer tutor and was commended by an instructor in 2013 for his positive attitude and work ethic. I commend Mr. Bradford for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Bradford's crime was cold and calculated. When he realized he would have to pay the balance of child support that he owed to his estranged wife, he broke into her home and shot her multiple times, killing her. Mr. Bradford then left her dead in a pool of blood, where their children later discovered her body. Mr. Bradford's son and daughter appeared at his recent parole hearing and made statements about the trauma they endured from finding their mother's body and witnessing years of abuse that she had previously suffered at Mr. Bradford's hands.

I am not convinced that Mr. Bradford has an adequate grasp of how he came to commit such a heinous crime. The psychologist concluded, "He did not...demonstrate a sufficient understanding of his motivations in committing the crime. It is unclear why he felt so strongly that he shot his wife and why he was unable to cope. It is more prudent to assume that Mr. Bradford does not understand the personal factors that will likely aggravate or mitigate his acting violently in the future." The psychologist determined that Mr. Bradford poses a moderate risk of future violence, based in part on his lack of insight and lack of comprehensive parole plans. At his 2018 parole hearing, Mr. Bradford evinced a similar lack of understanding. He admitted shooting Mrs. Bradford, but when asked why he did it, he replied, "I don't know. I'm not sure I got an answer for that." He reported that he was "not particularly" angry at his estranged wife, but that he was "irritated" at the judge who ordered him to pay her. These answers shed little light on why Mr. Bradford – who was a successful, educated 55-year-old man – decided that his best course of action was to coldly shoot his estranged wife to death. Mr. Bradford must demonstrate a more comprehensive understanding of the nature of his violent behavior to show that he is capable of managing his emotions and reacting differently in the future.

I also have concerns about Mr. Bradford's inadequate parole plans. He is 85 years old and has several serious health conditions. He uses a walker and has a history of coronary artery disease, a stroke, a craniotomy, and chronic kidney disease. At his psychological evaluation, he was given a provisional diagnosis of mild neurocognitive disorder. The psychologist wrote, "It appears Mr. Bradford has short and long-term memory deficits and a mild though[t] disorder based on his answers to questions during this interview." The commissioners required that Mr. Bradford be placed in an in-house medical facility for at least one year as a condition of parole. Currently, there is no plan in place that meets this housing requirement, nor is there an adequate plan to ensure that Mr. Bradford will be properly monitored and receive the care he needs to function outside of prison.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Bradford is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Bradford.

Decision Date: June 8, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

SUSAN RUSSO, W-64536
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

Susan Russo was married to David Russo. In August 1993, Ms. Russo learned that in the event of Mr. Russo's death, she would receive over \$200,000 from the U.S. Navy and would receive monthly payments for the rest of her life. In July 1994, Ms. Russo asked her boyfriend, Jason Andrews, to kill Mr. Russo. Mr. Andrews enlisted Bobby Morris to help him. Late on July 14, 1994, Ms. Russo let Mr. Andrews and Mr. Morris into her home and directed them to her bedroom where Mr. Russo was sleeping. One of the men shot Mr. Russo in the back of the head. The three then wrapped Mr. Russo's body in sleeping bags, tied it with rope, and put it in the backseat of his car. Mr. Andrews and Mr. Morris then drove Mr. Russo's body out to the woods and abandoned the car. Ms. Russo and Mr. Andrews planned to set the car on fire, but local police officers discovered the vehicle first. Ms. Russo was arrested the following day.

While incarcerated in the county jail, Ms. Russo solicited the murder of Mr. Morris. On August 16, 1996, Ms. Russo was convicted of murder, conspiracy to commit murder, and solicitation to commit murder and sentenced to life without the possibility of parole plus 6 years.

GOVERNING LAW

The question I must answer is whether Ms. Russo will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

On April 15, 2017, I commuted Ms. Russo's sentence from life without the possibility of parole to twenty-five years to life based on her exemplary in-prison conduct, self-help, and reported history of abuse. When Ms. Russo appeared before the Board of Parole Hearings in September 2017, it directed an intimate partner battery investigation be completed and continued her hearing. In January 2018, the Board of Parole Hearings found the intimate partner battery

investigation inconclusive, but granted Ms. Russo parole based on her programming and commendable behavior in prison.

Ms. Russo is 63 years old, has been incarcerated almost 24 years, and has significant health issues. Ms. Russo earned her commutation through her efforts at self-improvement while incarcerated, including her participation in numerous self-help programs and role as a leader within the prison. I commend Ms. Russo for taking these positive steps; however, I am not convinced she is ready to be released at this time.

I cannot discount the devastating impact Ms. Russo's crime had on her two daughters, Jaime Guarino and Devon Russo. Both Jaime and Devon appeared at Ms. Russo's parole hearing and spoke movingly about the loss and pain stemming from Mr. Russo's death. Devon, who was two at the time of the murder, described growing up without her parents and having virtually no memories of her father. She relayed that she stopped visiting her mother in prison when Ms. Russo accused her of being brainwashed. Ms. Guarino, who was twelve at the time of the murder, described Mr. Russo as a refuge from her mother, who was emotionally abusive and manipulative. She detailed seeing her father shot and recounted hearing her father's body being carried to the car. Ms. Guarino described feeling terrified as officers pounded on the door looking for her mother, who was out with her boyfriend Jason Andrews. She told the Board, "She has never apologized or accepted blame. That night has forever changed my life. . . . Every day of my life is a struggle."

Ms. Russo continues to minimize her participation in this crime and has not shown a sufficient understanding of the reasons she committed the crime. The 2017 psychologist found that Ms. Russo appeared "partially removed from providing details of her involvement in the life crime" and that she "distances herself from the events leading up to David's death, and even afterwards." The psychologist noted that "There appears to be some difficulty in her overall understanding of her role in the crime" and found her insight "not optimal." With regards to her motivation for the killing, Ms. Russo told the psychologist, "It had gotten to a point where it was either him or me. I was raised to not ask for help." Ms. Russo was somewhat more forthright with the Board, stating, "I wanted him out of my life as fast as possible." She admitted manipulating her crime partners, including her eighteen-year-old boyfriend, into the killing. While it appears Ms. Russo accepted more responsibility for her actions at her 2017 hearing, I am not convinced that she has truly come to terms with her role in this crime. As the psychologist concluded, "Her motivation and contributory factors are also not necessarily optimal; she would benefit from further examination of these factors."

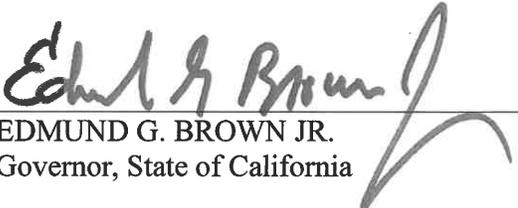
I commend Ms. Russo for her efforts in prison but believe she has more work to do. I encourage Ms. Russo to continue participating in self-help classes to assist her in gaining a better understanding of what she did and the impact it has had on the people affected. I encourage her to examine more deeply her role and motivation. Until she does so, I do not believe she is ready to be released from prison.

Susan Russo, W-64536
First Degree Murder
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CONCLUSION

I have considered the evidence in the record that is relevant to whether Ms. Russo is currently dangerous. When considered as a whole, I find the evidence shows that she currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Ms. Russo.

Decision Date: June 8, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

SAMUEL STRANGE, K-21821
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

X

STATEMENT OF FACTS

On July 23, 1994, Samuel Strange invited Crissy Campbell and Dawn Donaldson to his house to “party.” Mr. Strange was the last person seen with Ms. Campbell and Ms. Donaldson. On August 2, 1994, Ms. Campbell’s and Ms. Donaldson’s bodies were found in a dump site in advanced stages of decomposition. Both suffered blunt force trauma to the head. An ax was found in a pond near Mr. Strange’s house, and sledgehammers were also found on the property. Mr. Strange’s fingerprints were found on the trash bags that Ms. Campbell’s and Ms. Donaldson’s bodies were in. DNA testing established an extremely high probability that Ms. Campbell’s blood was found on a toolbox permanently attached to Mr. Strange’s truck.

GOVERNING LAW

The question I must answer is whether Mr. Strange will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate’s pre- or post-incarceration history, or the inmate’s current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give “great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner” when determining a youthful offender’s suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Strange suitable for parole based on his participation in self-help programming, being a substance abuse program mentor, educational and vocational upgrades, parole plans, and lack of an extensive prior criminal history.

I acknowledge that Mr. Strange’s committed this crime when he was 20 years old and that he has since been incarcerated for 24 years. Mr. Strange described his childhood as turbulent; his father abused alcohol and behaved violently towards all members of the family, both his mother and father struck him with a belt, and his mother verbally and physically abused him. He felt “unloved, small, and insignificant” to his parents. He stated he was often suspended for truancy

and fighting, and he eventually dropped out of school. He also reported running away from home and becoming involved in drugs at 12 years old.

