

Final January 2014 Minutes

BOARD OF PAROLE HEARINGS

Executive Board Meeting

Minutes

Wednesday, January 22, 2014

Meeting called to order at 10:09 a.m.

Roll Call: Commissioners Anderson, Fritz, Garner, Guerrero, Labahn, Montes, Peck, Richardson, Roberts, Singh, Turner, and Zarrinam were present.

CONSENT CALENDAR

Comments and Clarification Regarding Board of Parole Hearing meeting minutes of December 16 and 17, 2013: No comments.

Lifer Hearing Backlog Report: No comments.

Public Comment on Consent Calendar: No comments.

Commissioner TURNER moved to approve the consent calendar. Commissioner ROBERTS seconded the motion. The motion carried unanimously.

REPORTS AND PRESENTATIONS

Report from Executive Officer, JENNIFER SHAFFER

SHAFFER stated that the case of Mario Perez, K-40382 has been removed from the agenda.

SHAFFER provided an update on the board's settlement agreement in the matter of *In Re Butler*. She confirmed that pursuant to the agreement, the board will soon begin calculating inmate base terms and adjusted base terms at inmates' initial parole suitability hearings. If an inmate has already had his or her initial parole suitability hearing, the board will establish the base term and adjusted base term at the inmate's next parole suitability hearing, if the hearing results in a grant, denial, stipulation, or tie vote. The companion case to *In re Butler* has not yet been decided and, therefore, the settlement agreement has not yet taken effect. SHAFFER emphasized that calculating an inmate's base term and adjusted base term does not dictate when an inmate will be released. An inmate's release date will continue to be determined only after he or she has been found suitable for parole.

A regulatory package incorporating the *In re Butler* settlement agreement will be drafted and submitted to the board for public comment. SHAFFER confirmed that the board will no longer consider stipulations prior to the week of the inmate's scheduled hearing. Previously, the board would accept and rule on requests for stipulations at its headquarters prior to the week of an inmate's hearing. In order to ensure base terms and adjusted base terms are calculated at an inmate's next regularly-scheduled hearing, stipulations will no longer be considered prior to the week of the inmate's scheduled hearing. There were approximately 70 pre-hearing stipulations in

2013, out of a total of approximately 400 stipulations approved during 2013. SHAFFER stated that the board had received no adverse comments on the proposed changes. When a stipulation is accepted by a panel at the inmate's hearing, victims and victims' next-of-kin will be provided an opportunity to place on the record their views concerning the inmate's parole suitability. In this manner, their comments will be preserved indefinitely and available for future panels.

SHAFFER also reported that she and Chief Counsel MOSELEY attended the California District Attorneys' Association's winter conference in Monterey.

Finally, SHAFFER stated that youth offender hearings will continue to be posted on the board's website, and that the February hearings have already been posted.

Report from Chief Counsel, HOWARD MOSELEY

MOSELEY stated that he had no report.

Report from Chief Deputy of Program Operations, SANDRA MACIEL

MACIEL gave an update on the appointment of inmate attorneys to the board's panels. Following extensive consultation with stakeholders, it was determined that 59 attorneys were needed. The panels' requirements will be reviewed after six months. There were 87 applicants and the public selection process took place on January 17, 2014. Attorneys were only permitted appointment to a maximum of three panels. Half of the members of each panel were selected by experience, while the remaining members were selected randomly. Attorneys who were not selected have been placed on the inactive list. The selections will be reviewed before posting on the board's website.

SHAFFER stated that she attended the selection process and she commended MACIEL and the staff members who ensured that the process was conducted fairly and efficiently.

Discussion Regarding Tours of Transitional Housing Facilities: None.

OPEN COMMENTS

BPH Commissioners: Agenda Items for Future Meetings: None.

Public Comments: None.

EN BANC REFERRALS

Referral pursuant to Penal Code section 1170(e).

A. PEREZ, MARIO K-40382

Case removed from agenda.

B. CHRISTIAN, RONALD H-83985

SHERIE TYSON, inmate's sister, supported recall and recommendation for resentencing.

Referral by the Chief Counsel pursuant to California Code of Regulations, Title 15, section 2042.

C. HATHCOCK, WELDON B-18483

DENNIS CUSICK, inmate's attorney, submitted that the decision denying parole should be vacated and a rehearing ordered; that the inmate is a danger to himself but not to others, and that the inmate needs to be in a care facility that can treat the inmate's dementia.

BLAKE GUNDERSON, Fresno County District Attorney's Office, submitted that the panel's denial of parole should be affirmed.

D. KELSCH, RAYMOND D-63773

DENNIS KUSICK, inmate's attorney, submitted that the decision denying parole should be vacated and a rehearing ordered and that the inmate should only be released to a very restricted environment.

ALEXIS DE LA GARZA, Los Angeles County District Attorney's Office, stated that inmate Kelsch never acknowledged his problems in prison. She stated that the inmate's daughter was concerned for his safety and does not believe he can be released.

Referral to consider for a rescission hearing pursuant to California Code of Regulations, title 15, section 2450 et seq.

E. ACEVES, SALVADOR H-73423

No speakers.

Referral by the Governor pursuant to Penal Code section 3041.1 and California Code of Regulations, Title 15, section 2044.

F. SMITH, LAKENDALL H-64209

No speakers.

G. POMA, RICHARD C-33048

KEITH WHORTON and GREG PAYNE, victim's family members opposed the inmate's grant of parole.

BRIAN CAHILL, DAVID MARTIN, VIC PERRELLA, ARLINDA LOUE-PENN, inmate's friends, and SUSAN MURPHY, inmate's fiancée, supported the decision granting parole. RITIKA AGGARWAL, inmate's friend supported parole and read support letters from other friends of the inmate. KEVIN PENN, former life prisoner, supported parole. KEITH WATTLEY, inmate's attorney, submitted that there were no grounds to order a rescission hearing.

Referral pursuant to Penal Code section 3041 to either grant or deny parole when there is a tie vote.

H. WILSON, LARRY

C-37556

Public comment prohibited on this referral. The board may only consider the record of the hearing pursuant to Penal Code section 3041(e)(2).

DISCUSSION ITEMS

Dissolution of Advisory Committees, presented by JENNIFER SHAFFER

SHAFFER reported that it has proven increasingly difficult to reconcile commissioner's committee work with their current workload and diverse geographical locations. She recommended the advisory committees be dissolved. The issues previously considered at advisory committee meetings will now be considered at full board meetings.

Board Questions and Comments: None

Public Comments:

VANESSA NELSON-SLOANE, Life Support Alliance, expressed concern that the dissolution of the committees would decrease the in-depth work of the board and that workgroups would not be as transparent as advisory committees.

Commissioner ROBERTS moved to dissolve the advisory committees and was seconded by Commissioner LABAHN. The motion carried unanimously.

OPEN COMMENTS

GAIL BROWN, Life Support Alliance, drew the board's attention to instances when inmate attorneys were not given sufficient privacy to meet with their inmate clients. She also stated that hearings have been postponed because of faulty recording equipment.

VANESSA NELSON-SLOANE, Life Support Alliance, expressed concern about pressure being exerted upon inmates to attend the Long Term Offenders Program. She stated that the program has deficiencies and that pressuring inmates to participate is unacceptable.

BILL BEAN, SR., Crime Victims United of California, described the effects of a murder on the victim's family and stated that victims should speak last at board meetings.

Meeting adjourned at 11:45 a.m.

Amended on March 17, 2014 (See "Final January 2014 Minutes")

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Board of Parole Hearings

Scheduled and Backlog Hearings Report

Penal Code section 3041(d)

February, 2014

