



COUNTY OF FRESNO

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District Attorney

NEWS RELEASE

FOR IMMEDIATE RELEASE
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PAROLE BOARD GRANTS EARLY PRISON RELEASE TO CLASSIC CAR THIEF

The Fresno County District Attorney's Office has received notice of another inmate granted early release by the Board of Parole Hearings (BPH) pursuant to Proposition 57 over the objections of this office.

THOMAS LEO CUMMINGS, JR. was sentenced on June 29, 2016, for two felony counts of Vehicle Theft. He was convicted of stealing two classic cars from an Air Force veteran and his wife on Veterans Day in 2015.

Previous media coverage of these crimes and the effect on the victims can be found at:

<http://www.fresnobee.com/news/local/crime/article45932160.html>

<http://www.fresnobee.com/opinion/opn-columns-blogs/bill-mcewen/article45283557.html>

In spite of these being his 5th and 6th adult felony convictions, his having a prior serious felony "Strike" conviction, his having three previous prison commitments, and over the objection of the D.A.'s Office, Judge James A. Kelley, Jr. struck the defendant's "Strike" prior. Judge Kelley then sentenced the defendant to only five (5) years in prison pursuant to a judicial "indicated" sentence. The maximum sentence that the defendant could have received was ten (10) years and four (4) months in prison. At the sentencing hearing, the Probation Department assessed the risk that the defendant posed to the public as being "High Violent," and made the following statement: "[t]he defendant and his co-defendant stole two classic vehicles and when arrested were in a stolen vehicle. The defendant has a significant record of criminal conduct, involving robbery, drugs and firearms. Further, as an adult he has performed poorly on parole. After three prison commitments, he continues to disregard the law and is a risk to the property of others."

In the release decision, BPH Deputy Commissioner Nijjer made the following statements:

- 1) His "prior convictions consist primarily of property and drug crimes" (in fact, his prior felony adult convictions are for Robbery, Felon in Possession of a Firearm, Carrying a Loaded Firearm in a Public Place, and Resisting an Executive Officer. His prior misdemeanor adult convictions are for Contributing to the Delinquency of a Minor, Battery against a Peace Officer, and Drug Possession. He also violated previous grants of parole in 2003, 2004, 2010, and 2011. The inmate also violated Post Release Community

Supervision, which is a substitute for parole under Realignment, at the time of his most recent felony offenses);

- 2) “[T]he inmate does not have a juvenile adjudication record” (this statement is incorrect, as the defendant was previously adjudicated as a juvenile in Fresno County for Attempted Robbery, Loitering Around Children, and Resisting Arrest); and
- 3) “[T]he inmate does not pose an unreasonable risk of violence to the community.”

To date, the BPH has granted release to twenty (20) prison inmates from Fresno County pursuant to Proposition 57, and many more releases are expected. In addition, inmates denied release under Proposition 57 are still eligible to have subsequent hearings for release on an annual basis.

Under the terms of regulations adopted by the California Department of Corrections & Rehabilitation (CDCR), only the inmate has the right to appeal an early release decision. The District Attorney’s Office cannot appeal. Additionally, the BPH will only notify crime victims of possible release if they have registered with the CDCR Office of Victim & Survivor Rights & Services. CDCR also refuses to allow prosecutors the opportunity to review the prison file of an inmate who is being considered for early release.

Fresno County District Attorney Lisa Smittcamp joined other elected District Attorneys and law enforcement officials around the state in strongly campaigning against Proposition 57. The voters of Fresno County voted against Proposition 57, otherwise known as the “Public Safety and Rehabilitation Act of 2016”, but it passed statewide.

The media may e-mail FCDAMedia@co.fresno.ca.us or contact Administrative Assistant Leslie Gillespie at (559)600-4442 with questions.

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