

**BOARD OF PAROLE HEARINGS**  
**En Banc Decisions**  
**Tuesday, September 15, 2009**

**Compassionate Release – Penal Code section 1170(e)**  
Pursuant to Government Code section 11126(c)(4)

**ALDEN, Robert**

**C-28529**

**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: Anderson, Doyle, Gillingham, Labahn, O'Hara, Tardiff

No: Arbaugh, Petrakis, Prizmich

Abstain:

Not Present: Chabot, Chrones, Garner

**Decision: 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).**

**DENT, Kym**

**K-43415**

**Compassionate Release**

Motion: Refer to court for consideration of sentence recall because the prisoner is terminally is 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: O'Hara

Second by: Anderson

Aye: Anderson, Arbaugh, Doyle, Gillingham, Labahn, O'Hara, Petrakis, Prizmich, Tardiff

No:

Abstain:

Not Present: Chabot, Chrones, Garner

**Decision: Refer to court for consideration of sentence recall because the prisoner is terminally is 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).**

**GARCIA, Ramon**

**D-78387**

**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:

Petrakis

Second by:

Gillingham

Aye:

Anderson, Arbaugh, Doyle, Gillingham, Labahn, O'Hara, Petrakis, Tardiff

No:

Prizmich

Abstain:

Not Present:

Chabot, Chrones, Garner

**Decision:**

**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).**

**KEECH, Richard**

**K-86028**

**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:

Anderson

Second by:

Petrakis

Aye:

Anderson, Arbaugh, Doyle, Gillingham, Labahn, O'Hara, Petrakis

No:

Prizmich, Tardiff

Abstain:

Not Present:

Chabot, Chrones, Garner

**Decision:**

**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).**

**PIERCE, Michael**

**D-01891**

**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: Anderson

Second by: O'Hara

Aye: Anderson, Arbaugh, Doyle, Gillingham, Labahn, O'Hara, Petrakis, Tardiff

No: Prizmich

Abstain:

Not Present: Chabot, Chrones, Garner

**Decision: 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).**

**RIVERA, Eddie**

**C-56704**

**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) due to the violent commitment offense and the fact that the inmate's physical condition doesn't preclude him from general population housing and is therefore capable of violence.

Motion by: O'Hara

Second by: Anderson

Aye: Anderson, Arbaugh, Doyle, Gillingham, Labahn, O'Hara, Petrakis, Prizmich, Tardiff

No:

Abstain:

Not Present: Chabot, Chrones, Garner

**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) due to the violent commitment offense and the fact that the inmate's physical condition doesn't preclude him from general population housing and is therefore capable of violence.**

## En Banc Review

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

**ABAD, Russell** **H-93114** **Governor Referred**  
Motion: Affirm the April 1, 2009 suitability decision.  
Motion by: O'Hara  
Second by: Tardiff  
Aye: Anderson, Doyle, Gillingham, Labahn, O'Hara, Petrakis,  
Tardiff  
No: Arbaugh, Prizmich  
Abstain:  
Not Present: Chabot, Chrones, Garner  
**Decision: Affirm the April 1, 2009 suitability decision.**

**BENTLEY, John** **E-83807** **Governor Referred**  
Motion: Affirm the March 2, 2009 suitability decision.  
Motion by: Anderson  
Second by: O'Hara  
Aye: Anderson, Arbaugh, Doyle, Gillingham, Labahn, O'Hara,  
Petrakis, Prizmich, Tardiff  
No:  
Abstain:  
Not Present: Chabot, Chrones, Garner  
**Decision: Affirm the March 2, 2009 suitability decision.**

**EARNEST, Michael** **H-12097** **Governor Referred**  
Motion: Affirm the April 14, 2009 suitability decision.  
Motion by: Prizmich  
Second by: Arbaugh  
Aye:  
No:  
Abstain:  
Not Present:  
**Decision: Due to lack of quorum, motion to be carried over for consideration at October 2009 Board Meeting.**

**SLEDGE, Curtis** **C-30617** **Decision Review**  
Motion: If the new proposed residence is verified as viable before the decision review period expires, then the grant shall be upheld. If not, then the matter shall be scheduled for a rehearing on the next available calendar with the same panel if feasible.  
Motion by: Anderson  
Second by: Petrakis  
Aye: Anderson, Arbaugh, Doyle, Gillingham, Labahn, O'Hara, Petrakis, Prizmich, Tardiff  
No:  
Abstain:  
Not Present: Chabot, Chrones, Garner  
**Decision: If the new proposed residence is verified as viable before the decision review period expires, then the grant shall be upheld. If not, then the matter shall be scheduled for a rehearing on the next available calendar with the same panel if feasible.**

**SWYGERT, Curtis****D-83157****Decision Review**

Motion: Vacate the June 4, 2009 proposed decision and schedule a rehearing on the next available calendar with the same hearing panel if feasible.

Motion by: Prizmich

Second by: Petrakis

Aye: Anderson, Arbaugh, Doyle, Gillingham, Labahn, O'Hara, Petrakis, Prizmich, Tardiff

No:

Abstain:

Not Present: Chabot, Chrones, Garner

**Decision: Vacate the June 4, 2009 proposed decision and schedule a rehearing on the next available calendar with the same hearing panel if feasible.**

**VERDIN, Hector****J-80213****Governor Referred**

Motion: Affirm the April 17, 2009 suitability decision.

Motion by: Arbaugh

Second by: Anderson

Aye: Anderson, Arbaugh, Doyle, Gillingham, Labahn, O'Hara, Petrakis, Prizmich, Tardiff

No:

Abstain:

Not Present: Chabot, Chrones, Garner

**Decision: Affirm the April 17, 2009 suitability decision.**