

BOARD OF PAROLE HEARINGS

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January 13, 2016

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JAN 19 2016

Yolo County District Attorney,

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YOLO
301 2ND ST.
WOODLAND, CA 95695

Subject: **NON-VIOLENT SECOND STRIKER RELEASE DECISION**

Inmate's Name: COSTANZA, JAMES, ANTHONY

CDCR#: V59254

COURT CASE#: 083166

The California Department of Corrections and Rehabilitation (CDCR) is mandated by court order to have a parole process that allows certain offenders convicted of a "second strike" based on a non-violent offense to be eligible for parole after serving 50% of their term. It is for this reason the inmate referenced above was referred to the Board of Parole Hearings (Board) from CDCR with a recommendation for release. The Board reviewed the inmate's record and the Board's decision is to approve.

Please direct any inquiries concerning the inmate to the institution where the inmate is housed.

Respectfully,

BOARD OF PAROLE HEARINGS
NVSS Processing Unit

NON-VIOLENT SECOND STRIKER DECISION FORM

NON-VIOLENT SECOND STRIKER INFORMATION

Inmate Name: COSTANZA, JAMES, ANTHONY
 CDCR Number: V59254
 Institution: Correctional Training Facility

BPH DECISION

JURISDICTIONAL REVIEW

- BPH does not have jurisdiction, no further review.
 BPH has jurisdiction.

REVIEW ON THE MERITS

- Recommendation to release approved.
 Recommendation to release denied.

Decision based on the reasons stated below:

Issue: Does Mr. James Costanza, CDC# V-59254, pose an unreasonable risk of violence to the community? When considered together the findings on each of the five of Mr. Costanza's case factors, both aggravating and mitigating, they tend to show that he does not pose an unreasonable risk of violence to the community.

Statement of Reasons:

Current Commitment Offense:

Mr. Costanza's current commitment offense occurred on 6/7/2008 when he burglarized a home. On 10/3/2008, he was convicted of PC 459 Burglary First degree.

Mr. Costanza's current commitment does not present an aggravating factor. Mr. Costanza's mitigating factors are: (a) no weapon was used, (b) there was no violence in the commission of the crime, (c) there was no threat of Violence, and (d) no physical injuries to any victim.

Weighing the aggravating factors against the mitigating factors of Mr. Costanza's case, the commitment offense is mitigating.

Prior Criminal Record:

Mr. Costanza's prior criminal record consists of the following felony convictions: (1F) on 3/26/2002--HS 11360 Sell/Furnish Marijuana/Hash and (2F) PC 12020(A)(1) Manufacture Possession Dangerous Weapon; (3F) on 9/25/2002--PC 459 Burglary First Degree (Serious Under PC 1192.7(c)); (4F) on 11/30/2004--PC 496 Receive Known Stolen Property; (5F & 6F) on 6/20/2007--PC 459 Burglary Second Degree Two Felonies; and (7F) the current commitment offense stated above.

Mr. Costanza's aggravating facts are: (1) the 1st Strike was serious under PC 1192.7, (2) he has been convicted of more than 3 felonies, (3) less than 5 years has passed since release date of 1/27/2008 from incarceration and the commitment offense CDCR reception date of 11/12/2008 (Current Commitment).

Mr. Costanza's mitigating facts are: (a) he does not have multiple serious or violent felonies as defined by the Penal Code, and (2) prior felony convictions were for theft offenses. Mr. Costanza's history spans over 13 years of criminal conduct.

When balancing the aggravating circumstances and the mitigating circumstance, the inmate's criminal record is an aggravating factor.

NON-VIOLENT SECOND STRIKER DECISION FORM

REVIEW ON THE MERITS

Institutional Adjustment:

Mr. Costanza has been incarcerated on the second strike offense since 11/2008. During his current incarceration, he has suffered the following negative circumstances: (1) a rules violation report dated 8/12/2014 for Stealing State Property; (2) a rules violation report dated 5/10/2010 for Possession of a Tattoo Gun.

Mr. Costanza has participated or completed the following positive programming: participated in college courses with Coastline College, he passed the tests to be a maintenance plumber, he is currently working as a plumber in the institution, and he is receiving satisfactory work reports.

After balancing the positive factors against the negative factors, Mr Costanza's institutional record does show overall compliance with institutional rules and programs and therefore is a mitigating factor.

Medical Condition:

Mr. Costanza does not suffer from a medical condition that would decrease his ability to reoffend

Response to Legal Notices:

There were three letters received, reviewed, and considered in this decision.

DECISION: When balancing the aggravating factors, his prior criminal record, with the mitigating factors, his current commitment crime and his institutional behavior, the mitigating factors outweigh the aggravating factors. Mr. Costanza does not pose an unreasonable risk of violence to the community and release is approved.

January 12, 2016

SIGNATURE

REVIEW DATE

WEILBACHER, JAMES

NAME