Mr. Strange is now 44 years old, and has made efforts to improve himself in prison. He was disciplined for only one serious rules violation. He has participated in self-help courses such as Alcoholics Anonymous, Victim Impact, and Stress Management. He is currently an Addictions Treatment Intern and a peer mentor. He routinely received above average to exceptional work ratings. I carefully examined the record for evidence demonstrating Mr. Strange's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his impulse control, susceptibility to negative influences, and his other hallmark features of youth, and his subsequent growth in prison during my consideration of his suitability for parole. But these factors are outweighed by evidence that demonstrates he is not yet suitable for parole.

Mr. Strange participated in the brutal murder of two defenseless teenage girls that shocked an entire community. He dumped both Ms. Campbell and Ms. Donaldson's bodies in a trash pile and left them to be found over a week later, badly decomposed. His actions were shocking and horrific.

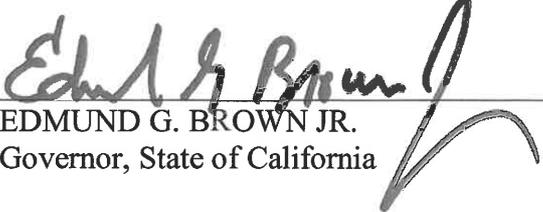
In his 2018 hearing, Mr. Strange claimed that Damian Graham and Allan Pettus came to his house and did methamphetamine while Ms. Campbell and Ms. Donaldson smoked weed and drank alcohol. Mr. Strange stated that he went downstairs to have sex with Ms. Campbell. Afterwards, Mr. Strange reported, Mr. Graham told Mr. Strange to go upstairs, where he found Ms. Donaldson dead and Mr. Pettus standing next to her body. Mr. Strange claimed that Mr. Graham said they were going to kill Ms. Campbell because Ms. Campbell was a witness, and Mr. Graham and Mr. Pettus hit Ms. Campbell in the head with a sledgehammer and an ax. Mr. Strange said that he, along with Mr. Graham and Mr. Pettus, cleaned up the crime scene. He drove the bodies to a dump site and took them out of his truck's toolbox to leave them in a trash pile. Mr. Strange stated that he participated in this murder because, "I was protecting my friends. [Mr. Graham] was threatening me... On the night of the crime, I impulsively responded. Later, it was fear-based. I idolized [Mr. Graham]." Mr. Strange noted that although he was afraid of Mr. Graham and Mr. Pettus, he was more concerned about his loyalty and friendship to his crime partners.

I find these explanations implausible and very troubling. Mr. Strange admitted watching as Ms. Campbell, with whom he had just had sex, was beaten to death by Mr. Graham and Mr. Pettus with a sledgehammer and an ax. Mr. Strange tells us that he "tried to prolong it," but has never reported making any efforts to stop or dissuade his friends from perpetrating such horror. The psychologist opined, "It is equally difficult to understand his explanation that out of fear and loyalty he singlehandedly loaded the victims' bodies in the back of his truck and disposed of them in an isolated area, rather than contacting the authorities." Mr. Strange's explanations are internally inconsistent. On the one hand, he claims that it was loyalty to Mr. Graham and Mr. Pettus that prompted his behavior. On the other hand, he said that it was fear. Was he protecting them or afraid of them?

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Strange is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Strange.

Decision Date: June 29, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DAVID WEIDERT, C-39455
First Degree Murder

AFFIRM: _____
MODIFY: _____
REVERSE: _____ X _____

STATEMENT OF FACTS

David Weidert and Michael Morganti worked as janitors at a doctor's office. Mr. Morganti was described as "mildly retarded" and "easily manipulated." In June 1980, Mr. Weidert convinced Mr. Morganti to serve as a lookout while he burglarized the doctor's office. Mr. Morganti was arrested and confessed, implicating Mr. Weidert. The doctor wanted Mr. Weidert to be arrested and confronted Mr. Weidert on multiple occasions, eventually telling him that he knew Mr. Morganti was an eyewitness to the crime. According to the doctor, when Mr. Weidert heard this, "the whole tenure [*sic*]" of the conversation changed and Mr. Weidert became angry and said, "listen, nobody is going to believe that idiot in court. Nobody's going to believe him. I'll see to it that they don't."

Mr. Weidert decided that he wanted to eliminate the possibility of Mr. Morganti testifying against him, so convinced his friend, 16-year-old John A., to help him kill Mr. Morganti. On November 21, 1980, the two lured Mr. Morganti out of his apartment and made him get into Mr. Weidert's pickup truck. They tied his hands behind his back with telephone wire and Mr. Weidert drove them into the mountains. They eventually found a secluded location where Mr. Weidert took a shovel and aluminum baseball bat from the truck and had Mr. Morganti walk up a hill. Mr. Weidert untied Mr. Morganti's hands, gave him the shovel, and made him dig a grave. After he got tired, John A. dug for five minutes and Mr. Weidert dug for ten minutes, before making Mr. Morganti continue. Mr. Weidert ordered Mr. Morganti to get in the hole, lying on his back. Because the hole was too short for Mr. Morganti, Mr. Weidert ordered Mr. Morganti to continue digging until it was long enough to accommodate Mr. Morganti's entire body. Mr. Weidert finally made Mr. Morganti lie in the hole and slammed the baseball bat into Mr. Morganti's head four or five times. Mr. Morganti pled, "I won't tell on you Dave. Stop it. No, Dave." Mr. Weidert yelled at John A. for his buck knife and stabbed Mr. Morganti, who was then screaming. Mr. Weidert ordered John A. to hit Mr. Morganti with the baseball bat. John A. complied and hit Mr. Morganti on the head with the bat while Mr. Morganti was lying on his back. Mr. Weidert told John A. that Mr. Morganti was dead or almost dead and that he had to die so they would not go to jail. Mr. Weidert and John A. then shoveled dirt on top of Mr. Morganti until he was completely covered.

But Mr. Morganti was not dead, and he pushed his hand through the dirt to grab Mr. Weidert's leg. He pulled his head and upper body through the dirt, but Mr. Weidert put his foot on Mr. Morganti's head and forced him back down. Mr. Weidert wrapped the telephone cable around Mr. Morganti's neck and strangled him. As Mr. Morganti kicked, Mr. Weidert said, "You son of a bitch die, die. This son of a bitch won't die." Mr. Weidert and John A. watched until Mr. Morganti appeared to be dead and buried him again. Mr. Morganti suffocated to death and dirt was found in his lungs. After murdering Mr. Morganti, Mr. Weidert and John A. returned home, washed up, and then went to a party.

An anonymous tip led the investigation to focus on John A., who was granted immunity in exchange for his testimony against Mr. Weidert. Mr. Weidert was arrested on December 17, 1980. He was convicted of kidnapping and murder. Two special circumstances were found to be true: that the murder had occurred while Mr. Weidert had been engaged in a kidnapping, and that the murder was committed to prevent Mr. Morganti from testifying in a criminal proceeding. He was sentenced to life without the possibility of parole. On appeal, the California Supreme Court upheld the murder and kidnapping convictions, but struck both special circumstances. (*People v. Weidert* (1985) 39 Cal.3d 836.) The Court held that Mr. Morganti's kidnapping was "merely incidental" to his murder, and therefore could not support the special circumstance finding. The Court also held that Mr. Weidert had not killed Mr. Morganti to prevent him from testifying in a "criminal proceeding" because he could only face juvenile charges, which would not be considered a "criminal proceeding." Therefore, Mr. Weidert was given life with parole.

GOVERNING LAW

The question I must answer is whether Mr. Weidert will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Weidert suitable for parole based on his lack of recent rules violations, his lack of criminal history, his age, his participation in self-help programs, his parole plans, and his psychological risk assessment.

I acknowledge that Mr. Weidert's crime was committed when he was 18 years old and that he has since been incarcerated for 37 years. Mr. Weidert reported that he experienced an unstable childhood because his family moved frequently, and that he had trouble connecting with his peers as a result. He dropped out of school in the 10th grade, and was working as a janitor at the time of this crime. I also acknowledge that Mr. Weidert has made some efforts to improve

himself in prison. He has not been disciplined for misconduct since 1986. He earned his GED and completed some vocational training in prison. He has continued to participate in self-help programs including Alcoholics Anonymous and Victims Awareness. I carefully examined the record for evidence demonstrating Mr. Weidert's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his impulsiveness and inability to fully appreciate the consequences of his actions, and his other hallmark features of youth, and his subsequent growth in prison during my consideration of his suitability for parole.

