



OFFICE OF THE DISTRICT ATTORNEY

COUNTY OF VENTURA, STATE OF CALIFORNIA

GREGORY D. TOTTEN
District Attorney

JANICE L. MAURIZI
Chief Assistant District Attorney

MICHAEL K. FRAWLEY
Chief Deputy District Attorney
Administrative Services

W. CHARLES HUGHES
Chief Deputy District Attorney
Special Prosecutions

MICHAEL R. JUMP
Chief Deputy District Attorney
Victim & Community Services

MICHAEL D. SCHWARTZ
Special Assistant District Attorney
Justice Services

R. MILES WEISS
Chief Deputy District Attorney
Criminal Prosecutions

MICHAEL BARAY
Chief Investigator
Bureau of Investigation

September 13, 2017

Board of Parole Hearings
Attn: Nonviolent Parole Review Process
P. O. Box 4036
Sacramento, CA 95812-4036

**Re: Inmate Gerald Richard Navarro; CDCR J58416
Ventura County Superior Court Cases CR34434, CR33420
Opposition Letter Due to Board of Parole Hearings September 13, 2017**

Dear Board Members:

This letter is written to recommend denial of early parole for inmate Gerald Navarro. In March 1995, the inmate was sentenced to 36 years 4 months on the above cases. Both cases were violent felonies. This recommendation to deny early release is based upon:

- 1) The inmate is not eligible for early release since his commitment offenses were violent felonies per Penal Code section 667.5(c).
- 2) The inmate's significant criminal history.
- 3) The unreasonable risk of violence to the community if the inmate is released early.

PROP 57 DOES NOT APPLY SINCE THE INMATE IS NOT "NONVIOLENT"

As set for in Title 15, Division 3, New Subchapter 5.5, Article 1, Section 3490, early parole consideration under Proposition 57 applies only to "nonviolent offenders." This section defines a "nonviolent offender" as:

Any inmate who is not (1) condemned, (2) currently incarcerated for a term of life without the possibility of parole, (3) currently incarcerated for a term of life with the possibility of parole, (4) currently serving a term for a violent felony as defined in Penal Code section 667.5, subdivision (c), or (5) convicted of a sex offense that currently requires registration pursuant to Penal Code section 290 . . .

Inmates currently serving a term for a violent felony offense, as defined in Penal Code section 667.5, subdivision (c), are excluded from parole consideration because the crimes listed in that section of the Penal Code involves physical violence. However, inmates who have completed a violent offense term but remain incarcerated for offenses that do not qualify as a violent felony will be eligible for parole consideration, in accordance with court decisions.

The inmate was sent to prison in case CR34434 for a total of 26 years 4 months. The court sentenced him to the upper term on the principal count of carjacking (Pen. Code § 215) for 18 years. He was sentenced to 16 months (one-third the midterm of four years on the false imprisonment), two years for an out on bail allegation, and five years for the Penal Code 667(a) prior.

In case CR33420, the inmate was sentenced to 10 years, consecutive to case CR34434. There, he was convicted of four counts of armed robbery, a violation of Penal Code section 211/12022.5, and one count of auto theft, a violation of Vehicle Code section 10851. He was sentenced to one-third the midterm on four armed robbery counts (one year for the robbery, and 16 months for the 12022.5 gun allegation) for a total of 9 years 4 months for four counts. The auto theft was imposed at one-third the midterm, or eight months, for a total of 10 years.

The inmate is not eligible for early release since both commitment cases are violent felonies. When the defendant was sentenced on both cases on March 24, 1995, the court chose carjacking, a violent felony per Penal Code section 667.5(c)(17), as the principal term. Four of the six subordinate counts, the four armed robberies, are also violent felonies per Penal Code section 667.5(c)(9) and 667.5(c)(22). Only two subordinate counts, the false imprisonment and auto theft, are nonviolent; however, those two nonviolent counts only constitute two years of the 36 year 4-month sentence.

FACTS OF COMMITMENT OFFENSES FROM APPELLATE OPINION

CR33420

On January 10, 1994, Jose Monterosa discovered that his 1975 Datsun was missing. Mr. Monterosa had not give anyone permission to take the car, nor had he leave the keys in the ignition.

On January 23, 1994, Steven Damon, Robert Ward, and Javier Yuniga were guests at a hotel in city of Oxnard. At approximately 2:00 a.m., they were in the lobby speaking with the desk clerk, Tamara Aulty. The inmate entered the hotel lobby, pulled a gun out of his pocket and demanded money from the men. He also demanded Ms. Aulty open the hotel cash drawer. The victims complied. The inmate took the men's money, Mr. Ward's wallet, and \$500 cash from the cash drawer.

As the inmate was leaving the hotel lobby, he paused to tell the victims that he did not want to be followed. Mr. Damon took that opportunity to get a good look at the inmate's clothing and face. After the inmate left, Ms. Aulty called the police and the men ran outside to see the inmate's car and the direction he was driving. The inmate left in a blue car.

