




GREGORY D. TOTTEN
District Attorney

NEWS RELEASE

vcdistrictattorney.com

Twitter: @VenturaDAOoffice

Contact: Michelle Contois
Deputy District Attorney
Telephone: (805) 654-3078
E-mail: michelle.contois@ventura.org
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Commutation of Life Without Parole Sentence of Todd Hess

VENTURA, California –District Attorney Gregory D. Totten expressed great disappointment today in Governor Brown’s decision to commute the sentence of Todd Hess. In 1987, Hess was tried and convicted for the senseless killing of Scott James, a 30-year-old Navy veteran working a second job as a gas station convenience store clerk to earn money for college. The commutation means that Hess’s sentence of life without the possibility of parole is commuted to a term of 32 years to life. A parole suitability hearing has been scheduled May 7, 2019, at which time the parole board may choose to release Hess back into society.

Hess shot James in the back of the head while James was turned toward the cash register, presumably complying with Hess’s gunpoint demand for money. Hess expressed no remorse for the brutal killing. Instead he bragged to other inmates about the injury his bullet caused and telling a probation officer that he had adopted the attitude of “it never happened” in the aftermath of the murder. In jail pending trial, Hess ran a credit card scheme to purchase expensive merchandise fraudulently for family and friends and attempted to pay to have a witness murdered with fraudulently purchased merchandise.

Governor Brown’s statement regarding executive clemency makes no mention of these brutal facts but notes only that Hess has availed himself of educational and training opportunities in prison. Tragically, his victim, who will never get a second chance, was attempting to pay for his own education when Hess murdered him.

A copy of the District Attorney's letter of opposition regarding the commutation and the Governor's statement are provided with this news release.

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The Ventura County District Attorney's Office is the public prosecutor for the county's 850,000 residents. The office employs approximately 280 employees including attorneys, investigators, victim advocates, and other professional support staff who strive to seek justice, ensure public safety, and protect the rights of crime victims.

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COUNTY OF VENTURA, STATE OF CALIFORNIA

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District Attorney

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Chief Deputy District Attorney
Criminal Prosecutions

MICHAEL BARAY
Chief Investigator
Bureau of Investigation

August 24, 2018

Ron Rackley, Senior Investigator
Senior Investigator
Board of Parole Hearings
P.O. Box 4036
Sacramento, CA 95812-4036

Re: Formal Opposition to Request for Executive Clemency, Todd Michael Hess

Dear Mr. Rackley:

As you have requested, I am submitting this formal opposition to Todd Hess's request for Executive Clemency in the form of commutation of his sentence to life without the possibility of parole for his conviction for first degree murder and robbery. The victim Scott James, a 30-year-old Navy veteran, was working a second job as a gas station convenience store clerk to earn money for college. I object to Hess's request for clemency and urge you to deny his request.

I have read Hess's application. Most striking for me is his description of the crime. Hess states that he and someone he just met hatched a plan to rob a gas station after getting "stuck" without gas money. Hess further states, "the clerk attempted to take the gun away from us and got shot and died." This statement is false on several fronts.

First, the evidence at trial demonstrated that Hess and his crime partner, Richard Bennison, knew each other for up to two weeks prior to the murder, and had been planning a robbery for two or more days. Hess had been in possession of the murder weapon for some time prior to the murder and had bragged that a person could kill somebody with the gun, because it could not be traced. On multiple occasions, Hess demonstrated his ability to fire the gun and let his acquaintances fire it as well. One witness testified the trigger was difficult to pull. Later testing confirmed this, measuring the average trigger pressure at 10 pounds, nearly twice that of most newer guns at the time. The difficulty in pulling the trigger means an accidental discharge was unlikely.

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Hess and Bennison were not stuck without gas money; they were looking for a place to rob. A friend of Bennison's had heard them "joking" about committing a robbery some time prior to the homicide. Hess later told another inmate that he chose the victim's gas station because it had a poor security system. There were at least seven other stations in the nearby vicinity, but none as isolated as the station they chose to rob. Still, when Hess and Bennison first approached the gas station, Hess felt it was "too crowded." They later drove past the gas station and circled around, finding most of the other vehicles were gone, so they entered.

The evidence established that Hess was the only person to enter the gas station market. His prints were found on a soda can in the market refrigerator and were consistent with prints found on another soda can left on the counter near James's body. Bennison's prints, on the other hand, were not found inside the store.

Hess made incriminating statements to several people after the crime, but he never once claimed that James tried to take the gun away from Hess. The truth is, Hess shot James at very close range in the *back* of the head, just above the neck. This forensic fact is consistent with Hess's retelling of the crime to a fellow inmate: Hess, standing no more than 12 inches away, and completely unprovoked, shot James in the back as James turned to ring up Hess's purchase.

Death, caused by the severing of the spinal cord, was immediate. Hess stepped over James's body to reach the cash drawer and stepped over James's body once more before exiting the store.

Bennison confessed to police the next day and led them to Hess. The two were in jail at the same time awaiting trial on this case. Both made several statements to fellow inmates. When Hess was made aware that Bennison planned to testify against him, he tried to arrange Bennison's murder. Bennison falsely told another inmate that a security guard had witnessed the shooting. When that information was passed on to Hess, Hess tried to arrange for the murder of the security guard as well.

