

BOARD OF PAROLE HEARINGS
En Banc Decisions
Wednesday, February 22 2012

Penal Code section 1170(e)

Pursuant to Government Code section 11126(c)(4)

CHIESA, PETER JORDAN

V28869

PC 1170

Motion: THE CONDITIONS UNDER WHICH THE PRISONER WOULD BE RELEASED OR RECEIVE TREATMENT POSE A THREAT TO PUBLIC SAFETY AS REFERENCED IN PENAL CODE SECTION 1170 (E)(2)(B). THE INMATE INCURRED A RECENT RULES VIOLATION FOR BATTERY ON A NURSE WHICH DEMONSTRATES PHYSICAL CAPABILITY OF CAUSING HARM AND LACK OF CONFORMANCE WITH THE PRISON'S RULES. ADDITIONALLY, CDCR, THE CUSTODIAN OF THE INMATE, FOUND HIM TO BE A RISK TO PUBLIC SAFETY IN LIGHT OF HIS RECENT CONDUCT.

Motion by: Anderson, Jr.

Second by: Prizmich

Aye: Anderson, Jr., Ferguson, Figueroa, Fritz, Garner, Labahn, Moseley, Peck, Prizmich, Robles, Turner

Nay:

Abstain:

Not Present:

Decision: Decline to Refer

SAMPLE, HERBERT NATHANIEL

B10549

PC 1170

Motion: THE PRISONER IS MEDICALLY INCAPACITATED AS DEFINED IN PENAL CODE SECTION 1170 (E)(2)(C). THE CONDITIONS UNDER WHICH THE PRISONER WOULD BE RELEASED OR RECEIVE TREATMENT DO NOT POSE A THREAT TO PUBLIC SAFETY AS REFERENCED IN PENAL CODE SECTION 1170(E)(2)(B).

Motion by: Ferguson

Second by: Robles

Aye: Anderson, Jr., Ferguson, Figueroa, Fritz, Garner, Labahn, Moseley, Peck, Prizmich, Robles, Turner

Nay:

Abstain:

Not Present:

Decision: Refer to Court

En Banc Review

Pursuant to Government Code section 11126(c)(4)

Motion: DENIAL OF PAROLE. THE INMATE LACKS CREDIBILITY REGARDING HIS VERSION OF THE CRIME AS SET FORTH IN THE 2009 BOARD REPORT, WHEREIN HE CLAIMS THAT THE SHOOTING WAS BOTH ACCIDENTAL AND CONSISTED OF ONLY ONE SHOT. HOWEVER, THE RECORD BEFORE THE 2011 HEARING PANEL OVERWHELMINGLY CONTRADICTS THE INMATE'S VERSION, AS THE VICTIM WAS SHOT TWICE AND CIRCUMSTANCES DO NOT SUPPORT THE CLAIM OF AN ACCIDENTAL, SINGLE-SHOT CRIME.

THIS DEMONSTRATES A LACK OF INSIGHT AND FAILURE TO ACCEPT RESPONSIBILITY FOR THE EVENTS WHICH RESULTED IN THE DEATH OF THE VICTIM AND WITHOUT THIS INSIGHT AND UNDERSTANDING THE INMATE IS LIKELY TO FALL INTO PATTERNS OF BEHAVIOR THAT CULMINATED IN THE LIFE CRIME.

THE DENIAL LENGTH IS THREE YEARS. THIS WAS REACHED DUE TO CLEAR AND CONVINCING EVIDENCE, CONSISTING OF THE POSITIVE PROGRAMMING, PARTICIPATION IN NA, ATTAINMENT OF GED AND VOCATIONS, THAT THE LONGER DENIAL LENGTHS OF 15, 10 OR 7 YEARS ARE NOT WARRANTED.

THIS MOTION DID NOT CARRY.

Motion by: Prizmich
 Second by: Anderson, Jr.
 Aye: Anderson, Jr., Ferguson, Garner, Prizmich, Robles
 Nay: Fritz, Labahn, Moseley, Peck, Turner
 Abstain: Figueroa
 Not Present:
Decision: Motion Not Carried

Motion: SUITABLE FOR PAROLE PURSUANT TO THE REASONS ARTICULATED BY THE COMMISSIONER AT THE DECEMBER 8, 2011 HEARING.

Motion by: Fritz
 Second by: Turner
 Aye: Fritz, Labahn, Moseley, Peck, Turner
 Nay: Anderson, Jr., Ferguson, Garner, Prizmich
 Abstain: Figueroa
 Not Present: Robles
Decision: Grant

Motion: AFFIRM THE SEPTEMBER 13, 2011 SUITABILITY DECISION.

Motion by: Moseley
 Second by: Ferguson
 Aye: Anderson, Jr., Ferguson, Fritz, Garner, Labahn, Moseley, Peck, Prizmich, Turner
 Nay:
 Abstain:
 Not Present: Figueroa, Robles
Decision: Affirm