

NON-VIOLENT SECOND STRIKER DECISION FORM

NON-VIOLENT SECOND STRIKER INFORMATION

Review Type: Decision Review Admin Review

Date Initiated: February 1, 2016

Inmate Name: DAVIS, BRITT

CDCR Number: AK8806

Institution: California Correctional Center

BPH DECISION REVIEW

Decision Upheld

Decision Vacated

COMMENTS

BPH conducted an NVSS review and approved release on 5/13/16. The Yolo County District Attorney's Office filed a request for reconsideration arguing the inmate was a risk to public safety and should not be released. They also stated they had submitted a timely letter in opposition to the inmate's release but it was not addressed in the BPH decision. They argued that had the BPH reviewed their letter there would have been a different result.

After careful consideration and research of the procedural background on this case, the Yolo County District Attorney's did submit a letter in opposition to the inmate's release timely, but an administrative error occurred and the letter was not presented to the hearing officer for review and consideration. Additionally, the request for reconsideration filed by the District Attorney was delayed by the BPH as the incorrect CDC number was used in the correspondence.

The NVSS process includes the right of the District Attorney, registered victims and the inmate and their family and support network, to submit letters to the BPH for review and consideration when making a decision on whether to approve or deny release of an inmate.

In this case, the District Attorney's opposition letter which was timely submitted submitted on 3/3/16 was not reviewed and considered due to administrative error. This is a substantial error that could substantially effect the outcome of the review. Therefore, pursuant to CCR Title 15, Division 2, section 2042, the BPH decision of 5/13/16 is vacated and a new NVSS review is ordered to be conducted with a review of the district attorney's opposition letter.

So ordered.

Rhonda S Dotta

July 12, 2016

SIGNATURE

REVIEW DATE

SKIPPER-DOTTA, RHONDA

NAME

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NON-VIOLENT SECOND STRIKER INFORMATION

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 CDCR Number: AK8806
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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:

This decision was authored by DC Starr. Issue: Does Mr. Davis pose an unreasonable risk of violence to the community? When considering together the findings on each of Mr. Davis' five case factors, both aggravating and mitigating, they tend to show that Mr. Davis poses an unreasonable risk of violence to the community.

Second Strike: Mr. Davis' current commitment offense is an aggravating factor in this case. Mr. Davis' current commitment offense is based on a felony conviction for PC347 (a)(1)[01] (2/10/12). On July 12, 2011 pursuant to an argument with his wife, placed acetone, a toxic chemical substance in a can of Dr. Pepper before placing in the refrigeration that he knew his victim wife would drink. As a result of drinking the Dr. Pepper, the victim realized the drink smelled of chemical substance, and subsequently began to vomit. Aggravating factors are that the victim experienced physical injury as a result of ingesting the poison, that Mr. Davis used the poison as a deadly weapon against the victim. Mitigating factors are that there were no multiple victims, and that the criminal offense was not part of a large scale criminal or gang activity. These mitigating factors do not outweigh the aggravating factors previously considered; therefore, Mr. Davis' current commitment offense is an aggravating factor.

Prior Criminal Record: Mr. Davis' prior criminal record is an aggravating factor in this case. Mr. Davis' prior criminal record includes a felony conviction for PC422 [02] Criminal Threat to Cause GBI/Death (12/4/01), which resulted in his first strike. Aggravating factors are that this is a serious felony. Mitigating factors are that Mr. Davis has incurred less than three prior felony convictions, and that there are more than five years between his current commitment offense and his prior incarceration.

Institutional Adjustment: Mr. Davis' institutional Adjustment is a mitigating factor in this case. Mr. Davis has not received any CDCR RVR 115's during this prison term. Additionally, he has been work assigned as a kitchen worker, a porter, a clerk, as well as a cook. He is currently assigned as a Firefighter. He has participated in the Substance Abuse Program as related to Narcotics and Alcoholic Anonymous, Alternative to Violence and the Veterans in Prison Groups. He has completed a training certificate in Wastewater Treatment. There are no aggravating factors to consider in this case, therefore, Mr. Davis' institutional adjustment is a mitigating factor in this case.

Medical Condition: Mr. Davis does not suffer from a medical condition effecting his ability to reoffend.

Responses: The Office of the DA of Yolo County sent a letter in opposition to Mr. Davis' early parole release which was taken into consideration for the purpose of this review. Decision: After balancing the mitigating factor of Mr. Davis'

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REVIEW ON THE MERITS

institutional adjustment against the aggravating factors of his commitment offense and his prior criminal record, the aggravating factors support a finding of denial for Mr. Davis' early parole release because of Mr. Davis' intent to poison wife. Based on these factors, Mr. Davis' early parole release is denied.

Rhonda S Dotta

July 12, 2016

SIGNATURE

REVIEW DATE

SKIPPER-DOTTA, RHONDA

NAME