In 2015, I reversed Mr. Weidert's grant of parole based on the crime, Mr. Weidert's lack of insight into his motivations for committing it, and his insistence – despite clear evidence to the contrary – that the murder was impulsive. While Mr. Weidert now acknowledges that his attack on Mr. Morganti was premeditated, I remain troubled by his actions and inadequate explanations for them.

Mr. Weidert committed a truly heinous crime. He lured Mr. Morganti to a remote area, forced him dig his own grave, and stabbed, beat, and strangled him. Mr. Weidert then buried Mr. Morganti and left him to suffocate to death. Mr. Morganti's family and community continue to mourn him, and have written many letters that movingly describe their memories of him and the shock they experienced at his passing.

Given the horror of this crime, I can't find Mr. Weidert's explanations very credible or explanatory of the carefully planned actions he took. He told the Board that after Mr. Morganti reported the burglary Mr. Weidert had committed, he became "angry, very angry...I fixated my anger on the guy who had talked to the police, Mike Morganti." He reported that he was entitled, self-righteous, and afraid that his parents would find out about the burglary and be ashamed of him. Mr. Weidert said, "[T]he shame was constantly tearing at my heart that my parents would be so ashamed of me at this point, I was not turning around. I was set to kill." He said he rationalized his behavior to himself and said, "[I]f I do this, it'll fix my problems. It'll cure the shame that I feel. It'll make this go away. It'll make my parents not become angry at me, or disappointed in me, or have a new view of who I am." Mr. Weidert said that after "stewing" about the situation and luring Mr. Morganti into his car, "I had plenty of time on that drive to sit and think about what I was going to do. And plenty of time to deliberate what I could have done alternately and I did not." Mr. Weidert said that by talking to the police about him, he felt that Mr. Morganti had "already thrown the grenade in my corner. And I'm feeling like, you know what, I'm coming out swinging."

These statements and Mr. Weidert's age at the time do not really explain his decision to murder Mr. Morganti or his callous and prolonged attack on him. His rationale – that he did not want his parents to find out about a burglary because he was ashamed – is simply not convincing when you compare whatever problem his being ashamed might have been with the extraordinary suffering he imposed on another human being. By his own account, Mr. Weidert came from a relatively stable family and experienced little violence before committing this crime. Mr. Weidert's motivations and state of mind in going from burglary to murder in the fashion that he did remain utterly unclear. The psychologist who evaluated Mr. Weidert in 2016 concluded that

David Weidert, C-39455

First Degree Murder

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he “continues to have limited insight into his true motivations regarding the life crime that seem to be based in longstanding characterological features that are unlikely to change with time.” Given the very unusual nature of this crime, Mr. Weidert must do much more to show that he is truly a changed person, that he truly grasps the evil that he perpetrated, and that he is now so utterly changed that he is suitable for parole.

CONCLUSION

I have considered the evidence, and when considered as a whole, I find that it shows that Mr. Weidert is not suitable for parole. Accordingly, I reverse the Board’s decision to parole Mr. Weidert.

Decision Date: August 3, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

MEGAN HOGG, W-81913
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On March 23, 1998, Megan Hogg suffocated her seven-year-old daughter Antoinette, her three-year-old daughter, Angelique Hogg, and her two-year-old daughter, Alexandra Hogg, while they slept by placing duct tape over the mouths and around their hands. Ms. Hogg then attempted to commit suicide drinking hot chocolate mixed with multiple Vicodin, codeine, Tylenol with codeine, and Trazadone.

GOVERNING LAW

The question I must answer is whether Ms. Hogg will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Ms. Hogg suitable for parole based on her age at the time of the crime, maturity, remorse, participation in self-help courses, educational and vocational achievements, and age.

I acknowledge that Ms Hogg's crime was committed when she was 25 years old and that she has been incarcerated for more than 20 years. From childhood through adulthood, Ms. Hogg endured a turbulent relationship with her own mother, marked by both physical and emotional abuse. She began drinking alcohol every weekend at age 13, which became a daily habit by age 19. Ms. Hogg was raped by three teenagers at the age of 16, and dropped out of high school in the 10th grade. The evaluating psychologist concluded that Ms. Hogg "was quite immature and impulsive around the time of the life crime, albeit also struggling with mental illness and substance abuse." Ms. Hogg is now 46 years old and has made efforts to improve herself in

prison. She has earned two A.A. degrees, completed two vocations, and participated in and facilitated self-help groups, including Alcoholics Anonymous, Emotions Anonymous, and Alternatives to Violence. I carefully examined the record for evidence demonstrating Ms. Hogg's increased maturity and rehabilitation, and gave great weight to all the factors relevant to her diminished culpability as a juvenile, her youthfulness at the time of the crime, and her subsequent growth in prison during my consideration of her suitability for parole. But these factors are outweighed by evidence that demonstrates she is not yet ready for parole.

Ms. Hogg's crime was gruesome. A mother is supposed to protect her vulnerable children, not inflict such a horrific death on her own daughters. Instead of acknowledging that she could not care for them, she restrained them, covered their mouths with duct tape, and suffocated them. It is difficult to imagine the extraordinary suffering Antoinette, Angelique, and Alexandra endured during the last moments of their lives. The relatives of the children, and many citizens of Daly City, felt the effects of this crime.

I am troubled that Ms. Hogg cannot better explain how she came to kill her three children. She told the psychologist who evaluated her in 2018 that "her mental illness (and its associated features) was a contributing factor for her behavior in the crime as was her substance abuse." Additionally, Ms. Hogg told the Board she believed her own mother "played a large role" in her decision to kill her children because she didn't want her mother to have custody of them. She said, "I felt like I had no other way out. I felt completely trapped. I had had enough. I couldn't face another minute of failure of being stuck in the position of – with the paranoia, with the fear." These explanations are inadequate. While Ms. Hogg's mental health undoubtedly played a role in these crimes, the psychologist noted that Ms. Hogg was still "quick to externalize the blame to the medication prescribers." Ms. Hogg has yet to fully grasp that the responsibility for her daughters' murders falls squarely on her shoulders. And despite her turbulent relationship with her mother and fear of being considered a failure as a mother, Ms. Hogg had many other ways out of her perceived "trap" besides killing her three daughters. Ms. Hogg acknowledged that her mother had a "great relationship with [the children]" and that her daughters' paternal families were "amazing" and the girls were happy with them. Any of these individuals would likely have taken the children to prevent them from being killed.

I believe Ms. Hogg needs to reflect more deeply on the circumstances that led her to kill her own daughters so that she understands this crime, is able to explain more convincingly how it all happened, and demonstrate that her current state of mind would prevent her from doing anything like this again.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Ms. Hogg is currently dangerous. When considered as a whole, I find the evidence shows that she currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Ms. Hogg.

Decision Date: August 24, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DAVID HOLLY, J-14950
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

On August 2, 1991, David Holly, Nora Patty, and James Balestra were at a friend's house drinking alcohol and using methamphetamine. Mr. Holly and Mr. Balestra argued and Mr. Holly shot Mr. Balestra once in the head with a .25 caliber pistol, killing him. Mr. Holly wrapped Mr. Balestra's head in a plastic bag and dragged it into a storage shed in the yard, then later disposed of his body in an isolated river bottoms area. Mr. Holly told Ms. Patty to say that she shot Mr. Balestra because he did not want to get convicted of another killing. In the month prior to the murder, Mr. Holly and Ms. Patty discussed killing Mr. Balestra on several occasions because Mr. Holly believed Mr. Balestra was a child molester.

Mr. Holly was arrested for murdering Mr. Balesta on March 13, 1993. He was also charged with the 1983 murder of a woman who was shot in the chest with a shotgun and found in a remote rural location. She was last seen alive with Mr. Holly. The detective investigating the woman's murder believed that Mr. Holly killed her because she had previously informed police that Mr. Holly had committed arson and that his sister had embezzled from her employer. Mr. Holly's girlfriend reported that Mr. Holly said he "blew up" a girl who was going to testify against his sister. Mr. Holly was also convicted of a 1983 voluntary manslaughter for shooting his roommate twice in the chest and disposing of his body in a remote river bottoms area. The investigating detective believed that Mr. Holly killed his roommate because detectives questioned him about Mr. Holly's involvement in the woman's murder.

GOVERNING LAW

The question I must answer is whether Mr. Holly will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Holly suitable for parole based on his age, increased maturity, positive programming, and acceptance of responsibility.

I acknowledge Mr. Holly has made efforts to improve himself while incarcerated. He earned his GED and has completed seven vocational programs. He has participated in self-help groups including Victim Impact, Alcoholics Anonymous, Alternatives to Violence, and Anger Management. Mr. Holly has also never been disciplined for serious misconduct in the more than 25 years he has been in prison. I commend Mr. Holly for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

I reversed Mr. Holly's grant of parole in 2015 because of the nature of this crime and Mr. Holly's minimization of his responsibility for it, his lack of insight, and concerns regarding his elevated risk scores. Mr. Holly still has not provided an adequate explanation since that time, and my concerns remain.

