

BOARD OF PAROLE HEARINGS

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



January 24, 2019

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

Subject: **NONVIOLENT PAROLE REVIEW DECISION**

Inmate's Name : COOK, THOMAS,LEE
CDCR# : BD8040
Location : North Kern State Prison
Court Case# : 17303

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

If you believe the board's decision contains an error of law or error of fact, or you have new information you believe would have materially impacted the board's decision had it been known at the time of the decision, please submit a written statement to:

Board of Parole Hearings
Attn: Nonviolent Parole Review
P.O. Box 4036
Sacramento, CA 95812-4036

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

Respectfully,

BOARD OF PAROLE HEARINGS
NV Processing Unit

NONVIOLENT DECISION FORM

NONVIOLENT INFORMATION

Inmate Name: COOK, THOMAS,LEE
CDCR Number: BD8040
Institution: North Kern State Prison

BPH DECISION

JURISDICTIONAL REVIEW

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BPH does not have jurisdiction, no further review.

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BPH has jurisdiction.

REVIEW ON THE MERITS

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Recommendation to release approved.

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Recommendation to release denied.

Decision for Cook, Thomas, BD8040: When considering together the findings on each of the inmate's four case factors, the inmate does not pose an unreasonable risk of violence to the community. Release is approved.

Statement of Reasons:

Case Factor #1 - Current Commitment Offense

The circumstances of the inmate's current commitment offense(s) mitigate the inmate's current risk of violence. The inmate was sentenced to a total term of 5 years 4 months on the current commitment offense(s). The commitment offense(s) is/are PC136.1(b)(2),dissuading a witness (ct 5), mid-term doubled to 4 years per PC667(e)(1)/PC1170.12 and VC10851(a), vehicle theft, one third mid-term of 16 months, to run consecutive to count 5.

After careful review and consideration of the aggravating and mitigating circumstances in all of the current crimes, there are no aggravating circumstances and the following mitigating circumstances make this a mitigating factor in the case:

- 1.The inmate did not personally use a deadly weapon.
- 2.No victims suffered physical injury or threat of physical injury.

On 1/13/2017, an officer observed a stolen vehicle. Officers conducted a vehicle stop. The vehicle was being driven by the inmate while under the influence of a controlled substance. A search of the vehicle revealed three syringes and .11 gram of methamphetamine.

The victim had reported the car stole 6 days prior to the vehicle stop. She reported the car stolen upon advice by her insurance company in the event the car was damaged.

The inmate was the caretaker for the female owner of the vehicle. The inmate was in a dating relationship with the victim'

On 1/19/2017, through 1/31/2017, the inmate called the female victim on 12 separate occasions while incarcerated and on a recorded line. The inmate made suggestions to her on the recorded line as to what she was to say to make the charges against him go away. The inmate also gave the victim suggestions as to what she was to do or say in the event she was charged with perjury to put her at ease about fabricating a story to have the charges dismissed against him.

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

Case Factor #2 - Prior Criminal Record

The inmate's prior criminal history began in 1987 and continued until the commitment offense(s) in 2017. The inmate's prior criminal record is a factor aggravating the inmate's current risk of violence. The inmate has the following adult criminal convictions:

1987 PC459 burglary 1st.

1994 VC10851(a), vehicle theft

1996 PC245(a)(1), assault with a deadly weapon/not firearm/GBI likely w/GBI inflicted.

2006 (in custody) PC12020(a), possess/mfg dangerous weapon.

2014 HS11378, possession of a controlled substance for sale w/prior felony conviction.

The circumstances of the inmate's prior criminal record that mitigate the inmate's current risk of violence are:

1.The inmate has never been convicted of a violent felony as defined in subdivision (c) of section 667.5 of the Penal Code, and, as such, the inmate has not been convicted of a violent felony as defined in subdivision (c) of section 667.5 of the Penal Code in the past 15 years.

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

1.The inmate was incarcerated for a felony conviction within five years prior to his current convictions. He was previously released from incarceration on 6/18/2015 and convicted on the current offenses on 3/29/2017, a period of time less than five years duration.

Analysis: When balancing the aggravating circumstances against the mitigating circumstances, they tend to show that the circumstances of the inmate's prior criminal record aggravate the inmate's current risk of violence because although the inmate has never been convicted of any PC 667.5 violent felony conviction. However, he was only able to remain free from incarceration for less than 2 years prior to his convictions on the current commitment offenses. The inmate's inability to remain incarceration free for 5 years is more recent in time and more probative of inmate's current risk for violence than his lack of a violent felony conviction within 15 years.

