

BOARD OF PAROLE HEARINGS

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REC

NOV

YOLO COUNTY DISTRICT ATTORNEY

November 06, 2017

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

Subject: NONVIOLENT PAROLE REVIEW DECISION

Inmate's Name : SMITH, KEITH
CDCR# : AN8939
Location : Folsom State Prison
Court Case# : CRF123730

The above inmate was referred to the Board of Parole Hearings under the Nonviolent Parole Review Process. The board has approved the inmate for release. Enclosed is a copy of the board's decision.

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

Respectfully,

BOARD OF PAROLE HEARINGS
NV Processing Unit

NONVIOLENT DECISION FORM

NONVIOLENT INFORMATION

Inmate Name: SMITH, KEITH
CDCR Number: AN8939
Institution: Folsom State Prison

BPH DECISION

JURISDICTIONAL REVIEW

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

REVIEW ON THE MERITS

- Recommendation to release approved.
 Recommendation to release denied.

Decision based on the reasons stated below:

Decision: When considering together the findings on each of the inmate's four case factors, both aggravating and mitigating, they do not show he poses an unreasonable risk of violence to the community. Release is approved.

1. Current Commitment Offense:

The inmate's current commitment offenses are a mitigating factor in this case. The commitment offenses are Possess/Purchase Cocaine for Sale (HS 11351.5) with an enhancement for Possession of a Weapon during Commission of Crime (PC 12022(c)), and four enhancements under HS 11370.2(c) for Possess/Sell Controlled Substance with Prior Felony Convictions. The inmate was also convicted of Possess/Own Firearm by Felon. Both offenses occurred on 9/19/12. An undercover officer purchased 10.5 grams of cocaine from the inmate and his codefendant in June 2012. On 9/19/2012, the officer negotiated the purchase of an ounce of cocaine from the inmate's co-defendant. They arranged to meet at a gas station where agents were conducting surveillance. The agents observed the inmate arrive and park next to the gas station. The officer gave the co-defendant the agreed money and the co-defendant walked to the inmate's car and got in. He left the vehicle and walked back to the officer. Agents moved in and searched the inmate's car. They found cocaine, marijuana, cash and a loaded 9mm Glock semiautomatic handgun. During a search of the inmate's residence, officers found heroin, marijuana, 9mm ammunition, and a digital scale. The inmate was sentenced to 21 years in prison.

The aggravating circumstances for both offenses are: the inmate was personally armed with a firearm during the commission of the commitment offense; and the inmate was sentenced to two or more felonies during his current prison term. The mitigating circumstances are that the inmate did not use a weapon during the commitment offenses; the inmate did not commit violence or threaten violence; and there was no physical injury to a victim. When balancing the aggravating circumstances with the mitigating circumstances, the inmate's current commitment offenses are a mitigating factor because although the inmate had a weapon in his car when he sold cocaine to his co-defendant, the inmate did not use the weapon, did not threaten anyone with the gun, did not commit any violence and did not hurt anyone during the commission of the crime.

2. Prior Criminal Record:

The inmate's prior criminal history began in 1986 and continued until the commitment offenses in 2012. The inmate's prior criminal record is a mitigating factor and includes adult felony convictions for: Possess/Purchase Cocaine for Sale (HS 11351.5) in 2000; Possess/Purchase Cocaine for Sale (HS 11351.5) in 1992; Assault with a Deadly Weapon (PC 245(a)(1)) in 1988; three convictions for Selling Controlled Substance (HS 11352) in 1988; and Selling Controlled Substance (HS 11352) in 1987. The aggravating factor is that the inmate has been convicted of 3 or more felony offenses. The mitigating

factors are: the inmate was free from incarceration for at least 5 years prior to the date of the commitment offense since he was last released from prison on 1/12/2003, and committed the current offenses in 2012; and the inmate has no known juvenile criminal record. When balancing the aggravating circumstances against the mitigating circumstances, the inmate's prior criminal record is a mitigating factor because most of the convictions, including the inmate's only serious conviction, occurred 29 years ago when the inmate was 20 years old, and at the time of the current commitment offense, 12 years had passed since the inmate's last felony conviction in 2000 for possession of cocaine for sale.

3. Institutional Adjustment/Rehabilitative Programming:

The inmate has been incarcerated for the commitment offense since 4/2/2013 for approximately four years and six months. During his current incarceration, the inmate has not received any rules violations. The inmate has participated in education classes and worked as a machine operator and sign manufacturer. He participated in a charity fundraiser. After balancing the positive factors against the negative factors, the inmate's record does show overall compliance with institutional rules since he has not received a rules violation in the last 4 ½ years, and is a mitigating factor as a result.

4. Responses to Legal Notices:

Responses were received to the Legal Notices in opposition to the inmate's early release from the Yolo County District Attorney's office dated 9/14/2017; and in support of the inmate's early release from the inmate dated 8/17/17. The letters were reviewed.

SUMMARY: When balancing the lack of aggravating factors in this case with the mitigating factors (commitment offense, prior criminal record and institutional behavior), the mitigating factors outweigh the aggravating factors because although the inmate had a weapon in his car during the commitment offenses, the inmate did not use the weapon, did not threaten anyone with the gun, did not commit any violence and did not hurt anyone during the commission of the crime; with regard to the inmate's criminal history, most of the inmate's prior felony convictions, including the inmate's only serious conviction, occurred 29 years ago when the inmate was 20 years old; and at the time of the current commitment offense, 12 years had passed since the inmate's last felony conviction in 2000 for possession of cocaine for sale; and because the inmate's institutional record does show overall compliance with institutional rules since he has not received a rules violation in the last 4 ½ years. Release is approved.

Cheryl Carlson

OCTOBER 27, 2017

SIGNATURE

REVIEW DATE

CARLSON, CHERYL

NAME

DECISION

Concurs with approved recommendation to release.

Does not concur with approved recommendation to release.

Decision based on the reasons stated below:

After conducting an independent review of ERMS/SOMS as well as giving consideration to the correspondence received in opposition to release from Yolo County District Attorney's office and the correspondence received from inmate Smith, I concur with the approved recommendation to release decision prepared by Deputy Commissioner Carlson.

Shannon Hogg

NOVEMBER 5, 2017

SIGNATURE

REVIEW DATE

HOGG, SHANNON

NAME