Mr. Holly's crime was disturbing and senseless. After shooting and killing Mr. Balestra, he wrapped up and disposed of the body in a shed in an attempt to cover up his crime. He further elicited the help of his girlfriend to take responsibility for the murder because he did not want another murder conviction on his record.

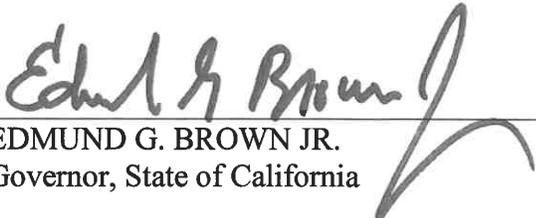
Even more troubling is the fact that this crime was not an isolated incident. He reported to the psychologist in 2016 that after attacking his mother's boyfriend with a baseball bat while he was asleep "convinced him that violence was a solution to his problems." In 1983, Mr. Holly was convicted of voluntary manslaughter after he shot his roommate, for which he served a six year prison term. Also in 1983, Mr. Holly was suspected of killing Sharon Neuerburg to prevent her from being a witness against him for arson and burglary and against his sister in an embezzlement investigation. He was indicted for murder by a grand jury, but the charges were subsequently dismissed in lieu of his guilty plea for the murder of Mr. Balestra. A detective noted in the Probation Officer's Report that he believed Mr. Holly "to be clearly a career criminal, lacking any conscience and/or sign of remorse, and a person who will not hesitate to kill again."

I remain concerned that Mr. Holly is not able to adequately explain his very violent behavior. He now claims that he convinced himself that his best friend, Mr. Balestra, had molested children, which apparently triggered his own traumatic childhood memories. He told the Board that he decided, while on a 23-day methamphetamine binge, to kill his friend. While he says that he now knows that this decision-making was irrational, the psychologist who evaluated him found that Mr. Holly's explanations remained "significantly underdeveloped" and rated him a moderate risk of violence. The Board too felt that Mr. Holly "still can't quite understand it all." In light of his pattern of tremendous violence, Mr. Holly must do more to ensure that he fully understands the reasons for his crimes and will not return to violence when released.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Holly is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Holly.

Decision Date: August 24, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

PAUL PITTS, C-55284
First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On January 29, 1982, Paul Pitts was at home with his two-year-old stepson, Jared Cartwright. Mr. Pitts taped Jared's mouth shut, tied his hands behind his back, and placed him into a small covered plastic toy box. Mr. Pitts then put a hair dryer in the box running in the "high" position, closed the lid, and left Jared for approximately 30 minutes. The dryer caused the interior of the box to reach 130 degrees after 10 minutes. Jared died from heat exposure and asphyxiation. An autopsy revealed that Jared's internal body temperature had potentially reached approximately 107 to 108 degrees.

GOVERNING LAW

The question I must answer is whether Mr. Pitts will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Pitts suitable for parole based on his age, remorse, vocational achievements, institutional behavior, and parole plans.

I acknowledge Mr. Pitts has made efforts to improve himself while incarcerated. He obtained his high school diploma and bachelor's degree, completed multiple vocations, and participated in self-help programming. He routinely received positive work evaluations, and has not been disciplined for serious misconduct for over 35 years. I commend Mr. Pitts for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Pitts' crime was shocking and cruel. Mr. Pitts was entrusted with caring for Jared while his wife was at work, but instead he inflicted unimaginable pain and torture – something no one, especially a vulnerable two-year-old, should have to endure.

I am concerned that Mr. Pitts cannot provide a better reason, after over 36 years in prison, for how he came to commit this terrible crime. At his most recent hearing, Mr. Pitts cited his feelings of insecurity, lack of self-esteem, and immaturity. He added that he did not think about the consequences of his actions and had a lot of anger toward Jared. He also claimed his wife received flowers from an ex-boyfriend, which incited jealousy and caused him to take his anger out on Jared.

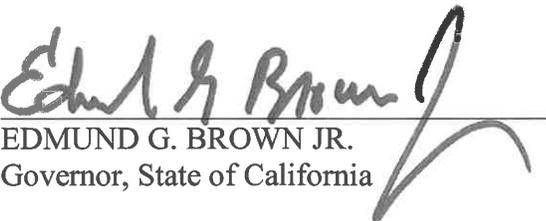
Mr. Pitts' explanations that he subjected his young stepson to inexplicable physical harm due to his immaturity are simply insufficient. Mr. Pitts was involved in adult relationships before, including two marriages, and admitted he had relationship instability. I am concerned that Mr. Pitts claimed, at 26 years old, he "did not see the consequences" of leaving a hair dryer on its "high" setting for nearly 30 minutes with a two-year-old trapped inside. Mr. Pitts made a conscious decision to torture his stepson to simply teach him a lesson, despite the fact that he "knew it could be dangerous, but didn't think anything would happen." At his hearing this year, Mr. Pitts explained that he was "mad at him" and "he's just gonna deal with it." These statements make no sense at all and it is difficult to imagine the suffering that Jared endured at the hands of someone entrusted with his well-being. Being angry and frustrated with Jared does not explain how Mr. Pitts rationalized his behavior.

Given the horror of Mr. Pitts' crime, I believe far more understanding and insight on his part are required before I can believe he is suitable for parole. The nature of this crime calls out for an extraordinary transformation in Mr. Pitts and I do not see sufficient evidence of this.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Pitts is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Pitts.

Decision Date: August 24, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

GREGORY COATES, B-68775

First Degree Murder

AFFIRM:

MODIFY:

REVERSE:

_____ **X** _____

STATEMENT OF FACTS

On January 22, 1975, Gregory Coates broke into a friend's house through a window. Once inside, he encountered his friend's mother, Jean Stephens. While the details of the murder are somewhat unclear, Ms. Stephens' 12-year-old daughter found her mother's dead body in a back bedroom when she got home from school. Ms. Stephen's nylon stockings had been pulled down around her ankles and her blouse was open and pulled back. An investigator reported that a sexual assault was committed. Ms. Stephen's head had been wrapped in a pillowcase and some clothing and appeared to have been bludgeoned. There were bite marks on her stomach. She had been shot in the face twice.

Several months later, on May 4, 1975, Mr. Coates broke into his father's house and waited for his stepmother, Betty Coates, to come home. Betty arrived home and reportedly told Mr. Coates to leave. Mr. Coates left, but returned later through a window and approached Betty in her bedroom. He raped her. According to the investigator in this case, Mr. Coates struck his stepmother against a doorjamb, knocking her unconscious. Then, in an effort to suffocate her, Mr. Coates placed a plastic bag over her head and tied a towel over her nose and mouth. Finally, he poured gasoline on Betty's body and set it on fire. The fire department came to put out the fire and discovered Betty's body.

GOVERNING LAW

The question I must answer is whether Mr. Coates will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Coates suitable for parole based on the length of incarceration, his remorse, acceptance of responsibility, self-help programming, and good behavior in prison.

I acknowledge that Mr. Coates was 17 and 18 years old when he committed these murders. His father was an alcoholic who abused Mr. Coates' mother. His parents divorced when he was nine years old and his father later married Betty Coates. Mr. Coates reported that his stepmother sexually molested him and forced him to have sex with her from the ages of 12 to 15. He left home at 15 and got his girlfriend pregnant at 16. He was married and attempting to raise an infant at a very young age. When the Board asked Mr. Coates to describe himself at 17 and 18, he reported that he was "angry, confused, resentful, entitled ... very jealous of people who had the American family, apple pie and everything." Over his very lengthy incarceration, Mr. Coates has made efforts to improve himself. He is now 61 years old and has been incarcerated for over 43 years. He has obtained his high school diploma, earned several vocations, and has participated in self-help classes, including Alcoholics Anonymous, Narcotics Anonymous, Anger Management, and other programs. I carefully examined the record for evidence demonstrating Mr. Coates' increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability due to his age at the time of these crimes, his hallmark features of youth, and his subsequent growth in prison during my consideration of his suitability for parole. However, these factors are outweighed by evidence that he remains unsuitable for parole.

Mr. Coates committed two atrocious murders. Ms. Stephens was a neighbor, the mother of one of his friends, and someone even Mr. Coates described as a "major source of support" to him as he tried to raise his child. Despite this, he decided to burglarize her home, and when caught, knocked her unconscious, either raped or attempted to rape her, and killed her. He was able to evade suspicion and was not caught until after he had killed his stepmother in a similar manner more than three months later. This was an equally heinous murder – he raped his stepmother, knocked her unconscious, suffocated her to death, and lit her on fire. Many attended Mr. Coates' recent parole hearing and have written to oppose parole in this matter. They spoke of the continued effect these crimes have had on their lives and their community. Without question, these crimes remain especially shocking and disturbing.

