

**BOARD OF PAROLE HEARINGS**

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



June 04, 2019

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

Subject: **NONVIOLENT PAROLE REVIEW DECISION**

Inmate's Name : VARGAS, LUIS,ALBERTO  
CDCR# : BD3695  
Location : California State Prison, Los Angeles County  
Court Case# : CRF172340

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: VARGAS, LUIS,ALBERTO  
CDCR Number: BD3695  
Institution: California State Prison, Los Angeles County

## BPH DECISION

### JURISDICTIONAL REVIEW

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BPH does not have jurisdiction, no further review.

☒

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 Vargas, Luis, BD3695:** When considering together the findings on each of the inmate's four case factors, the inmate does not pose a current, unreasonable risk of violence or a current, unreasonable risk of significant criminal activity 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) aggravate the inmate's current risk of violence or significant criminal activity. The inmate was sentenced to a total term of 4 years on the current commitment offense(s). The commitment offense(s) is/are PC 25400(a)(2)/(c)(2) [Knowingly Carrying/Concealing a Stolen Firearm] for 2 years doubled to 4 years pursuant to PC 667(b)-(i)/1170.12 [Prior Strike] for a total of 4 years.

On 5/16/2017, police officers responded to a reported assault and met with a witness who informed the officers that a female entered the business and indicated that she had been assaulted and was being followed by a male. The witness reported that the female left the scene. Video surveillance showed a female walk into the business and hide behind a bar, and the inmate entered the business holding a duffle bag. The female and the inmate left the scene together. Police located a duffle bag which contained a Smith & Wesson .22 caliber handgun along with ammunition. The handgun was later determined to be stolen. The inmate was located later and admitted he dropped the duffle bag and told the officers he had hidden another handgun by a tree, which was also located.

After careful review and consideration of the aggravating and mitigating circumstances in all of the current crimes, there are aggravating circumstance(s) in the case and the following aggravating circumstances make this an aggravating factor in the case:

One or more victims suffered physical injury or threat of physical injury. Although the incident was reported as an assault, the documents in the inmate's central file do not indicate there was a confirmed assault. The record does, however, indicate that the victim entered the business and hid behind a bar. The records also indicate a witness statement that the victim entered the business and stated that she had been assaulted and asked for help, and this coupled her hiding behind the bar indicates that she was at a minimum, in fear and suffered threat of physical injury.

Therefore, the current crimes are found to be an aggravating risk factor in the case.

##### Case Factor #2 - Prior Criminal Record

The inmate's prior criminal history began in 2009 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 or significant criminal activity. The inmate has the following adult criminal convictions: 2009- PC 186.22(a) [Participation in a Criminal Street Gang];  
2010- PC 487(c) [Grand Theft from Person];  
2010- PC 459 [2nd Degree Burglary];

2010- VC 10851(a) [Vehicle Theft];  
2014- HS 11359 [Possession of Marijuana for Sale].

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

The inmate has not been convicted of a violent felony as defined under PC 667.5 (c) in the past 15 years.

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

The inmate was incarcerated for a felony conviction within five years prior to his current conviction. The inmate was released from prison for his prior commitment on 6/20/2015 and convicted for his current commitment offense on 6/2/2017, a period of just less than two years between dates.

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 or significant criminal activity because : although the inmate has not been convicted of a statutorily violent offense in the past 15 years, he was out of custody for less than two years before being convicted in the current commitment offense. This is given slightly more weight when compared to the fact that he has not been convicted of a statutorily violent offense in the past 15 years because he has demonstrated a lack of rehabilitation and a continued propensity for committing crimes of a potentially violent nature.

### **Case Factor #3 - Institutional Adjustment**

The inmate was received into the California Department of Corrections and Rehabilitation on the current commitment offense(s) since June 15, 2017, a period of approximately 2 years.

The inmate has been involved in the following activities: The inmate has incurred no rules violations during the current commitment.

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.

The inmate has the following work, vocational, or educational assignments:  
Vocational Computer Literacy- (10/20/2017-11/20/2017) for 1 month;  
Porter- (12/1/2017-4/16/2018) for 4 ½ months;  
Vocational Plumbing- (4/17/2018-8/7/2018) for 4 months;  
RASP/Recycling Crew- (9/7/2018-2/28/2019) for 6 months;  
Plant Operations Welder- (3/1/2019-present) for 3 months.

