



Sacramento County District Attorney's Office

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Attn: Non-Violent Second Striker
Board of Parole Hearings
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P.O. Box 4036
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March 22, 2016

RE: VOLKER, Avette Carol: CDC # WA-4889
(AKA - SMITH, Judy Anne)

We, the People of the County of Sacramento, object to the classification of Inmate Volker as a non-violent offender. We further object to any notion that she be eligible for early release consideration. By, through and during her *at least* SEVEN prior prison commitments, she has continuously demonstrated to be unamenable to treatment and unsuitable for parole in the immediate future.

A review of the inmate's central files (W-27481, W-80261 and WA-4889) manifests a long history of illegal drug use supported by arrests and convictions; [REDACTED] displayed during the course of her having committed numerous public offenses. The inmate has amply demonstrated her unwillingness to conform to the expectations and requirements of society, prison, and parole.

VIOLENCE:

In 1987, a much younger version of the inmate decided to leave home and travel with friends, now referred to as "known accomplices". They believed they could make their way by their wits and through the kindness of strangers who would pick them up to hitchhike to their chosen destination. One such Good Samaritan picked up the inmate and her known accomplices. According to the probation department report generated by Sierra County, the inmate, evidently tired of intermittently walking and thumbing for rides, came up with the idea to kill the driver to

alleviate the physical burden of her current lifestyle. **She said: "Let's kill him" on several occasions and it was the inmate's idea to take the victim's van.**

She talked one of her known accomplices into the killing and he then set about beating the unsuspecting victim violently about the head and face with a large rock more than a dozen times causing his death. The inmate then removed the victim's bloodied clothing and set them on fire along with bloodied blankets and sheets removed from the victim's van. The judge presiding over the eventual criminal trial on the case, wherein the inmate testified for the State in exchange for a plea deal, had this to say at the inmate's sentencing:

"While these opinions may indeed seem harsh, especially considering the defendant's young age and lack of prior [REDACTED] record, unfortunately, the elements and facts surrounding this crime are also harsh. Individuals must be made to understand that the taking of someone else's property, especially with violence or threat of great violence will not be tolerated by society. It is truly unfortunate that the defendant has chosen a crime with such devastating surrounding circumstances with which to open up her [REDACTED] criminal career." It appears even then that the Court recognized that the inmate would be a long time and frequent resident of the California's State Prison System. (POR: 8/28/1987, pp. 24-27).

With those comments made, the judge then sentenced the inmate to the maximum allowable term under the plea deal – constituting the inmate's first prison term, not for the crimes of murder, accessory to murder or even assault but rather to auto theft in violation of Vehicle Code section 10851. This part of the inmate's history is a stark example of how abused the term "non-violent" is when it comes to the inmate's consideration for early release. *No person possessed with a modicum of competency and a sense of justice could ever designate the inmate's incitement to carjack, intentionally kill and destroy evidence a non-violent crime.*

CONTINUING CRIMINALITY:

The inmate's extensive, unrelenting and dismal criminal history in summary is as follows:

Misdemeanors:

- 1995: (PC) 475a – 90 days
- 1996: (PC) 470(a) – 90 days
- 1996: (PC) 470(a) – 60 days
- 1997: (PC) (PC) 148.9(a) – 180 days
- 1998: (PC) 475a – 120 days
- 1998: (HS) 11364 – 10 days
- 2009: (VC) 14601.1

Felonies:

- | | |
|-------------------------------|--------|
| 1987: (VC) 10851(a) – 3 years | PRISON |
| 1997: (PC) 475(a) – 180 days | |
| 1997: (PC) 475(a) – 120 days | |
| 1999: (PC) 475(a) – 2 years | PRISON |
| 2001: (PC) 475(c) – 16 months | PRISON |
| 2002: (PC) 475(c) – 2 years | PRISON |
| 2005: (PC) 475(c) – 16 months | PRISON |
| 2005: (PC) 496(a) - 2 years | PRISON |

