

BOARD OF PAROLE HEARINGS

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



September 04, 2018

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

Subject: **NONVIOLENT PAROLE REVIEW DECISION**

Inmate's Name : DUNHAM, JOHN,CLAYTON
CDCR# : BC8618
Location : Folsom State Prison
Court Case# : CRF121130, CRF17946

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: DUNHAM, JOHN,CLAYTON
CDCR Number: BC8618
Institution: Folsom 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 Dunham, John, BC8618: 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 15 years on the current commitment offense(s). The commitment offense(s) is/are HS11379(a), transportation/sell controlled substance. (with 3 enhancements pursuant to HS11370.2(b)- enhancement-Prior transport/sale/or conspiracy convictions (3 years each prior conviction, consecutive)

HS11370.1(a), possession of controlled substances while armed with a weapon. (with a 1 year enhancement pursuant to PC667.5(b)-prior prison term within 5 years, consecutive)

On 3/22/2012 officers served search warrants on the inmate. The inmate was in a vehicle with a co-defendant. In responding to a traffic stop, the inmate drove into a gas station and his co-defendant exited the vehicle and entered the gas station store. The co-defendant placed a kilo bag of methamphetamine in the store. The inmate was stopped and arrested a few blocks away.

On 2/10/2017, the inmate was driving a vehicle with his co-defendant, and was pulled over by an officer for failing to stay in his lane. The inmate handed a gun to his co-defendant, who tossed it out of the vehicle. The gun was recovered. Two grams of heroin were recovered in the vehicle.

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.

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 1979 and continued until the commitment offense(s) in 2014. The inmate's prior criminal record is a factor mitigating the inmate's current risk of violence. The inmate has the following adult criminal convictions:

7/19/1979, PC459, burglary 2nd

1/16/1985, HS11350, possession of a controlled substance
11/6/1986, HS11350, possession of a controlled substance
1/27/1987, PC4573.6, possession of a controlled substance in prison/jail
10/1/1989, VC2800.2, evading with reckless disregard for safety.
2/15/1995, HS11379.6(a), manufacture controlled substance and HS11379.6(b), offer to manufacture controlled substance
2/22/2000, HS11350, possession of a controlled substance
9/11/2002, HS11383(c), possession chemical components for manufacturing methamphetamine.

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. The inmate was previously released from incarceration on 7/5/2010, and convicted on the current offenses on 3/28/2014, a period of time less than 5 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 mitigate the inmate's current risk of violence because although the inmate was unable to remain free from incarceration for a 5 year period, which is indicative of criminal thinking, his criminal history does not reflect any violence. Therefore, the inmate's criminal history is a mitigating factor regarding the inmate's current risk of violence.

Case Factor #3 - Institutional Adjustment

The inmate was received into the California Department of Corrections and Rehabilitation on the current commitment offense(s) since April 20, 2017, a period of approximately 1 year 4 months.

The inmate has been involved in the following activities:

Rules Violations Reports (RVR's):

During his current term the inmate received the following RVR.

5/9/2018, disobey order

Work Assignments:

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

8/4/2018- current, Dining Room Worker
7/7/2018-8/3/2018, Dining Room Scullery
5/12/2018-6/15/2018, Dining Room Worker
3/17/2018-5/7/2018, Dining Room Worker
1/12/2018-3/2/2018, Main Kitchen Cook
12/22/2017-1/11/2018, Dining Room Scullery

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:

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

Self-Help/Rehabilitative Assignments:

A review of inmate's central file indicates the inmate participated in the following Self-Help/ Rehabilitative assignments during his current term.

8/23/2017-12/8/2017, Criminal Thinking
8/23/2017-12/12/2017, Anger Management

7/17/2015, the Phoenix House Substance Abuse Treatment Program, Yolo County Corrections

Certificate of Completion 75 Classes Anger Management,
Monroe Detention Facility, Yolo County

(the inmate submitted the certificates, which are not in the Central File. Additionally, a letter was submitted by Victoria Malnar M.A. M.S. CAMS-II, CAMC-I, instructor for Monroe Detention Facility, Yolo County)

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 maintained work assignments for a sustained period of time. The inmate began work assignments shortly after clearing reception.
- 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 completed Criminal Thinking and Anger Management in CDCR, 75 Anger Management Classes and the Phoenix House Substance Treatment Program at Monroe Detention Center, Yolo County.

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 circumstances of institutional behavior.

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's institutional adjustment reflects compliance with institutional rules, a willingness to accept steady work assignments and participation in rehabilitative programming. The inmate also participated in sustained self-help/rehabilitative programming to address the causative factors that led to his criminality, rendering the inmate's institutional adjustment a mitigating factor.

Case Factor #4 - Response to Legal Notice

There were response(s) to the Legal Notices in support of release from the Yolo County Public Defender, dated 6/11/2018, the inmate, dated 7/19/2018, the inmate's wife, dated 7/9/2018, the self-help instructor for Monroe Detention Facility, undated, and several Self-help completion certificates, dated 7/17/2015, 12/8/2017, and 12/12/2017, which were reviewed and considered in this decision.

There were response(s) to the Legal Notices in opposition to release from the Yolo County DA, dated 8/16/2018, 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, commitment offenses and institutional adjustment were all determined to be mitigating factors as none reflected a risk of violence. Having no aggravating factor(s) to counter the mitigating factors, the inmate currently does not present an unreasonable risk of violence. The inmate is approved for release.



August 31, 2018

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.