The inmate has the following rehabilitative/self-help programming:  
Substance Abuse Recovery Support Groups/NA- (5/1/2018-8/7/2018) for 22 hours over 3 months;  
Substance Abuse Recovery Support Groups/NA- (10/12/2018-present) for 50 hours over 7 ½ months;  
Substance Abuse Recovery Support Groups/AA- (10/30/2018-present) for 42 hours over 7 months;  
Visual and Performing Arts/Theater- (1/31/2019-3/13/2019) for 8 ¾ hours over 6 weeks;  
Paving The Way Reentry- (2/18/2019-present) for 21 ½ hours over 3 ½ months.

The inmate is also on the wait list for Substance Abuse Program Reentry, Anger Management Program Reentry, Family Relations Reentry, Criminal Thinking Reentry, Transitions Program Reentry, and Criminal/Addictive Thinking Recovery Group.

The following circumstances of the inmate's institutional behavior, work history, and rehabilitative programming mitigate the inmate's current risk of violence or significant criminal activity:

The inmate has not been found guilty of institutional rules violation resulting in physical injury or threat of physical injury since his last admission to prison.

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.

The inmate has successfully participated in work-assignments for a sustained period of time. The inmate is to be commended for his exceptional work and vocational assignments. His participation in such assignments will provide marketable skills that will assist him in finding gainful employment once he is released from prison.

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

The inmate has limited participation in available rehabilitative or self-help programming to address the circumstances that contributed to his criminal behavior. Although the inmate has 120 plus hours of NA/AA group meetings and is currently enrolled in Paving the Way, he has not sufficiently participated in programming to address the causative factors behind his assaultive criminal behavior. As such, his current commitment participation is deemed limited. The inmate is on the wait list for a number of programs which are designed to address and provide insight into the causative factors behind his criminal behavior and he is encouraged to

participate in such programming when they become available.

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 or significant criminal activity because the inmate has remained free of criminal activity and rules violations during this commitment and he has demonstrated a sustained work ethic in his work and vocational assignments. These are given considerable weight when compared to his lack of actual rehabilitative/self-help programming in this current commitment. The inmate has expressed insight into the factors behind his criminal behavior in his correspondence dated 5/28/2019, and has developed a relapse prevention plan which he included in his correspondence. Despite not having actually participated in such programming in his current commitment, the inmate has related his insight into the causative factors, and has an articulate, well-reasoned plan for success once he is released from prison. As such, less weight is given to his lack of rehabilitative/self-help programming when compared to his lack of institutional violence and violations and his sustained work and vocational assignments.

#### **Case Factor #4 - Response to Legal Notice**

There were response(s) to the Legal Notices in support of release from Luis Vargas (the inmate) dated 5/28/2019 which were reviewed and considered in this decision.

There were response(s) to the Legal Notices in opposition to release from the Yolo County District Attorney's Office dated 5/16/2019 which were reviewed and considered in this decision.

**SUMMARY:** When reviewing all of the case factors as documented above, and taking into account the totality of the circumstances, including the relevance of the information based on the passage of time, and the inmate's age of 29, the factors mitigating the inmate's current risk of violence outweigh the factors aggravating the inmate's current risk of violence or significant criminal activity.

Mr. Vargas was convicted of knowingly possessing and concealing a stolen firearm in his current commitment offense. The offense also involved the threat of injury, if not an actual assault, and this is of concern. Also of concern is his ongoing criminal behavior as evidenced by the fact that less than two years passed between his release from prison and his current commitment. However, his current and past criminal conduct is tempered by his lack of criminal conduct and rules violations in his current commitment, coupled with his sustained work and vocational assignments. Furthermore, Mr. Vargas has participated in NA/AA group meetings, and despite his not having participated in other programs designed to address the causative factors behind his criminal conduct during this current commitment, Mr. Vargas has conveyed insight into these factors and has articulated a reasonable, credible, and viable roadmap for a successful transition to life after prison. At this time, Mr. Vargas appears to have gained sufficient insight into his criminal and assaultive behavior and has prepared himself for life after prison. Although there is a noted concern regarding his current commitment offense and past criminal conduct, at this time, Mr. Vargas does not pose an unreasonable risk of violence in the community.. The inmate is approved for release.



June 3, 2019

**SIGNATURE**

**REVIEW DATE**

**KELLY, TIMOTHY - 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.