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October 10, 2017

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

**Re: Inmate Daniel Moyo Benitez; CDCR BD8610
Ventura County Superior Court Cases 2009021884, 2009022745, 2012000509,
2016019564
Opposition Letter Due to Board of Parole Hearings October 10, 2017**

Dear Board Members:

This letter is written to recommend denial of early parole for inmate Daniel Benitez. Just three months ago the inmate was sentenced to serve 9 years 8 months in prison for a total of four separate felony cases. If released now, the inmate will have served less than 30 percent of his total sentence. This recommendation to deny early release is based upon:

- 1) The inmate's commitment offenses.
- 2) The inmate's significant criminal history.
- 3) The unreasonable risk of violence to the community if the inmate is released early.

CIRCUMSTANCES OF COMMITMENT OFFENSES

Case 2009021884

On March 3, 2009, while working at her job cleaning houses, the inmate's mother misplaced her cell phone and accused victim Martha Hernandez, her employee, of stealing it. She began to physically assault the victim, who responded by threatening to call the police. In return, the inmate's mother threatened to kill the victim. Shortly after the incident, the inmate called the victim and stated, "Don't waste the gas going to the

police station. I'm on the way over with my gang. We're going to kill all of you." On March 10, 2009, a call was made to the inmate's mother, who hung up on the caller. One minute later, the inmate called the victim and again made threats. He claimed he had been "kicked out" of Tijuana and said it was "not worth fucking with [him]." Later, a police officer posed as the victim's husband and contacted the inmate, who stated, "Hey home boy, you don't have any idea who you are fucking with, man. . . I'm from Tijuana." During his arrest, the inmate denied making any threats and claimed that the victim had gang ties and had threatened him and his mother.

On July 16, 2009, the inmate pled guilty to felony criminal threats, a violation of Penal Code section 422, and was placed on probation. On July 21, 2017, probation was ordered terminated unsuccessfully, and the inmate was sentenced to eight months in prison, to be served consecutively to case 2016019564 below.

Case 2009022745

On April 19, 2009, during a traffic stop, the inmate claimed to have lost his driver's license and provided the name and birthdate of his brother, victim Richard Benitez. The inmate was cited for several violations. On June 3, 2009, after discovering these citations had been issued in his name, the victim went to police and informed them that the inmate had a history of falsely using his identifying information. Police interviewed the inmate, who was in custody on another matter, and the inmate denied any involvement. However, he later stated that he had "misled" the officer who issued the citations.

On July 16, 2009, the inmate pled guilty to false impersonation of another, a violation of Penal Code section 529(3), and was placed on probation. On July 21, 2017, probation was ordered terminated unsuccessfully, and the inmate was sentenced to 1 year 4 months prison, to be served concurrently with case 2012000509 below.

Case 2012000509

On November 29, 2011, the inmate went to a restaurant and identified himself as a music promoter. He was loud and disruptive with the staff, causing the owner/manager, victim Marcus Henkle, to confront him. The inmate told the victim that he wanted to do "some promoting" for him. He then accused another music promoter, victim Tam Nguyen, of being a drug dealer. When Mr. Henkle asked the inmate to leave, the inmate continued to yell accusations and threatened that the restaurant would be shut down.

On December 8, 2011, early in the afternoon, Mr. Henkle received an angry call from the inmate. The inmate was yelling and very agitated. He accused Mr. Henkle of insulting and offending "a friend" who had previously gone to Mr. Henkle's restaurant. When Mr. Henkle asked the inmate what he wanted, the inmate replied, "You fat fuck. I want you dead. I want your brother in Houston dead. I want your dad dead." The inmate continued to yell, and he threatened to send the Mexican Mafia to shoot Mr. Henkle in front of his restaurant, causing Mr. Henkle to be in great fear for his life and the lives of his family members.

On December 10, 2011, Mr. Henkle received another call from the inmate. The inmate accused Mr. Henkle of sending two "thugs" to his home. Mr. Henkle denied doing this, and he told the inmate that he did not know why he was angry. The inmate said that his problem was with victim Mr. Nguyen. Earlier that day, the inmate had arrived at Mr. Henkle's restaurant, where an event was taking place. Mr. Nguyen was outside greeting guests when he was approached by the inmate. The inmate threatened to shoot him if he did not pay him \$10,000 by January 1. The inmate then left the area. When the inmate delivered this threat to Mr. Nguyen, he did so in violation of an order not to contact Mr. Nguyen, a condition of a probation term the inmate sustained for having previously threatened Mr. Nguyen. (Pen. Code § 422.)

On January 5, 2012, police executed a search warrant at the inmate's residence. A search of the inmate's vehicle yielded a stun gun, possession of which was a violation of the his terms of probation. The inmate had brandished this stun gun at a different establishment in an unrelated incident. The inmate initially denied calling Mr. Henkle, but eventually admitted that he called him because he felt "disrespected." He maintained that he had made no threats to either victim, and he blamed the victims for all of the encounters.

