

BOARD OF PAROLE HEARINGS

En Banc Decisions

Tuesday, June 15 2010

Compassionate Release -- Penal Code section 1170(e)

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

**ANDERSON, R J**

**C72823**

**Compassionate Release**

Motion: DECLINE TO REFER TO COURT FOR CONSIDERATION OF SENTENCE RECALL BECAUSE 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). SPECIFICALLY, THE INMATE IS AMBULATORY AND PHYSICALLY CAPABLE OF REOFFENDING IN LIGHT OF HIS EXTENSIVE AND VARIED CRIMINAL HISTORY. HIS PAST OFFENSES INCLUDE ARRESTS AND/OR CONVICTIONS FOR PETTY THEFT, DRIVING WITH A SUSPENDED LICENSE, TAMPERING WITH A VEHICLE, DISTURBING THE PEACE/FALSE INFORMATION, FORGERY, HIT AND RUN/PROPERTY DAMAGE, DRUNK DRIVING (PROPERTY DAMAGE), CHECK FRAUD AND BURGLARY.

Motion by: Labahn

Second by: Chrones

Aye: Arbaugh, Chrones, Doyle, Garner, Gillingham, Labahn, Peppler, Powers, Prizmich, Tardiff

Nay:

Abstain:

Not Present: Anderson, Jr., Peck

**Decision: Decline to Refer**

**ARTIST, Thomas John**

**E64706**

**Compassionate Release**

Motion: REFER TO COURT FOR CONSIDERATION OF SENTENCE RECALL BECAUSE: THE PRISONER IS TERMINALLY ILL AS DEFINED IN PENAL CODE SECTION 1170(E)(2)(A) AND 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: Arbaugh

Second by: Labahn

Aye: Arbaugh, Chrones, Doyle, Garner, Gillingham, Labahn, Peppler, Powers, Tardiff

Nay: Prizmich

Abstain:

Not Present: Anderson, Jr., Peck

**Decision: Refer to Court**

**PLATT, Charles**

**J72525**

**Compassionate Release**

Motion: REFER TO COURT FOR CONSIDERATION OF SENTENCE RECALL BECAUSE: THE PRISONER IS MEDICALLY INCAPACITATED AS DEFINED IN PENAL CODE SECTION 1170(E)(2)(C) AND 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: Gillingham

Second by: Labahn

Aye: Arbaugh, Chrones, Doyle, Garner, Gillingham, Labahn, Peppler, Powers, Prizmich

Nay: Tardiff

Abstain:

Not Present: Anderson, Jr., Peck

**Decision: Refer to Court**

**PUCKETT, John**

**G11686**

**Compassionate Release**

Motion: DECLINE TO REFER TO COURT FOR CONSIDERATION OF SENTENCE RECALL BECAUSE: 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 IS AMBULATORY AND CAN MOVE ABOUT WITHOUT ASSISTANCE. HE IS CAPABLE OF COMMITTING CRIMES SIMILAR TO HIS EXTENSIVE HISTORY INCLUDING RAPE AND CRIMES AGAINST CHILDREN, SEXUAL PERVERSION, ROBBERY, BURGLARY AND ASSAULT WITH INTENT TO COMMIT RAPE.

Motion by: Labahn

Second by: Pepler

Aye: Arbaugh, Chrones, Doyle, Garner, Gillingham, Labahn, Pepler, Powers, Prizmich, Tardiff

Nay:

Abstain:

Not Present: Anderson, Jr., Peck

**Decision: Decline to Refer**

**En Banc Review**

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

**BENNETT, Edwin Winslow**

**H30722**

**Referred by Decision Review**

Motion: DISAPPROVE THE MARCH 5, 2010 PROPOSED DECISION AND SCHEDULE A REHEARING ON THE NEXT AVAILABLE CALENDAR FOR THE LIMITED PURPOSE OF CALCULATING THE RELEASE DATE.

Motion by: Garner

Second by: Tardiff

Aye: Arbaugh, Chrones, Doyle, Garner, Gillingham, Labahn, Pepler, Powers, Prizmich, Tardiff

Nay:

Abstain:

Not Present: Anderson, Jr., Peck

**Decision: Rehearing**

**BONILLA, Jose Luis**

**J48594**

**Governor Referred**

Motion: AFFIRM THE JANUARY 12, 2010 SUITABILITY DECISION.

Motion by: Chrones

Second by: Tardiff

Aye: Arbaugh, Chrones, Doyle, Garner, Gillingham, Labahn, Pepler, Powers, Prizmich, Tardiff

Nay:

Abstain:

Not Present: Anderson, Jr., Peck

**Decision: Affirm**

**COUNTS, Billy Ross Jr**

**C68378**

**Governor Referred**

Motion: AFFIRM JANUARY 5, 2010 SUITABILITY DECISION.

Motion by: Pepler

Second by: Gillingham

Aye: Arbaugh, Chrones, Doyle, Garner, Gillingham, Labahn, Pepler, Powers, Prizmich, Tardiff

Nay:

Abstain:

Not Present: Anderson, Jr., Peck

**Decision: Affirm**

**CRESPO, Jaime Ivan** **K88104** **Governor Referred**  
Motion: AFFIRM THE JANUARY 7, 2010 SUITABILITY DECISION.  
Motion by: Labahn  
Second by: Arbaugh  
Aye: Arbaugh, Chrones, Doyle, Garner, Gillingham, Labahn, Pepler, Powers, Prizmich, Tardiff  
Nay:  
Abstain:  
Not Present: Anderson, Jr., Peck  
**Decision: Affirm**

**ESPINOLA, Roberto Carlos** **K43270** **Governor Referred**  
Motion: AFFIRM THE JANUARY 7, 2010 SUITABILITY DECISION.  
Motion by: Chrones  
Second by: Powers  
Aye: Arbaugh, Chrones, Doyle, Garner, Gillingham, Labahn, Pepler, Powers, Prizmich, Tardiff  
Nay:  
Abstain:  
Not Present: Anderson, Jr., Peck  
**Decision: Affirm**

**GARCIA, Leopoldo Cordero** **B45697** **Governor Referred**  
Motion: AFFIRM THE JANUARY 5, 2010 SUITABILITY DECISION AS THE GRANTING PANEL COMPLIED WITH THE COURT ORDER.  
Motion by: Prizmich  
Second by: Gillingham  
Aye: Arbaugh, Chrones, Doyle, Garner, Gillingham, Labahn, Pepler, Powers, Prizmich, Tardiff  
Nay:  
Abstain:  
Not Present: Anderson, Jr., Peck  
**Decision: Affirm**

**MC NERTNEY, Jack Ivan** **C21945** **Governor Referred**  
Motion: AFFIRM THE JANUARY 11, 2010 SUITABILITY DECISION.  
Motion by: Garner  
Second by: Prizmich  
Aye: Arbaugh, Chrones, Doyle, Garner, Gillingham, Labahn, Pepler, Powers, Prizmich, Tardiff  
Nay:  
Abstain:  
Not Present: Anderson, Jr., Peck  
**Decision: Affirm**

**PORTILLO, Juan Antonio** **H80425** **Governor Referred**  
Motion: AFFIRM THE JANUARY 14, 2010 SUITABILITY DECISION AS THE GRANTING PANEL COMPLIED WITH THE COURT ORDER.  
Motion by: Prizmich  
Second by: Arbaugh  
Aye: Arbaugh, Chrones, Doyle, Garner, Gillingham, Labahn, Pepler, Powers, Prizmich, Tardiff  
Nay:  
Abstain:  
Not Present: Anderson, Jr., Peck  
**Decision: Affirm**