Mr. Coates' understanding of his reasons for committing these crimes is simply inadequate. He told the Board that he broke into Ms. Stephens' home to take a gun. He said that he was jealous of their "perfect family" and didn't think they would miss anything. When asked about the reasons for the sexual element of this crime against Ms. Stephens, he reported that he had "no good reason" and "wanted release." He said, "I hadn't had sex with my wife since the baby was born and she was laying there, she was a pretty woman. She never gave me any intentions of that was okay, but I took it upon myself to take advantage of a defenseless woman." He said that he killed her because he "didn't want to get caught." He said, "The rage was within me. I was angry at the world. I stole, I cheated, I didn't even care about myself."

Mr. Coates reported that he hated his stepmother, Betty, from the outset because he felt that she had taken his father away from his family. He has claimed, apparently since 2012, that she sexually abused him from the ages of 12 to 15. He reported that just before he killed her, they had consensual sex and that he became angry when she refused to help him with his wife and child, so he hit, choked, and strangled her. When asked why he set her on fire, he said, "I had that anger toward her, I had that anger toward that house." He said he was taking revenge on his father, who left the family, refused to pay child support, and instead supported Betty.

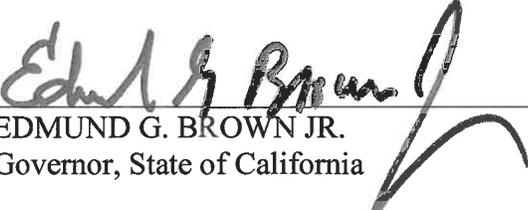
These statements do little to explain the sexual violence employed by Mr. Coates or the brutality of his murders. It is very hard to understand how Mr. Coates can claim that the sole reasons he sexually assaulted Ms. Stephens while she was unconscious on the floor were his sexual frustration and the fact that he thought she was pretty. It is equally difficult to reconcile Mr. Coates' claim of being sexually abused by his stepmother as a child with his claim that they had consensual sex before he strangled her to death and set her body on fire. This does not ring true. He had previously said that he raped his stepmother before killing her. Both these murders show an unbelievable level of sexual violence that he just can't seem to explain. And while it does seem that Mr. Coates was very angry and troubled by his parents' divorce and his father's subsequent marriage, I believe he has to do much more to understand and explain these horrible and totally unusual crimes.

Mr. Coates has spent a very long time in prison – over four decades. While early in his incarceration Mr. Coates was disciplined repeatedly for fighting and other violations, he has been free from serious rule violations for over 32 years. He has made admirable strides to improve his conduct and better himself. Yet, I believe Mr. Coates has more work to do. Mr. Coates' participation in self-help programming has been limited and sporadic. Even he notes that his willingness to be honest about his past and genuinely engage in self-help groups is recent. I encourage Mr. Coates to continue to make efforts to understand, in a comprehensive manner, the reasons he committed these crimes so that he can show that he will never return to such violence in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Coates is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Coates.

Decision Date: September 7, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

TIVIA STROTHER, W-58771

First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On July 27, 1990, Tivia was born to her parents, Tivia Strother and Lisa Smith. At a doctor's appointment in April 1991, Tivia appeared to be thriving and treated well by her parents. However, for the next year, Ms. Strother and Ms. Smith systematically beat, starved, and tortured Tivia in their home. On April 5, 1992, Ms. Strother and Ms. Smith brought Tivia, who was unconscious, to the hospital. The 20-month-old child's body was covered in new and old bruises and scars, and she was extremely malnourished. She weighed just 22 pounds – only one pound more than she was at 4 months old. Tivia was placed on life support, and died two days later when life support was removed.

An autopsy showed that Tivia had sustained a skull fracture, numerous brain injuries, retinal hemorrhages caused by "very forceful shaking," and signs of long-term physical abuse. According to the Second District Court of Appeal, Ms. Strother and Ms. Smith made Tivia wake up and stand in the corner for hours, hit her so hard she became dizzy and unable to keep her balance, hit her with a wooden paddle when she was sleeping, starved her and fed her only oatmeal and grits for a year, and hit her immediately after she had a seizure. The women also refused to take Tivia to the doctor after inflicting many injuries and failing to feed her. The court concluded that "the evidence indicated [Ms. Strother], the baby's mother, was the dominant actor in terms of physical violence directed at the child."

GOVERNING LAW

The question I must answer is whether Ms. Strother will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Ms. Strother suitable for parole based on her age and unstable circumstances at the time of the crime, subsequent growth and maturity, remorse, acceptance of responsibility, insight, participation in self-help programs, and parole plans.

I acknowledge that Ms. Strother's crime was committed when she was 22 years old and that she has since been incarcerated for 26 years. Ms. Strother reported experiencing a tumultuous childhood, and was subject to domestic violence and sexual abuse in her home. The psychologist who evaluated Ms. Strother in 2018 concluded, "There is some evidence that her unstable and traumatic early childhood experiences and feelings of being abandoned by her family may also be a factor that impacted her impulsivity, poor problem solving skills, self-centeredness and lack of empathy" at the time of the crime. I also acknowledge that Ms. Strother has made some efforts to improve herself in prison. She earned a paralegal certificate and completed multiple vocational training programs. Ms. Strother has participated in self-help programs including Harm to Healing, Victim Awareness, Domestic Violence, and Conflict Resolution. She earned positive work ratings, participated in charitable events, and volunteered as a peer educator. I carefully examined the record for evidence demonstrating Ms. Strother's increased maturity and rehabilitation, and gave great weight to all the factors relevant to her diminished culpability as a young person, her failure to fully appreciate the consequences of her actions, her other hallmark features of youth, and her subsequent growth in prison during my consideration of her suitability for parole.

Ms. Strother committed an extremely heinous crime. She and her partner beat, tortured, and starved their young daughter for a year until she ultimately died of her injuries and neglect. It is very difficult to imagine the suffering this child endured at the hands of two women who were supposed to love and care for her. Ms. Strother's actions toward her daughter violated every notion of parental responsibility.

I am concerned that Ms. Strother has not yet adequately explained why she subjected her child to such prolonged abuse. She reported that her relationship with her partner became "volatile" and she thought that having a child would bring love back into her life. After Tivia was born, Ms. Strother did not feel a connection with her and began to blame her daughter for not fixing her situation. Ms. Strother told the 2018 psychologist, "I wanted her to make me feel better, to fulfill in me what no one else in my life could." She told the parole board, "I put the responsibility [on] my child to take care of me." Ms. Strother said that she became depressed, stopped feeding and caring for Tivia, and started taking her anger and frustration out on Tivia by hitting and shaking her. Ms. Strother noted that she also physically abused Tivia under the pretense of potty training and disciplining her. She explained that "by labeling her and dehumanizing her...I had no feelings for her, it made her non-human" and she continued to harm the child. Ms. Strother told the Board that her anger stemmed from her inability to express her hurt feelings, frustrations, and insecurities. She said that she blamed Tivia for all her problems – as her anger built, she blamed Tivia more and ultimately took that anger out on her toddler by physically abusing her.

These statements simply do not explain how Ms. Strother came to inflict such horror on her daughter. For at least a year, Ms. Strother completely stopped caring for her child, and justified repeatedly beating the girl. Anger, depression, and an impaired ability to express feelings do little to account for the systematic and intentional abuse that Ms. Strother perpetrated on her child. Ms. Strother has not made it clear that she understands why she was angry in the first place, why Tivia became an acceptable target for her anger, and why she continued to act so violently for so many months. The 2018 psychologist noted that Ms. Strother “appears to be changing over time with maturation, yet these purported changes are very recent.” The psychologist concluded that while Ms. Strother had made “a concerted effort to examine her role in the life crime...more work is necessary to fully understand the multiple causative factors of the life crime and her role.” I believe that Ms. Strother must do more to demonstrate that she has a comprehensive grasp on what led her to unleash such extreme violence on her daughter, and show that her way of thinking is now so different that she will not act this way again.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Ms. Strother is currently dangerous. When considered as a whole, I find the evidence shows that she currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Ms. Strother.

