



Sacramento County District Attorney's Office

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September 29, 2016

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

Re: California Department of Corrections and Rehabilitation Inmate
Brian Okeith Tatum – CDCR Inmate Number AU6211

Greetings:

The Sacramento County District Attorney's office has received notice that CDCR inmate Brian Okeith Tatum (CDCR inmate number AU6211) is scheduled for a review, under the non-violent second-strike offender release program, for possible early release from his lawfully imposed sentence in Sacramento County Superior Court case number 14F01819.¹

I write on behalf of this office, and the citizens of Sacramento County, to oppose any early release from custody for Mr. Tatum, because, to do so would pose an unreasonable risk to public safety. Public safety involves the concept of people being free from crime and those who persist in committing crime on a consistent and repeated basis.

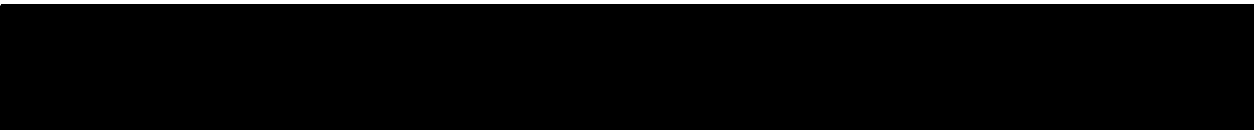
Under the established NVSS process, the Board of Parole Hearings, through its assigned deputy commissioner, is given broad discretion to decide if an eligible inmate should be granted an early release from a previously imposed two-strike prison sentence. In this evaluation process, the Board must determine if granting the inmate an early release "would pose an unreasonable risk to public safety." In making this decision, the BPH may consider all relevant and reliable information, including, but not limited to, the inmate's criminal history, institutional behavior, rehabilitation efforts, and any written statements received.²

Brian Okeith Tatum is forty-one years old. He has an adult criminal record that spans over twenty years in two different states (Texas and California). A review of his criminal history demonstrates he has engaged in a continuing course of criminal conduct involving evading arrest or detention; burglary of an inhabited residence; driving while license invalid; unauthorized use

¹ As stated by CDCR, it is understood that the department is currently subject to a court issued mandate to have a parole process that allows certain qualified offenders convicted of a second strike based on a "non-violent" offense to be eligible for parole (early release) after serving only 50% of their term. It is also acknowledged that CDCR has chosen to classify any felony crime not specified in Penal Code section 667.5(c) as "non-violent" for purposes of determining NVSS review eligibility.

² CDCR Website – NVSS Review/Results.

of a motor vehicle; illegal possession of a controlled substance; and, most recently, assault with a firearm and illegal possession of a firearm by a convicted felon. We ask that the Board carefully review Mr. Tatum's long history of criminal behavior, which clearly indicates he continues to pose an unreasonable risk to public safety.



In October 1995, Mr. Tatum was convicted of “burglary of habitation” (burglary of an inhabited residence), a felony violation of Texas Penal Code section 30.02(a), and subsequently sentenced to serve a term in the Texas Department of Corrections.³

In August 2002, Mr. Tatum was convicted of “evading arrest or detention using a motor vehicle,” a misdemeanor violation of Texas Penal Code section 38.04(b)(1).

In November 2005, Mr. Tatum was convicted of “driving while license invalid,” a misdemeanor violation of Texas Transportation Code 521.457.

In May 2007, Mr. Tatum was convicted of “the unauthorized use of a vehicle and evading arrest with a vehicle,” felony violations of Texas Penal Code sections 31.07 and 38.04(b)(1).

In February 2009, Mr. Tatum was convicted of “illegal possession of a controlled substance,” a felony violation of Texas Health and Safety Code section 481.115(b).

In March 2010, Mr. Tatum was, again, charged with “illegal possession of a controlled substance,” a felony violation of Texas Health and Safety Code section 481.115(b); available information indicates he was convicted of a not specified lesser offense.

In April 2011, Mr. Tatum was convicted of “illegal possession of marijuana,” a misdemeanor violation of Texas Health and Safety Code section 481.121(b)(1).

In March 2014, Mr. Tatum was now in California, in the company of a woman, [REDACTED] W [REDACTED], who is, herself, a convicted felon⁴, and continuing his criminal ways. Information contained in Sacramento Police Department report 14-70902 shows that on March 16, 2014, officers responded to a call of a man brandishing a hand gun.⁵ The victim told the officers that the defendant had confronted her with a pistol, “a dull, dark gray colored revolver with a long

³ This offense/conviction was determined to be a “strike” under the California 3-Strikes law (Penal Code section 1192.7(c)) in the present commitment offense(s) in Sacramento Superior Court case/docket number 14F01819.