Case Factor #3 - Institutional Adjustment

The inmate was received into the California Department of Corrections and Rehabilitation on the current commitment offense(s) since August 3, 2017, a period of approximately 1 year 6 months.

The inmate has been involved in the following activities:

INSTITUTIONAL BEHAVIOR

RULE VIOLATION REPORTS (RVR's):

The inmate has not received any RVRs.

WORK ASSIGNMENTS:

A review of inmate's central file indicates the inmate has participated in the following work assignments during the current term.

3/28/2018- 5/14/2018 (200+ hours) Porter

1/17/2018- 5/17/2018 (250+ hours) Kitchen Worker

VOCATIONAL ASSIGNMENTS:

A review of inmate's central file indicates the inmate has not participated in any vocational assignments during his current term.

EDUCATIONAL ASSIGNMENTS:

5/15/2018-1/22/2019 ABE III (271 hours)

SELF-HELP and REHABILITATIVE PROGRAMMING:

11/16/2018-1/22/2019 Anger Management (10 hours)

9/12/2018-1/22/2019 Substance Abuse (Reentry) (251 hours)

6/29/2018-1/22/2019 Criminal and Addictive thinking Domestic Violence (31 hours)

2/27/2018-1/22/2019 CGA (65 hours)

2/14/2018-1/22/2019 NA (71.75 hours)

1/30/2018-1/17/2019 Celebrate Recovery English (67.75 hours)

The following circumstances of the inmate's institutional behavior, work history, and rehabilitative programming

mitigate the inmate's current risk of violence:

- 1.The inmate has not been found guilty of institutional Rules Violations Reports resulting in physical injury or threat of physical injury since his last admission to prison.
- 2.There is no reliable information in the confidential section of the inmate's central file indicating the inmate has engaged in criminal activity since his last admission to prison.
- 3.The inmate has successfully participated in vocational, educational, or work assignments for a sustained period of time. The inmate has over 270 hours in ABE III. The inmate also has over 200 hours as a porter and over 250 hours as a kitchen worker.
- 4.The inmate has successfully participated in rehabilitative or self-help programming to address the circumstances that contributed to his criminal behavior, such as substance abuse, for a sustained period of time. The inmate participated over 250 hours in Substance Abuse Recovery. He has over 65 hours in CGA and 71 hours in NA. All together the inmate's self-help efforts are deemed sustained.

The following circumstances of the inmate's institutional behavior, work history, and rehabilitative programming aggravate the inmate's current risk of violence:

There are no aggravating institutional circumstances of the inmate's institutional adjustment.

Analysis: When balancing the aggravating circumstances against the mitigating circumstances, they tend to show that the inmate's institutional behavior, work history, and rehabilitative programming mitigate the inmate's current risk of violence because the inmate has been compliant with institutional rules and there are no aggravating circumstances to offset the mitigating circumstances of the inmate's institutional adjustment.

Case Factor #4 - Response to Legal Notice

There were response(s) to the Legal Notices in support of release from Judith Young, the victim, in support of the inmate, dated 12/17/2018, and the inmate, dated 12/15/2018, which were reviewed and considered in this decision.

There were response(s) to the Legal Notices in opposition to release from Rachel Raymond, Deputy District Attorney for the District Attorney for Yolo County, California, dated 1/9/2019, which were reviewed and considered in this decision.

SUMMARY: When reviewing all of the case factors as documented above, taking into account the totality of the circumstances, including the passage of time and the inmate's age, the factors mitigating the inmate's current risk of violence outweigh the factors aggravating the inmate's current risk of violence.

The inmate's criminal history was an aggravating factor. However, the inmate's commitment offenses and institutional adjustment were deemed mitigating factors. The commitment offenses did not reflect a threat of physical violence against the female victim as reflected by the victim expressing regret for reporting her car stolen and her support of the inmate at the time of his arrest. The inmate's institutional efforts reflect a concerted effort at self-improvement and render his institutional adjustment a mitigating factor, outweighing the aggravating factor of the inmate's prior criminality. The inmate is approved for release.



January 23, 2019

SIGNATURE

REVIEW DATE

HURD, DAVID - Deputy Commissioner

If you believe this decision is not correct, you may send a written request to :

Board of Parole Hearings
Attn: Nonviolent Parole Review
P.O. Box 4036
Sacramento, CA 95812-4036

Your request must be post marked within 30 calendar days from the date you were served this decision and your request must include a brief written statement explaining why you believe the decision is not correct. You may include additional information to support your request.