Decision Date: September 7, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JEFFREY MARIA, C-17317
First Degree Murder (two counts)

AFFIRM: _____

MODIFY: _____

REVERSE: _____ X _____

STATEMENT OF FACTS

On June 25, 1979, Jeffrey Maria, Darren Lee, Ronald Anderson, and Marty Spears planned to burglarize the home of Phillip and Kathryn Ranzo. Once there, Mr. Anderson waited in the car while the other men approached the home. Armed with pistols, a sawed-off rifle, and knives, they knocked on the door. Mr. Ranzo answered, and the men pretended to be out of gas and asked to use the Ranzos' telephone. The phone was not working, so Mr. Ranzo offered to give them a can of gas and opened the garage door. The three men followed Mr. Ranzo to the garage, and Mr. Spears pulled out a gun and pointed it at Mr. Ranzo. Mr. Spears then hit Mr. Ranzo in the head approximately six times with a bat or axe handle. Mr. Ranzo was hog-tied; a rope was placed around his neck and tied to his hands and feet. Mr. Spears also cut Mr. Ranzo's face and head, and stabbed and slashed his neck, killing him. They then went into the living room where they found Mrs. Ranzo. Mr. Spears ordered Mrs. Ranzo at gunpoint to go upstairs. Once upstairs, Mr. Spears raped Mrs. Ranzo, and then hog-tied her and beat her in the head with a blunt object. Mr. Spears also slashed Mrs. Ranzo's throat and stabbed her neck several times, killing her. While Mr. Spears was with Mrs. Ranzo, Mr. Maria, and Mr. Lee ransacked the home and took \$2,000 in cash, a shotgun, and two diamond pendants. Mr. Maria and Mr. Lee left the house, and Mr. Anderson drove them home before returning to pick up Mr. Spears.

GOVERNING LAW

The question I must answer is whether Mr. Maria will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Maria suitable for parole based on his age at the time of the crime, good behavior in prison, self-help programming, educational and vocational accomplishments, staff commendations, his remorse, acceptance of responsibility, and parole plans.

I acknowledge that Mr. Maria was only 17 years old when he participated in this horrific double murder. Mr. Maria reported that he had some instability in his life following his parents' divorce when he was 3. He recalled that his older brother blamed him for their parents' divorce, that his family frequently relocated, and that he felt isolated. He also claimed that he lacked communication skills, was impulsive, and did not consider the long-term consequences of his actions. The psychologist who evaluated Mr. Maria in 2018 stated that "Mr. Maria's life crime appears to be a culmination of a traumatic childhood history of physical and emotional abuse" and "negative peer influences and substance misuse."

Mr. Maria is now 58 years old and has served 39 years in prison. I commend Mr. Maria for continuing college courses, receiving positive work ratings, receiving laudatory reports from correctional officers, not incurring any additional rule violations, and serving as a hospice volunteer. I also commend Mr. Maria for continuing to participate in self-help programming, including Alcoholics Anonymous, Victim Impact, and Criminal Thinking. I carefully examined the record for evidence demonstrating Mr. Maria's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a juvenile, his hallmark features of youth, and his subsequent growth in prison during my consideration of his suitability for parole. However, these factors are outweighed by evidence that he remains unsuitable for parole.

Mr. Maria participated in a cruel and disturbing crime. Mr. Maria and his crime partners planned a burglary which ended with Mr. Ranzo being bound and beaten with his head, face, and neck stabbed and slashed, and Mrs. Ranzo brutally raped with her neck stabbed and slashed. Mr. Maria's actions continue to have a far-reaching impact on the Ranzos' family and community. Family members have appeared at Mr. Maria's hearings to express their ongoing sense of loss and many members of the public have written to oppose parole in this matter.

I reversed the Board's 2015 grant of parole because Mr. Maria minimized his role in planning and carrying out the crime to rob and kill the Ranzos. His behavior in prison was also concerning because Mr. Maria recently participated in mutual combat in 2011 and attempted to escape from prison in 2006. Two years later, I reversed the Board's 2017 grant of parole because Mr. Maria continued to downplay his role in the crime at his hearing. He stated he only knew of the plan to commit the burglary but was unaware of the plan to kill the Ranzos. He stated he never went into the house because he was asked to guard Mr. Ranzo in the garage. However, despite acting as the guard, he "couldn't really see" Mr. Ranzo and "was not really watching him." His statements then were inconsistent with evidence in the record.

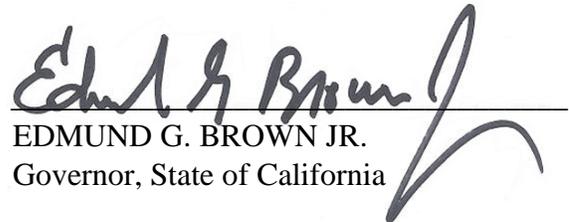
Mr. Maria has a different version of these events. He maintains that he never saw Mr. Ranzo being tied up, beaten, or stabbed and he continues to assert that he never stepped foot in the house to steal their belongings. The record is somewhat muddled and his crime partners have given contrary accounts over time. Whether or not Mr. Maria is telling the truth about his willingness to commit violence or his advanced knowledge that the Ranzos were likely to be killed, this heinous crime has left a lasting mark on the family and on the community. Not many crimes are worse than a home invasion, rape, and double murder.

It is not without significance that Mr. Maria's conduct in prison has improved and that he has taken steps to advance his education, volunteer to help others, and engage in other activities of a positive nature. Given however the vicious nature of this crime and its tragic consequences, I am not prepared to approve his release.

CONCLUSION

I have considered all of the evidence in the record that is relevant to whether Mr. Maria is currently dangerous and conclude that he is not yet suitable for parole.

Decision Date: October 12, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

LIONEL HENRY, D-15899
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

 X

STATEMENT OF FACTS

On March 19, 1983, Lionel Henry was sitting in a stolen car at a gas station. The manager of the gas station called the police and reported that Mr. Henry was acting suspiciously. Los Angeles County Deputy Sheriffs Lawrence Lavieri and Douglas Smith responded and approached Mr. Henry. Mr. Henry tried to drive away, and Deputy Lavieri pounded on the car window and ordered him to stop. Deputy Smith asked Mr. Henry for his identification. Both deputies tried to persuade Mr. Henry to get out of the car, but he refused. Deputy Lavieri tried to use a baton to remove Mr. Henry from the car. During the struggle, Mr. Henry grabbed Deputy Lavieri's gun. Deputy Smith ordered Mr. Henry to drop the gun, and all three tried to gain control of it. Mr. Henry bit Deputy Smith in the arm and fired the gun. Both deputies jumped out of the car. Deputy Smith ran for cover, and Mr. Henry shot him three times in the back, thigh, and shoulder. Mr. Henry took off, and Deputy Lavieri retrieved Deputy Smith's gun and ran after him. When Deputy Lavieri followed him into a nearby house, Mr. Henry shot him in the head and crushed his skull with a toilet tank lid. Mr. Henry fled. Witnesses found Deputy Lavieri lying on the floor in a pool of blood. He died soon after he was transported to the hospital. Deputy Smith was paralyzed from the waist down after the shooting. He underwent several surgeries and remained hospitalized for several months. Deputy Smith eventually regained the ability to walk but experienced ongoing pain and physical problems as a result of his injuries.

GOVERNING LAW

The question I must answer is whether Mr. Henry will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Henry suitable for parole based on his acceptance of responsibility for the crime, lack of recent rules violations, participation in vocational and self-help programs, risk assessment, and sobriety in prison, as well as his age and medical condition.

I acknowledge Mr. Henry has made efforts to improve himself while incarcerated. He has not been disciplined for serious misconduct since 1988. He completed several vocational certifications and routinely received positive work ratings during much of his incarceration. Mr. Henry has participated in some self-help classes, including Alcoholics and Narcotics Anonymous, Recovery Group, and Victim Awareness. I commend Mr. Henry for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Henry committed a shocking crime. He violently attacked two uniformed sheriff's deputies who were simply trying to do their jobs. Mr. Henry grabbed an officer's service weapon and fired multiple shots at Deputy Smith as he ran for cover, then waited for Deputy Lavieri in a nearby house, shot him in the head, and smashed his head with a toilet tank lid, leaving both men to die. I note that this was not Mr. Henry's only attack on law enforcement officers; he had previously been convicted of battery on a police officer for punching an officer, and was arrested for assault with a deadly weapon on a peace officer after he threw a large glass bottle at other officers. Mr. Henry's crime has had a significant impact on Deputy Smith and the broader law enforcement community, who have written to oppose Mr. Henry's release on parole.

Mr. Henry has not adequately articulated what led him to unleash such violence on two uniformed law enforcement officers. At his 2018 parole hearing, he reported that he accepted responsibility for shooting at both deputies, but did not remember taking the gun or shooting Deputy Lavieri. Mr. Henry said that he "reacted" when Deputy Lavieri tried to pull him out of the stolen car. He explained that the fact that he was in a stolen car "might have had some bearing" on his reaction, but said, "I didn't really know who they were." Later in the hearing, Mr. Henry acknowledged that he realized they were officers before he started shooting at them. He said, "But I had never been approached by law enforcement officers like that before, in the sense that they were using a baton on me...[W]e was in a struggle. I was in a struggle." Mr. Henry explained that he had "an unreasonable belief that they meant to do me harm." He said that he "had become angry and defensive" due to his poor financial situation at the time, and that he just lost control. Mr. Henry told the Board, "I think I was under a lot of fear, a lot of duress, and, uh, confused...I feel like I was defending myself."

