



# Sacramento County District Attorney's Office

ANNE MARIE SCHUBERT  
District Attorney

Stephen J. Grippi  
Chief Deputy

Michael A. Neves  
Assistant District Attorney

January 25, 2016

Attn: Non-Violent Second Striker  
Board of Parole Hearings  
Correspondence-NVSS  
P.O. Box 4036  
Sacramento, CA 95812-4036

Re: McCauley, Marcus Xavier, CDCR # AA7563, J08496

I'm writing in opposition to the early release of inmate McCauley who, on July 31, 2009, was sentenced to a Two-Strike sentence of 14 years in state prison following his conviction for conspiracy and the sale of one-half pound of cocaine to another person. The early release of this inmate would pose an unreasonable risk to public safety based on his criminal history and behavior while in prison.

The following is a summary of the inmate's criminal history prior to the commission of the drug sales offense:

On January 21, 1988, the inmate was arrested and later convicted of the felony of possession for sale of rock cocaine. On February 9, 1989 he was sentenced to four years' probation and 150 days in the county jail. Case number 83825.

On June 19, 1988, he was arrested and later convicted for the felony transportation of marijuana while armed with a pistol. On February 9, 1989 he was sentenced to four years' probation and 150 days, consecutive, in the county jail. Case number 83824.

The Strike Offense: On October 23, 1989, the inmate committed a vicious assault on a man who protested when the inmate and his two accomplices littered his front yard. The inmate and his accomplices knocked the victim to the ground and then kicked him repeatedly in the head. The victim suffered a broken jaw and the loss of several weeks' employment. On September 11, 1990 the inmate was convicted of felony assault with the personal infliction of great bodily injury. The inmate was sentenced to five years' probation with one year in the county jail. Case number 96148.

On November 18, 1991, the inmate was arrested for transportation and sale of cocaine base. He was convicted of these charges on January 27, 1994. On February 22, 1994 he was sentenced to seven years in CDCR. At the same time, probation was revoked in case number 96148 and a six year concurrent prison term was imposed.

On August 17, 2005, the inmate was convicted of misdemeanor driving under the influence. Case number 05T02039.

The following is a summary of the inmate's behavior while confined in state prison:

On March 10, 2015, the inmate was found in possession of a contraband cell phone and received 90 days loss of credit. CDC 115, log no. 315-03-009.

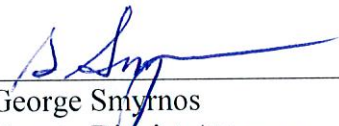
On July 27, 2013, the inmate engaged in sexual misconduct with a female visitor and received 90 loss of credit and 40 hours of extra duty. CDC 115, log no. 313-08-004.

On April 3, 2010, the inmate was found in possession of a contraband cell phone and received 30 days loss of credit. CDC 115, log no. 310-04-006.

Although the commitment offense was non-violent, the inmate's past criminal history, including the commission of the strike offense and a drug crime involving a firearm, coupled with his in-prison behavior demonstrates that his early release would pose an unreasonable risk to public safety. In fact, when the inmate was received at CDCR following the present commitment, the Classification Committee deemed the inmate "an unacceptable risk if placed in the community or housed with other inmates in a minimal supervised setting (see attached CDC 128-G). The inmate's subsequent in-prison behavior demonstrates the validity of the committee's conclusion.

For these reasons, the District Attorney opposes the early release of the inmate.

Respectfully,

  
George Smyrnos  
Deputy District Attorney