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Non Violent Parole Review Process
Board of Parole Hearings
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Re: Diaz, Michael CDC # AW2388 Court Docket: 14F05203

Inmate Diaz is a violent felon. To grant Diaz early release would be seriously dangerous. The circumstances surrounding his current conviction and his prior criminal record show that he poses an unreasonable risk of violence to the community.

A review of the facts underlying Inmate Diaz's current commitment crimes is valuable for an analysis of his dangerousness. On June 28, 2014, Inmate Diaz brutally attacked his physically disabled 70-year old mother (█████ Doe) and his mentally-impaired brother (█████ Doe). Two years earlier, █████ survived a stroke that left the right side of her body paralyzed, and caused her continuing tremors and vision problems. Following the stroke, █████ required the use of a wheelchair for mobility. On the date of the underlying crimes, Inmate Diaz demanded that █████ make him food. He was unsatisfied with her offerings. As a result, Inmate Diaz flung █████ out of her wheelchair and slammed her body onto the ceramic tile floor. Due to her physical condition, █████ was unable to lift herself from the ground. Inmate Diaz grabbed █████ by the hair and repeatedly pounded her head into the floor. According to █████ testimony, Inmate Diaz also covered the kitchen windows, taunted, and screamed at her. █████ testified that the assault lasted up to two hours. █████ was terrified and humiliated.

█████ attempted to help █████ back into her wheelchair. For these efforts, Inmate Diaz attacked █████ with a deadly weapon. █████ fled the residence and sought the assistance of a neighbor to call 911.

Diaz's criminal history contains examples of continuous violence and community endangerment. At the time of the underlying current conduct, Inmate Diaz was on multiple grants of probation including probation for a misdemeanor domestic violence. He had been convicted of eight (8) prior felonies, including assault with a firearm, false imprisonment, possession of deadly weapon, and unlawful sexual intercourse. Previously, he was sentenced to prison custody at least four times. Even his misdemeanor convictions are violence oriented. His misdemeanor convictions include three separate battery and domestic violence convictions from 2005 to 2014, including violations of Penal Code section 273.5 and 243(e)(1). Inmate Diaz's record also reflects numerous returns to custody for violations of parole.

The probation department pre-sentencing report related to Inmate Diaz's 07F09762 false imprisonment conviction is informative to Diaz's dangerousness. According to the report, Inmate Diaz found out that a family member called the police. Diaz became angry and threatened to kill her: "Bitch, you wanna call the cops on me, I will kill you! That's okay, I will be back in prison, but you will be dead!" Further, she reported that Inmate Diaz had "choked her out" the previous evening. Law enforcement noted bruising on the victim's arms, neck, and legs. Inmate Diaz's mother and sister corroborated the victim's statement.

On September 22, 2020, the Board of Parole Hearings denied Inmate Diaz's previous request for release under the Nonviolent Parole Review Process. The Board found that Inmate Diaz posed an unreasonable risk of violence to the community. The Board noted aggravating factors related to his current commitment offenses: 1) Diaz used a deadly weapon (cane and knife); and 2) one of the victims suffered physical injury and two victims suffered a threat of physical injury. The Board did not identify any mitigating factors related to his commitment offenses.

The Board noted that Diaz's criminal history aggravates his current risk of violence; "The inmate's prior criminal convictions, coupled with the current convictions, show a pattern of assaultive behavior. Including the current commitment offenses, the inmate has been convicted of seven offenses involving criminal assault since 2001." The Board found that when balancing aggravating circumstances against mitigating circumstances, "they tend to show that the circumstances of the inmate's prior criminal record aggravate the inmate's current risk of violence or significant criminal activity because of the inmate's pattern of assault behavior."

Although the Board noted some effort regarding institutional adjustment, these considerations were ultimately determined to be aggravating: "they tend to show that the inmate's institutional behavior, work history, and rehabilitative programming aggravate the inmate's current risk of violence or significant criminal activity because of the inmate's lack of program participation addressing domestic violence specifically, and violence generally."

As we are given 30 days to respond, and we are not provided with a disciplinary history or other information aside from the Board's four-page Nonviolent Parole Review Decision, I cannot comment on inmate Diaz's prison conduct. However, from the available record, it is clear that Inmate Diaz should not be released as he poses a significant, unreasonable risk of violence to the community. Parole should be denied.

Respectfully submitted,



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