THE VIOLENCE CONTINUES:

In 2010, the inmate was convicted of robbery, (PC) 211. The probation report details how the inmate, again with accomplices, was the getaway driver in two separate robberies involving vulnerable female victims. In one of the robberies the victim was forcibly pulled into the SUV

that the inmate was driving, only moments later to be thrown or have fallen out of the moving vehicle. Both of the victims positively identified the inmate as the driver of the SUV. As a result of another plea bargain, the second count of robbery was dismissed; however the dismissal was with a Harvey Waiver and, as such, the second robbery is an appropriate criminal event for consideration regarding the inmate's suitability for early release.

COMMITMENT OFFENSE:

The inmate's current commitment was imposed while the inmate was on an active previous grant of parole. At the time of the crimes, the inmate was deeply and actively involved, yet once again, in stealing from others. Having learned nothing of the grim forecast of her future as eloquently espoused by her first sentencing judge: **"Individuals must be made to understand that the taking of someone else's property, especially with violence or threat of great violence will not be tolerated by society."**

The inmate's activity was at such a level as to attract the attention of the Sacramento County Sheriff's Identity Theft Task Force. Over the course of several weeks, the inmate unlawfully used numerous victims' credit card accounts to fraudulently purchase goods and services at various locations and businesses throughout Sacramento. The impact to the individual credit histories of these numerous victims can never be adequately assessed, nor can the uneasy feeling of having been victimized only to have the unenviable task of having to cope with the unnerving knowledge that your identifying information is still out there for use by like-minded criminals.

IN CUSTODY:

The inmate has had numerous RVR's while in-custody including but not limited to: **Behavior which could lead to violence**; failure to get down during Code 1 alarm (2013); disobeying a direct order (2011); failing in her responsibility for bed count (2011); and the

inmate has also tested positive for the presence of methamphetamine (2012).

CLOSING:

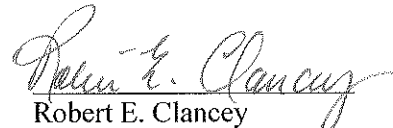
The inmate's criminal history depicts that of a person who is clearly a threat to society. From her decision to participate in a murder that was her idea, to her decision to be a getaway driver in at least two robberies by force. Not only is the inmate (age 49) a recidivist, she has spent a large portion of her adult life in custody (more than 22 year of sentenced time not including violations of probation). Throughout the reports and central files read in preparation of this recommendation, there exists a common theme of rampant and unabated drug abuse, a course of continuous criminal activity and a marked lack of productivity and usefulness for legitimate society. Further, there is a relationship between the inmate's drug abuse, [REDACTED] [REDACTED], and unrelenting illegal behavior that she has completely failed to acknowledge, let alone adequately address for rehabilitative purposes.

The inmate has been given numerous chances to rehabilitate herself and has done nothing to change her lifestyle. The best predictor of future behavior is past behavior. The inmate's past is replete with thievery, drug use, prison time, and violations of both probation and parole whenever given a chance to fit in with society. In the past, the criminal justice system would take the chance that the inmate would not re-offend and release her from custody after the inmate served time for her crimes, with very little time added for her prior convictions in many instances.

There is no way that the Board can guarantee the defendant will not re-offend and there is no way the People can guarantee the defendant will re-offend. However, the People are confident that there are no reasons that would convince the family or friends of the inmate's next victim(s) that the defendant deserved to get yet *another* chance.

The inmate's **failure to remain free** of prison custody for any significant length of time, her continued criminality, her **demonstrated violence**, her accelerated degree of **criminal sophistication** in the realm of identity theft, and her failure to address her **life-long narcotic addiction** in any meaningful way quite clearly demonstrates that she is unable to abide by the laws of a free society. Accordingly, we oppose inmate Volker's classification as a non-violent second striker and we ardently oppose her early parole.

Respectfully,


Robert E. Clancey
Deputy District Attorney