⁴ [REDACTED]

⁵ This information should be contained in the P.C. 1203(c) report from the probation department to CDCR and should be in Mr. Tatum's C-file.(case number 14F01819)

barrel.” During the investigation, officers located a handgun matching this description, described as a Smith and Wesson six shot revolver, loaded with six live rounds, in a bedroom Mr. Tatum shared with Ms. W[REDACTED]. Officers also found an additional seventeen rounds of ammunition in a box in a dresser drawer in the same bedroom. A record check on this handgun showed it to be stolen. In addition to the stolen handgun, officers found three check books with checks not in the name of Mr. Tatum or Ms. W[REDACTED], a Master Card debit card in the name of another person, and evidence of drug possession and trafficking activity. In a large bag of dog food near the front door, officers found a clear plastic bindle, which held eleven smaller bindles, each containing a white-powder substance, which field tested positive for methamphetamine (total weight approximately 2.07 grams). In a glass jar in the bedroom where the handgun was located, officers found a green-leafy substance that looked and smelled like marijuana (approximately 57.89 grams); in a black purse in this bedroom, officers found an envelope containing \$700 in cash currency. In other parts of the residence, officers found marijuana “shake” with a total weight of approximately 185.25 grams. Officers also found a cell phone which contained indications of prostitution activity. Mr. Tatum was convicted in Sacramento Superior Court case number 14F01819 of a violation of Penal Code section 245(a)(4) [assault with a firearm] and a violation of Penal Code section 29800(a) [convicted felon in possession of a firearm]; in addition, a prior “strike” conviction was found true.⁶ On August 29, 2014, Mr. Tatum was sentenced to serve a term of five years and four months in state prison; this is the present commitment offense.

As noted above, under the NVSS process, the Board of Parole Hearings, through its assigned deputy commissioner, is tasked with deciding if an eligible inmate should be granted an early release from a previously imposed two-strike sentence. In the course of making this determination, the key inquiry is whether the granting of an early release to the inmate would pose an unreasonable risk to public safety. The core determination of public safety involves a thoughtful assessment of the inmate’s current dangerousness – whether it is reasonable to conclude the inmate will be able to live in society without committing a new crime or crimes. There is no set formula for making such a determination. Rather, it is the exercise of sound judgement, after a careful consideration of all available relevant facts and circumstances. While not an easy task to predict what a person will do in the future, one proven way to gauge a person’s future conduct is to look at what that person has done in the past, and whether he continues to engage in the same type of activity.

In the case of inmate Brian Okeith Tatum, his past shows a long and continuing course of criminal conduct spread over twenty years and two states. While one might view some of his criminal violations in Texas as relatively minor offenses, they are highly significant in an NVSS review because they contribute to the demonstration of a continuing pattern and disposition to violate the law, and signal that any early release from the prison term Mr. Tatum is now serving would pose an unreasonable risk to public safety. In addition, the crimes committed in the present commitment offense(s) show not only that Mr. Tatum is unwilling to cease his criminal

⁶ Additional charges alleging violations of Health and Safety Code section 11378 and Penal Code section 148 were dismissed as part of a plea agreement in this case.

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behavior, he is expanding such behavior with the possession of a stolen firearm and assaulting another person with this firearm. Such conduct indicates Mr. Tatum is a dangerous individual and a continuing threat to public safety. The entire record in this case shows Mr. Tatum has no interest in reformation or rehabilitation, and makes clear that if he is released early, he would pose a current unreasonable risk to public safety. Such a confirmed recidivist should not be rewarded with any kind of early release from prison.

The Sacramento County District Attorney's office asks the Board of Parole Hearings to consider carefully the relevant information concerning Mr. Tatum and his notable history of criminal conduct, including recent illegal gun possession and violence; and when it has done so, to find that any kind of early release for him would pose an unreasonable risk to public safety, and should be denied. His history indicates that incarceration has been the only effective means of thwarting his criminal behavior. Mr. Tatum's release back into society should be delayed for as long as legally possible.

Respectfully submitted.

ANNE MARIE SCHUBERT
DISTRICT ATTORNEY

A handwritten signature in black ink, appearing to read "Frank C. Meyer", with a long horizontal flourish extending to the right.

Frank C. Meyer
Deputy District Attorney