On June 23, 2017, the inmate pled guilty to felony criminal threats, a violation of Penal Code section 422. Additionally, the inmate admitted a strike prior, as well as a serious felony prior per Penal Code section 667(a)(1). The inmate was sentenced to 7 years 8 months prison.

Case 2016019564

On April 4, 2016, a police officer conducted a traffic stop on the inmate. When contacted by the officer, the inmate provided the identifying information of his brother, victim Richard Benitez. Believing the inmate to be the victim, the officer issued a citation in the victim's name, which the inmate signed. On May 18, 2016, the inmate's mother, Sonia Moyo, contacted police. She told police that she had found the citation while

cleaning the inmate's room. Because the mother knew the victim was residing in Colorado, she believed that the inmate had used the victim's identifying information and passed it off as his own. In response to this information, police contacted the victim on the telephone. The victim stated that the inmate had used his identifying information in the past, that he had not visited California in over six months, and that he had not given the inmate permission to use his identifying information.

Shortly after contacting the victim, police contacted the inmate at his residence and questioned him about his unauthorized use of his brother's identifying information. The inmate began calling the victim an "asshole," and said, "It's a misdemeanor." When advised that his actions in fact constituted a felony, the inmate claimed that he was employed by the Rams. He told police, "Honestly, the truth is my fucking tickets are so fucking bad, it's fucked up." He then asked what "the big fucking deal" was that he used his brother's identifying information.

On June 22, 2017, the inmate pled guilty to false personation of another, a violation of Penal Code section 529. Additionally, the inmate admitted a strike prior, as well as to committing the charged felony offense while out on bail per Penal Code section 12022.1(b). On July 21, 2017, the inmate was sentenced to 1 year 4 months in prison, to be served consecutively to the sentence in case 2012000509 above.

CRIMINAL HISTORY

The inmate has an extensive criminal history that dates back to 1990.

As a juvenile, the inmate sustained convictions or citations for the following:

- 1990 – Exhibiting an imitation firearm in a threatening manner (Pen. Code § 417.2)
- 1990 – Petty theft. (Pen. Code § 484(a))
- 1993 – Vandalism. (Pen. Code § 594(b)(2))

In addition to his convictions for the commitment offenses, as an adult the inmate has suffered convictions for the following:

- 1994 – Criminal trespassing (Pen. Code § 602(j))
- 1994 – Attempted theft by false pretenses (Pen. Code § 664/532(a))
- 1996 – Driving under the influence (Veh. Code § 23152(a))
- 1999 – Transportation or sale of a controlled substance (Health and Saf. Code § 11379(a))
- 1999 – Driving under the influence (Veh. Code § 23152(a))

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1999 – Being under the influence of a controlled substance (Health and Saf. Code § 11550(a))
2009 – Criminal threats (Pen. Code § 422)

DISCUSSION

Granting early parole of the inmate poses a risk to the safety of the community. Since 1990, the inmate has been arrested or convicted at least 12 separate times. The inmate's criminal history exhibits a pattern of using threats and fear to get his way, or in response to some perceived slight.

Traces of this behavior can be seen as far back as the inmate's youth, when he exhibited an imitation firearm in a threatening manner. The behavior continued through his adult life, resulting in three separate convictions of making criminal threats. The nature of the threats themselves is strikingly callous. The inmate has threatened to personally shoot someone, to send his gang to kill a woman, and to send the Mexican Mafia to kill not only the man he was threatening, but the man's father as well. The victims of the inmate's threats were understandably placed in great fear for their lives as well as for those of their loved ones.

Criminal convictions have clearly done nothing to change the inmate's behavior. One of the victims of the inmate's criminal threats in 2011 was a man to whom the inmate had been convicted of making criminal threats before, in his 2009 conviction. There is an alarmingly high potential for the inmate to reoffend given these facts, and the escalating nature of the inmate's threats suggests a potential for the inmate to go even further and commit physical violence against his victims in the future.

In addition to his pattern of making criminal threats, the inmate's criminal history reveals other concerning tendencies as well. The inmate uses his brother's identity without hesitation to avoid responsibility for breaking the law. The inmate has displayed little regard for the safety of others, having sustained convictions for driving under the influence, being under the influence of a controlled substance, and transportation or sale of a controlled substance.

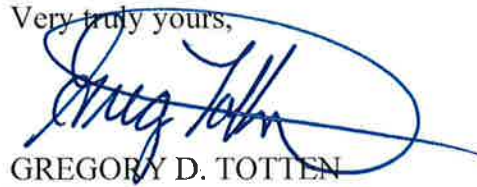
The inmate has violated probation on five separate occasions. Two of those violations have resulted in part of the sentence he is currently serving. It is clear the inmate has not reformed, and he should serve his full prison term. It is not reasonable to believe this inmate has been rehabilitated in the short time he has been in the custody of CDCR.

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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", is written over a large, loopy blue scribble that partially obscures the text below.

GREGORY D. TOTTEN
District Attorney

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