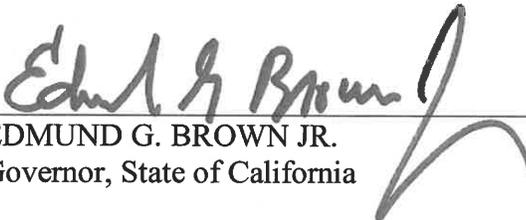
These statements do little to explain Mr. Henry's extreme and violent actions. He wasn't "defending" himself in this situation – he ignored orders from two uniformed officers, then dramatically escalated the situation by stealing a service weapon and firing multiple shots at them, before lying in wait and killing Deputy Lavieri. While I do not doubt that Mr. Henry was dealing with difficult financial and personal circumstances at the time, it is unclear why he thinks those circumstances led him to violently gun down two sheriff's deputies. The psychologist who evaluated Mr. Henry in 2018 concluded that he "has developed little insight into the causative factors for the life crimes despite his lengthy incarceration." The psychologist reported that Mr. Henry "lacked any emotional response to discussions of the life crime, did not express any genuine empathy for the victims, and turned each question posed about the victims toward himself and his own losses."

I acknowledge that Mr. Henry's advanced age and medical condition have some bearing on his risk of future violence. He is now 71 years old and has been in prison for over 35 years. He uses a wheelchair, has been diagnosed with several serious health conditions, and reported that he has received weekly dialysis treatment for the past seven years. However, I am disturbed by Mr. Henry's lack of insight. He had a pattern of acting violently toward law enforcement officials for years before attacking Deputy Lavieri and Deputy Smith. He has not yet adequately assessed his motivations for perpetrating this crime, or his history of violence. Before Mr. Henry can be safely released, he must demonstrate that he understands how he came to act so violently and that he is capable of behaving differently in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Henry is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Henry.

Decision Date: November 7, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

JOSE VELASQUEZ, B-06047

First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On July 29, 1966, Jose Velasquez, Frank Gonzales, Juan Garcia, and Jose Galvan were drinking at the same bar as Eduardo Dominguez, and agreed to give him a ride home. Mr. Dominguez purchased several rounds of beer for everyone. Mr. Galvan, who knew the other three intended to rob Mr. Dominguez, left with a friend. Mr. Velasquez, Mr. Gonzales, Mr. Garcia, and Mr. Dominguez then left the bar and got into a car together. Mr. Dominguez complained that they were not driving him home, and a struggle broke out. Mr. Garcia stabbed Mr. Dominguez. Mr. Velasquez and Mr. Gonzales dragged Mr. Dominguez from the car and stabbed him, killing him. The men stole Dominguez's wallet and shoes, and left his body in a ditch.

On August 7, 1966, Mr. Velasquez introduced Jose Aguiere to Mr. Gonzales, Mr. Garcia, Mr. Galvan, and Luis Pacheco. The men spent the evening drinking, and Mr. Aguiere accepted a ride home from the others. Mr. Gonzales drove down a road and stopped the car. Mr. Velasquez pulled Mr. Aguiere out by his head and ordered Mr. Garcia to shoot Mr. Aguiere. Mr. Garcia pulled out a pistol and shot Mr. Aguiere in the head. Mr. Velasquez, Mr. Galvan, Mr. Garcia, and Mr. Pacheco dragged Mr. Aguiere to a ditch and stabbed him 55 times, killing him. Mr. Velasquez sodomized Mr. Aguiere's body, then the men buried it in a shallow grave and fled.

While driving home, they saw Steven Sanchez, Manuel Guerrero, and Roberto Rodriguez walking alongside the road. Mr. Garcia suggested "putting the car on them." Mr. Gonzales drove past, but turned around when Mr. Velasquez agreed with Mr. Garcia and sped the car towards the three at 40 to 50 miles per hour. The car hit Mr. Sanchez and threw him 20 feet. Mr. Guerrero was thrown 75 to 100 feet and died instantly. Mr. Rodriguez avoided the car and escaped into a nearby field. Mr. Garcia and Mr. Velasquez chased Mr. Rodriguez, but could not catch him. Mr. Garcia and Mr. Velasquez returned to the others where Mr. Sanchez, who was not severely wounded, was trying to stand. Mr. Garcia told Mr. Pacheco to get a club with nails on the end from the car. Mr. Pacheco hit Mr. Sanchez with the club. The blow from the club fractured Mr. Sanchez's skull, and one of the nails pierced his brain, but he survived. Mr. Galvan, Mr. Garcia, and Mr. Velasquez stabbed Mr. Sanchez 82 times, killing him.

GOVERNING LAW

The question I must answer is whether Mr. Velasquez will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Velasquez suitable for parole based on his age at the time of the crime, his current age, his participation in self-help programs, his institutional behavior, his positive work reports, his parole plans, and his risk assessment.

I acknowledge that Mr. Velasquez's crime was committed when he was 24 years old and that he has since been incarcerated for 52 years. He told the psychologist who evaluated him in 2018 that after his father died when he was 13 years old, he began adopting a criminal lifestyle. When he committed these crimes, he was under the influence of drugs and alcohol. Mr. Velasquez now believes that he was not mature enough to understand the consequences of his actions or his substance abuse. I also acknowledge that Mr. Velasquez has made some efforts to improve himself in prison. He is now 76 years old, has not been disciplined for misconduct since 1971, and reports that he has been sober for several decades. Mr. Velasquez has participated in self-help programs including Alcoholics Anonymous, Alternatives to Violence, and Life Skills. I carefully examined the record for evidence demonstrating Mr. Velasquez's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability as a young person, his immaturity and inability to appreciate the consequences of his actions, and his other hallmark features of youth, and his subsequent growth in prison during my consideration of his suitability for parole.

Mr. Velasquez committed a series of extremely violent crimes. Several days after stabbing Mr. Dominguez to death, Mr. Velasquez and his friends participated in a second night of frenzied violence. They stabbed Mr. Aguiere to death, then Mr. Velasquez sodomized his body and left it in a shallow grave. Later that night, Mr. Velasquez encouraged his friend to run over several more men with his car. Mr. Guerrero died instantly on impact. Mr. Sanchez was hit by the car but survived. Mr. Velasquez and his crime partners then stabbed Mr. Sanchez an astonishing 82 times, killing him. It is difficult to comprehend the level of violence that Mr. Velasquez unleashed on these four innocent victims.

Despite the seriousness of these crimes and Mr. Velasquez's lengthy incarceration, he still cannot adequately explain his very violent actions. Mr. Velasquez told the 2018 psychologist that he and his friends attacked Mr. Dominguez in order to rob him, and that after they killed him

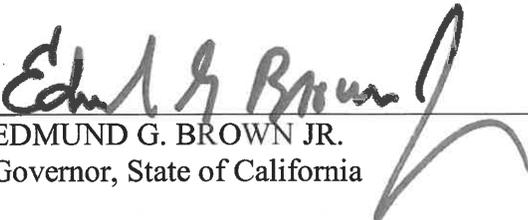
they talked about robbing other people who had been drinking. Mr. Velasquez explained that after they attacked the second victim, one of his friends suggested sodomizing him. At his 2018 hearing, Mr. Velasquez told the Board that he “simulated” sodomizing the victim and said, “[I]n retrospect, I see it – I saw it as, um, a way to intimidate crime partners. That’s when I told the guys that participated, I said, that’s what going to happen to them, to you guys.” Mr. Velasquez explained that he was an alcoholic at the time, that he had anger issues and wanted to confront the victims, and that he had “episodes of, um, craziness, moments of insanity, and that’s pretty much what happened to me.” He said that he didn’t have enough money and targeted these victims in order to supplement his income.

These explanations simply do not account for the extreme nature of Mr. Velasquez’s actions. Anger, alcoholism, and lack of money might explain robbery or fighting, but Mr. Velasquez’s crimes were far more serious and prolonged. He led his crime partners on a multi-night spree that resulted in the brutal murders of four innocent victims and the sodomy of a dead body – and even after decades of incarceration, he still has not demonstrated that he understands how he came to act so violently. I acknowledge that Mr. Velasquez’s advanced age and medical condition have some bearing on his risk of future violence. He is now 76 years old, has suffered two strokes, and uses a cane to walk. The 2018 psychologist determined that Mr. Velasquez’s risk of violent recidivism was mitigated “to some degree” because he now “lacks the same physical capacity to engage in overtly violent behavior.” However, I am disturbed by Mr. Velasquez’s lack of insight. Before Mr. Velasquez can be safely released, he must demonstrate that he understands how he came to act so violently and that he is capable of behaving differently in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Velasquez is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Velasquez.

