

BOARD OF PAROLE HEARINGS
En Banc Decisions
Tuesday, July 20, 2010

Compassionate Release - Penal Code section 1170(e)

Pursuant to Government Code section 11126(c)

BROWNING, John Richard

V-99006

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: Labahn

Second by: Anderson

Aye: Anderson, Chrones, Doyle, Garner, Gillingham, Labahn, Peck, Pepler

No: Prizmich, Tardiff

Abstain:

Not Present: Arbaugh

Decision: 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).

O'BRIEN, Jerry Lee

A-40675

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 poses a threat to public safety as evidenced by his mental state and attitude contained in his 2006 psychological evaluation and resistance to authority as evidenced by his unsatisfactory disciplinary history in prison.

Motion by: Garner

Second by: Chrones

Aye: Anderson, Chrones, Doyle, Garner, Gillingham, Labahn, Peck, Pepler, Prizmich, Tardiff

No:

Abstain:

Not Present: Arbaugh

Decision: 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 poses a threat to public safety as evidenced by his mental state and attitude contained in his 2006 psychological evaluation and resistance to authority as evidenced by his unsatisfactory disciplinary history in prison.

En Banc Review

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

CHEUNG, Frank S.

H-51575

Decision Review
(Term Calculation)

Motion: Disapprove the March 30, 2010 proposed decision and schedule a rehearing on the next available calendar for limited purpose of calculating the release date.

Motion by: Pepler

Second by: Anderson

Aye: Anderson, Chrones, Doyle, Garner, Gillingham, Labahn, Peck, Pepler, Prizmich, Tardiff

No:

Abstain:

Not Present: Arbaugh

Decision: Disapprove the March 30, 2010 proposed decision and schedule a rehearing on the next available calendar for limited purpose of calculating the release date.

CONTRERAS, Gina

W-59500

Governor-Referred

Motion: Affirm the January 26, 2010 suitability decision.

Motion by: Peck

Second by: Gillingham

Aye: Anderson, Doyle, Garner, Gillingham, Labahn, Peck, Pepler, Tardiff

No: Chrones, Prizmich

Abstain:

Not Present: Arbaugh

Decision: Affirm the January 26, 2010 suitability decision.

GONZALES, Daniel

J-67167

Decision Review

Motion: Disapprove the March 24, 2010 proposed decision and schedule a rehearing on the next available calendar, based on error of fact identified upon review of confidential central file information.

Motion by: Garner

Second by: Prizmich

Aye: Anderson, Chrones, Doyle, Garner, Gillingham, Labahn, Peck, Pepler, Prizmich, Tardiff

No:

Abstain:

Not Present: Arbaugh

Decision: Disapprove the March 24, 2010 proposed decision and schedule a rehearing on the next available calendar, based on error of fact identified upon review of confidential central file information.

GUEVARA, Johnny

K-96657

Split Decision

(Length of denial of parole consideration)

Motion: Inmate is unsuitable for parole as articulated in the May 12, 2010 hearing decision. The Board finds that the inmate, by clear and convincing evidence as set forth by the presiding Commissioner at the May 12, 2010 hearing, does not require a 15-year denial. For the same reasons, by clear and convincing evidence set forth by the presiding Commissioner, the inmate does not require an additional 10 years of incarceration. The denial length is set at 7 years.

Motion by: Chrones

Second by: Peck

Aye: Anderson, Chrones, Doyle, Gillingham, Peck, Peppler, Tardiff

No: Garner, Prizmich

Abstain: Labahn

Not Present: Arbaugh

Decision: Inmate is unsuitable for parole as articulated in the May 12, 2010 hearing decision. The Board finds that the inmate, by clear and convincing evidence as set forth by the presiding Commissioner at the May 12, 2010 hearing, does not require a 15-year denial. For the same reasons, by clear and convincing evidence set forth by the presiding Commissioner, the inmate does not require an additional 10 years of incarceration. The denial length is set at 7 years.

MURRALES, Jose

P-20025

Governor-Referred

Motion: Affirm the February 2, 2010 suitability decision.

Motion by: Anderson

Second by: Peck

Aye: Anderson, Chrones, Doyle, Garner, Gillingham, Labahn, Peck, Peppler, Prizmich, Tardiff

No:

Abstain:

Not Present: Arbaugh

Decision: Affirm the February 2, 2010 suitability decision.

MEATUSSI, Pele

H-55598

Governor-Referred

Motion: Schedule a rescission hearing pursuant to the following reasons cited in the Governor's letter: (1) lack of insight into prior criminal conduct and, (2) minimization of his responsibility for his actions in the crime.

Motion by: Peppler

Second by: Garner

Aye: Anderson, Chrones, Doyle, Garner, Gillingham, Peck, Peppler, Prizmich, Tardiff

No:

Abstain: Labahn

Not Present: Arbaugh

Decision: Schedule a rescission hearing pursuant to the following reasons cited in the Governor's letter: (1) lack of insight into prior criminal conduct and, (2) minimization of his responsibility for his actions in the crime.

SCHLAPPI, Darryl

E-84521

Governor-Referred

Motion: Affirm the February 18, 2010 suitability decision.
Motion by: Prizmich
Second by: Labahn
Aye: Anderson, Chrones, Doyle, Garner, Gillingham, Labahn, Peck,
Peppler, Prizmich, Tardiff
No:
Abstain:
Not Present: Arbaugh
Decision: Affirm the February 18, 2010 suitability decision.