



OFFICE OF THE DISTRICT ATTORNEY

COUNTY OF VENTURA, STATE OF CALIFORNIA

GREGORY D. TOTTEN
District Attorney

MICHAEL D. SCHWARTZ
Chief Assistant District Attorney

MICHAEL K. FRAWLEY
Chief Deputy District Attorney
Administrative Services

CHERYL M. TEMPLE
Chief Deputy District Attorney
Special Prosecutions

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

W. CHARLES HUGHES
Chief Deputy District Attorney
Justice Services

R. MILES WEISS
Chief Deputy District Attorney
Criminal Prosecutions

MICHAEL BARAY
Chief Investigator
Bureau of Investigation

September 28, 2018

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

Re: **Inmate Diego Javier Martinez; CDCR AX9190**
Ventura County Superior Court Case 2014007944
Opposition Letter Due to Board of Parole Hearings October 4, 2018

Dear Board Members:

This letter is written to recommend denial of early parole for inmate Diego Martinez. In September 2015, the inmate was sentenced to six years in state prison for brutally attacking a prison guard. Releasing the inmate early now means he would have served only 50 percent of his actual sentence. This recommendation is based upon:

- 1) The inmate's commitment offense.
- 2) The inmate's criminal history and failure to be crime free.
- 3) The unreasonable risk of violence to the community if released early.

CIRCUMSTANCES OF COMMITMENT OFFENSE

On December 14, 2014, the inmate was in custody in the CDCR Division of Juvenile Justice for his commitment of assault with a firearm for the benefit of a criminal street gang in a case where the inmate personally discharged a firearm. The inmate was a member of the Long Beach-based 9th Street Locos Gang and documented as a Sureño. At the time of the offense, the inmate was housed in the Monte Vista housing unit, which was reserved for the most serious juvenile offenders. At approximately 7:35 p.m. the inmate was in the dayroom with seven other documented Sureños.

One Sureño member, Salvador Ojeda, requested that Youth Correctional Counselor ("YCC") Richard Glassman allow him to use the phone. YCC Glassman entered the dayroom and was struck in the back of the head by Ojeda. Another Sureño, Rafael Fabian, punched and kicked YCC Glassman. The other six Sureño inmates,

including the inmate, joined in the attack. They demanded his keys, and when YCC Glassman did not relent, the inmates continued their attack.

At that point, YCC Sean Copeland entered the dayroom to assist YCC Glassman. Ojeda fought with YCC Copland, and Ojeda obtained his keys which he passed to Sureño Jose Moreno. Moreno used the keys to open the dayroom, and all of the Sureño inmates, including the inmate, escaped. The eight Sureño inmates ran to the door of an African-American inmate and attempted to open the door with the keys. (There had been multiple altercations in the facility between Sureño inmates and African-American inmates, including many from this particular group of Sureños and this particular African-American inmate.)

At the same time, YCC Michael Bennett had responded from a separate housing unit and was running toward the Sureño inmates. YCC Bennett kicked Moreno away from the African-American inmate's door. YCC Bennett and other responding officers gained momentary compliance from the eight Sureños. However, Moises Henriquez suddenly punched YCC Bennett in the face and torso. Henriquez was eventually restrained.

YCC Glassman suffered a concussion, nasal fracture, rib fractures, fractured teeth, multiple bruises, and required surgery to repair his knee. His career was ended by the group of Sureño inmates – he was never able to return to work as a result of the attack.

The inmate was convicted of a violation of Penal Code section 182/245(a)(4), conspiracy to commit an assault by means likely to produce great bodily injury, with the gang enhancement for the benefit of the Sureños. The inmate admitted a strike prior.

CRIMINAL HISTORY

The inmate has a juvenile criminal history, along with his current adult felony conviction. Below is a list of the crimes for which the inmate has been convicted:

- October 2010 - Penal Code section 245(a)(2), 12022.5(a), 186.22(b) (felony) assault with a firearm for the benefit of a criminal street gang.
- May 2011 - Penal Code section 69 (misdemeanor) resisting an executive officer.
- July 2015 - Penal Code section 148(a) (misdemeanor) resisting arrest.
- August 2015 - Penal Code section 182(a)(1)/245(a)(4), 186.22(b) (felony) conspiracy to commit assault likely to produce great bodily injury (current case).

Board of Parole Hearings
Re: Diego Javier Martinez; CDCR AX9190
September 28, 2018
Page 3

DISCUSSION

The inmate clearly presents a danger to the public. For his 2010 conviction, he was sentenced to a maximum confinement time of 24 years 4 months for shooting a victim in the face and leg with a shotgun. The victim was a rival gang member.

Just four years into his sentence, the inmate committed the vicious attack with seven other gang members on an unsuspecting prison guard. The victim in that case suffered a concussion, nasal fracture, rib fractures, fractured teeth, multiple bruises, and a right knee injury. The victim was never able to return to work because of the injuries he sustained in the attack. This inmate is violent in and out of custody. He should serve his full sentence.

CONCLUSION

The inmate poses an unreasonable risk of violence to the community if granted early parole. Moreover, a grant of early parole does not sufficiently punish the inmate for his commitment offense since he has not served the full sentence imposed by the court. I respectfully request the Board deny early parole for the inmate.

Very truly yours,



GREGORY D. TOTTEN
District Attorney

GDT:bh

By e-mail: BPH.CorrespondenceUnit@cdcr.ca.gov