Decision Date: December 20, 2018


EDMUND G. BROWN JR.
Governor, State of California

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

DOUGLAS WINSTON, B-74654

First Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____

 X

STATEMENT OF FACTS

In December 1974, Douglas Winston and Michael Lawrence entered the back entrance of Elsie Puthoff's home. When Ms. Puthoff, a small, 70-year-old woman, discovered the men in her home, Winston grabbed her and stabbed her multiple times, killing her. Mr. Winston and Mr. Lawrence stole checks, money, furniture, candleholders, luggage, and jewelry, then fled. Ms. Puthoff's body was discovered on December 20, 1974.

On December 28, 1974, Mr. Winston robbed James Munsford, stole his car and wallet, and placed him in the trunk of the car. Mr. Winston drove to Mr. Lawrence's apartment and asked if he wanted to help burglarize Mr. Munsford's home, to which Mr. Lawrence agreed. Mr. Winston and Mr. Lawrence picked up their friend, William Clifford, who agreed to help with the burglary. Mr. Winston, Mr. Lawrence, and Mr. Clifford drove to Mr. Munsford's house, with Mr. Munsford still in the trunk of the car. Mr. Winston opened the door of the Munsford home and brandished a gun at Mary Anne Munsford, Mr. Munsford's wife. Mr. Winston instructed Mrs. Munsford to sit on the couch and be quiet, while he, Mr. Lawrence, and Mr. Clifford ransacked the house. Mr. Clifford tied a towel over Mrs. Munsford's face, and Mr. Lawrence or Mr. Winston bound Mrs. Munsford's hands with electrical cord, and then bound her legs with a towel. Mr. Clifford and Mr. Lawrence took stereo equipment to the car. Mr. Clifford returned to the house and raped Mrs. Munsford. While Mrs. Munsford was lying on the couch on her stomach, Mr. Winston shot her in the head with a .38 caliber pistol, killing her. The Munsfords' 3-year-old son was in the house. Mr. Winston and Mr. Lawrence dropped Mr. Clifford off at his apartment. Mr. Winston and Mr. Lawrence drove around and pulled over in an alley. Mr. Winston and Mr. Lawrence let Mr. Munsford out of the trunk and forced him to turn around. Mr. Winston shot Mr. Munsford in the head, killing him.

On January 7, 1975, Mr. Winston and Mr. Clifford went to Faye Lau's market with Mr. Lawrence and Alrey Atkins to rob it. Mr. Lawrence and Mr. Atkins remained outside as lookouts and Mr. Winston and Mr. Clifford went in. Mr. Lau threw objects at Winston and Clifford. Mr. Clifford fired a rifle striking Mr. Lau once in the abdomen and once in the buttocks. Later that day, Mr. Winston, Mr. Lawrence, Mr. Clifford, and Mr. Atkins broke into another home, and stole a television, clothing, and food.

On January 8, 1975, Mr. Winston, Mr. Lawrence, and Mr. Clifford entered the home of Edward Levin. Mr. Levin had a gun and exchanged fire with Mr. Winston, who was armed with a rifle. Mr. Clifford attempted to take Mr. Levin's gun, but, Mr. Levin managed to get him in a headlock. Mr. Clifford bit Mr. Levin's hand. Mr. Winston struck Mr. Levin in the head with the butt of his rifle. Mr. Winston, Mr. Lawrence, and Mr. Clifford stole a purse, wallet, and cash and fled. Mr. Levin required 28 stitches to close the wound in his head, but survived.

GOVERNING LAW

The question I must answer is whether Mr. Winston will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.) Additionally, I am required to give "great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner" when determining a youthful offender's suitability for parole. (Pen. Code, § 4801, subd. (c).)

DECISION

The Board of Parole Hearings found Mr. Winston suitable for parole based on his age at the time of the offense, the length of his incarceration, self-help programming, and good behavior in prison.

I acknowledge that Mr. Winston was 19 years old when he committed these crimes. When he was five years old, he was adopted from Korea along with his younger sister. Mr. Winston reported that he "never felt smart" in school, and struggled with mathematics and reading. He also reported attendance problems, his family moving frequently, and being suspended for fighting. He told the Board, "I was also teased and bullied and talked about because I looked different." Mr. Winston is now 63 and has been incarcerated for nearly 44 years. I acknowledge that Mr. Winston has made some efforts to improve himself in prison over his lengthy incarceration. He has earned his GED, a vocation, and has participated in self-help classes including Narcotics Anonymous, Breaking Barriers, Victim Awareness, and other programs. I carefully examined the record for evidence demonstrating Mr. Winston's increased maturity and rehabilitation, and gave great weight to all the factors relevant to his diminished culpability due to his age at the time of these crimes, his hallmark features of youth, and his subsequent growth in prison during my consideration of his suitability for parole. However, these factors are outweighed by evidence that he remains unsuitable for parole.

Mr. Winston committed three brutal murders, kidnapping for robbery, and burglary, among other crimes. Mr. Winston and his crime partner's first victim on this heinous crime spree was a vulnerable 70-year-old woman, Elsie Puthoff, who Mr. Winston stabbed multiple times after she discovered the men in her home. Just days after stealing Ms. Puthoff's valuables and leaving her body to be discovered days after she was killed, Mr. Winston again set out to commit another

robbery. Mr. Winston robbed James Munsford, put Mr. Munsford in the trunk of his own car, gathered two additional crime partners, and went to rob the Munsford home. One of his crime partners raped Mrs. Munsford, while at the home and Mr. Winston killed her so she would not be able to identify any of those responsible. Mr. Winston then drove Mr. Munsford to an alley and shot him in the head, leaving his body in the alley. Mr. Winston and his crime partners continued their criminal rampage a week later by robbing a market, where Fay Lau was shot two times. The group led by Mr. Winston then broke into another home. Finally, the group robbed Edward Levin in his home, where Mr. Winston struck Mr. Levin in the head with the butt of his rifle, resulting in an injury requiring 28 stitches. This spree is not the first time Mr. Winston resorted to extreme violence. In 1971, Mr. Winston was convicted of entering the home of a 75-year-old woman, stealing her jewelry by force, and murdering her by stabbing her seven times with a hunting knife. He had only been released on parole for these crimes for a brief period before participating in his present commitment offenses.

Mr. Winston's understanding of his reasons for committing these vicious crimes is simply insufficient. In his explanation for the murder of Ms. Puthoff, Mr. Winston told the psychologist that his crime partner told him about a woman he knew who lived alone and relayed, "we went to her house one night, broke in and when we got inside somebody stood up from the chair and I just attacked them. I'm stabbing her." When asked whether it was his intention to kill her, he replied, "No, it was not my intention. My friend told me it was an old lady. I knew...in my attempt to not take responsibility...I really had to know...I stabbed her. We moved her to the hallway then ransacked the house and took property to another location." This explanation demonstrates little insight and limited reflection upon this brutal attack on an elderly woman.

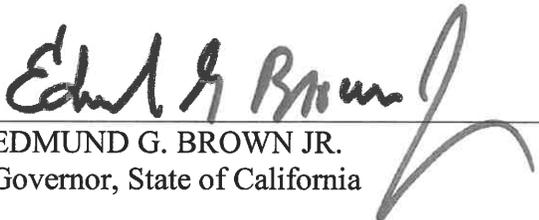
Mr. Winston's discussion of the crimes against the Munsford family was similarly unenlightening. He stated that he "killed that mother because I did not want her to identify us. But it took me years to be able to talk about it." According to the psychologist, Mr. Winston's account "offers no real explanation for his actions or understanding of what factors lie within that contributed to such a violent crime spree and general callousness towards life." When the psychologist asked what is different about him today, Mr. Winston added that his "thinking is different," that he is sad about the devastation he has caused, and that he has developed morals and is aware of his feelings and their impact upon others. However, the psychologist noted, "[G]iven his lack of insight and inability to explain the underlying motivations for his murderous crime spree, this evaluator questions the sincerity of these statements which appeared somewhat rehearsed." At his 2018 suitability hearing, the Board commented that "Mr. Winston's insight is not – is not perfect." While perfect insight may not be a realistic expectation, I believe Mr. Winston has yet to demonstrate that he has even developed an adequate understanding of what led to these truly hideous crimes.

Mr. Winston has spent a very long time in prison, over four decades. Over this time, Mr. Winston has only received six rule violations, and has been discipline free for a decade. He has made an admirable effort toward improving himself, but I believe he still has work to do. I encourage Mr. Winston to continue to make efforts to understand, in a comprehensive manner, the reasons he committed this series of crimes so he can demonstrate that he will never return to such violence in the future.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Winston is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Winston.

Decision Date: December 20, 2018


EDMUND G. BROWN JR.
Governor, State of California