When the police arrived, the victims described the inmate and the car. An officer on patrol nearby saw the inmate's car. The officer attempted to follow, but lost sight of the car momentarily. When the officer saw the car again, its lights were out. He followed the car to an apartment complex where the inmate and a passenger exited the car and fled on foot. The officer chased the inmate and apprehended him.

As the officer struggled with the inmate, the officer's gun accidentally discharged, striking the inmate in the wrist. Other officers arrived and located Mr. Ward's wallet in the inmate's possession.

The inmate was transported to the hospital, and while there the victims identified him as the robber. Ms. Aulty was initially unsure, so she asked to see the inmate's clothes. She identified the inmate's jacket as the one worn by the robber.

The car the inmate drove was the car stolen from Mr. Monterosa. The car had a shattered window and the wires under the driver's side of the dashboard looked as if the vehicle had been hotwired.

CR34434

On June 16, 1994, Gilberto Gonzalez was standing outside his car cleaning the windshield. The keys were in the ignition and the engine was running. The inmate walked up to Mr. Gonzalez, displayed a long knife and demanded the victim's wallet. Mr. Gonzalez gave the inmate his wallet. The inmate then entered the victim's car and drove away. The inmate stopped after he drove a short distance, returned Mr. Gonzalez's wallet to him, and went into an apartment complex across the street.

A neighbor summoned the police. When officers arrived, they heard loud voices coming from an apartment. Once inside the apartment, officers witnessed the inmate talking on the telephone stating he had taken a car from a man at knife point. As officers attempted to handcuff the inmate, he escaped and ran to another apartment complex.

Amelia Lopez found the inmate in her apartment. She told him to leave, but he refused. When she attempted to leave her apartment, the inmate grabbed her hand and threatened to kill her if she left. He took a knife from the kitchen, pointed it at her, and threatened to kill her if she screamed. The inmate also held the knife to her throat and covered her mouth with his hand. Officers searching for the inmate heard Ms. Lopez crying and broke down the door to her apartment. After a struggle, the inmate was arrested and taken to a hospital for a blood sample. In the hospital, he spat in an officer's face.

CRIMINAL HISTORY

The inmate has an extensive criminal history that dates to 1980. Unfortunately, substantive details of the inmate's criminal history prior to his commitment offenses are sparse. Nevertheless, below is a summary of the inmate's arrests and prior convictions.

- April 1980 – Arrest/detained for assault, inhalation of poison fumes, and disruption of school activities. As a juvenile, he was counseled and released.
- April 1986 – Arrested and convicted of being under the influence of a controlled substance.
- July 1986 – Arrested and convicted of being under the influence of a controlled substance.
- November 1986 – Arrested for burglary.
- October 1987 – Arrested for being under the influence of a controlled substance and disobeying a court order.
- November 1987 – Convicted of disobeying a court order.
- November 1988 – Arrested for being under the influence of a controlled substance and providing false information to police. Convicted of providing false information to police.

- December 1988 – Convicted of being under the influence of a controlled substance.
- December 1989 – Convicted of being under the influence of a controlled substance.
- December 1989 – Arrested for burglary, possession of stolen property, and being under the influence of a controlled substance.
- March 1990 – Arrested for giving false information to a peace officer, and being under the influence of a controlled substance. Convicted of giving false information to peace officer and DUI in May 1990.
- May 1990 – Sent to CDCR as narcotic addict for 16 months.
- January 1992 – Arrested and convicted for receiving/possession stolen property and being under the influence of a controlled substances.
- March 1993 – Convicted of being under the influence of a controlled substance.
- December 1993 - Convicted of being under the influence of a controlled substance.
- March 1994 - Arrested for possession of drugs/alcohol in jail, being under the influence of a controlled substance, oral copulation of an unconscious person, false imprisonment, and sexual battery.

DISCUSSION

Two separate Ventura County juries found the inmate guilty in his commitment cases. The inmate's conduct in both cases was extremely violent. Seven of the nine charges that sent him to prison for more than 36 years, are "violent felonies" per Penal Code section 667.5(c). As such, the defendant is not eligible to be released early on parole per Proposition 57.

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Moreover, granting early parole of the inmate poses a risk of safety to the community. Since 1980, the inmate has engaged in criminal activity. The inmate's extensive criminal history exhibits an inability to remain crime free. In fact, the inmate was out on bail in the armed robbery offense (case CR33420), when he carjacked Mr. Gonzalez (case CR34434). Given his past conduct, and history of using deadly weapons to take of other people's property, the inmate clearly presents a risk to the community and should not be released early.

CONCLUSION

The inmate poses an unreasonable risk of violence to the community if granted early parole. I respectfully request the Board deny early parole for the inmate.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Gregory D. Totten", with a large circular flourish above the name.

GREGORY D. TOTTEN
District Attorney

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E-mail: BPH.CorrespondenceUnit@cdcr.ca.gov