Hess planned to pay for the murder of Bennison and the fictional security guard by capitalizing on a credit card scheme he had been running while in jail. Using credit card information he had stolen from discarded carbon slips – the most common manner of processing a credit purchase at the time required making an imprint of the card using pressure and carbon paper – Hess would pay for phone calls as well as miscellaneous items for people outside the jail. Evidence established he had purchased flowers for his mother, a barrel for a firearm, and an engagement ring, all by phone from inside the jail using stolen credit card numbers.

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Hess has never shown remorse for his crime. In jail, pending his trial, Hess was asked by a fellow inmate if James had died right away. Hess responded heartlessly, "if the bullet goes in this big (using his pinky finger to indicate a small diameter) and comes out that big (indicating a larger diameter by making a circle with his thumb and forefinger), you know, there's not much left." That same inmate asked Hess how it felt to shoot somebody. Hess's callous response was to shrug his shoulders, arms bent, hands up, as if to say, "no big deal."

Hess told the probation officer preparing his sentencing report that he had adopted the attitude that "it" – the murder – "never happened" and decided not to let it bother him. He was proud of being called "the number man" in jail due to his use of other people's credit card numbers, but professed that his attempt to arrange a murder was just a joke to pass the time.

Unremorseful even at sentencing, Hess arrogantly predicted he would not serve his life in prison. He believed changes in the law or successful appeals would ensure his release within 20 years.

Attached to this letter is a recent letter from [REDACTED] Scott James's mother, and [REDACTED], James's cousin, expressing their opposition to Hess's application for clemency. Also attached is a copy of the probation report, which includes a letter from [REDACTED] written at the time of Hess's sentencing, and a copy of the Respondent's Brief from Hess's direct appeal, which sets out in far greater detail the facts underlying Hess's conviction. In 2017, Hess sought resentencing pursuant to Penal Code section 1170. His petition was denied because Hess did not meet the statutory requirements for resentencing. His attorney on appeal of that decision filed a brief conceding there was no error in the judgment.

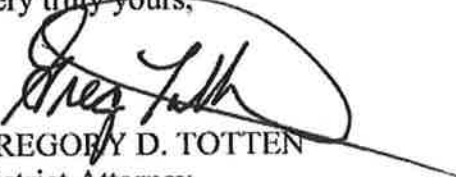
Hess's application aptly demonstrates his continued and utter lack of remorse. His words reflect the "it didn't happen" "no big deal" attitude that he adopted after the murder. He claims the victim "got shot" without taking responsibility for the fact that he shot the James, who was not resisting the robbery, in the back. That Hess has no meaningful understanding of the crime he committed speaks loudly to the fact he had not truly changed.

Hess cites his accomplishments in learning and performing job skills. But he expresses no sympathy for James, whom Hess killed for simply doing his job. James, who had a full-time job at an engineering company, took a part time job at the gas station to earn extra money for college. James was working toward improving his life and Hess intentionally took his life and future.

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If your staff has any questions or requires further information, they may contact me at (805) 654-2501 or Deputy District Attorney Michelle Contois at (805) 654-3078.

Very truly yours,



GREGORY D. TOTTEN
District Attorney

GDT/elb

Attachments

By email: Ronald.Rackley@CDCR.ca.gov

Executive Department

State of California

COMMUTATION OF SENTENCE

Todd Hess

In 1986, Todd Hess and his crime partner planned to rob a gas station. Mr. Hess went into the store and, during the robbery, shot gas station cashier Scott James, killing him. On November 24, 1987, the Ventura County Superior Court sentenced Mr. Hess to life without the possibility of parole for murder.

When Mr. Hess applied for a commutation, he detailed the efforts he has undertaken to turn his life around and rehabilitate himself. He wrote, "I believe that after 32 years in prison, I have matured and have learned from my mistakes."

Mr. Hess is now 53 years old and has been incarcerated for over three decades. During that time, he has shown a remarkable commitment to living a productive life despite serving a sentence that offers him no hope of release. Mr. Hess earned his GED and took college classes. He has not been disciplined for misconduct in almost ten years, and has never been involved with gangs in prison. Mr. Hess routinely receives positive work ratings, and his supervisors have consistently commended him for his strong work ethic, positive attitude, and motivation. In 2018, a Prison Industry Authority supervisor wrote that Mr. Hess was an "exceptional worker" and was "conscientious, hardworking, diligent, and self-motivated." Another supervisor praised Mr. Hess and said, "As a result of his demonstrated work ethic, accumulated knowledge, and willingness to take on more responsibility Inmate Hess is currently assigned as a mechanic." In 2013, another supervisor recommended Mr. Hess for future work assignments and wrote, "He is a positive influence to those around him and an asset to this enterprise."

In light of Mr. Hess's transformation in prison and his commitment to rehabilitation, I believe he deserves an opportunity to make his case before the Board of Parole Hearings so that it can determine whether he is suitable for parole.

THEREFORE, I, EDMUND G. BROWN JR., Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby commute the sentence of Todd Hess to a total of 32 years to life.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 21st Day of November, 2018.


EDMUND G. BROWN JR.
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State