



COUNTY OF FRESNO

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NEWS RELEASE

FOR IMMEDIATE RELEASE
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PAROLE BOARD GRANTS EARLY PRISON RELEASE TO CAREER CRIMINAL

Yesterday, February 22, 2018, the Fresno County District Attorney's Office 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.

ROGER WAYNE DALY was originally sentenced on May 29, 2016, for two (2) felony counts of Vehicle Theft with a Prior Conviction, two (2) felony counts of Possession of a Stolen Vehicle with a Prior Conviction, and misdemeanor counts of Evading an Officer, Resisting Arrest, and Possession of Burglar's Tools. Mr. Daly had previously been convicted of the following felonies: Residential Burglary, Second Degree Burglary – three (3) times, Vehicle Theft – two (2) times, Possession of a Stolen Vehicle, Hit and Run Resulting in Injury, Grand Theft, Petty Theft with a Prior Conviction, as well as Possession of a Firearm by a Felon; all convictions from Fresno County over the previous seventeen (17) years.

In spite of these being his 12th, 13th, 14th, and 15th adult felony convictions, his having a prior serious felony conviction or "Strike", as well as six prior prison commitments, and over the objection of this office, a Fresno County Superior Court Judge 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 16 years in prison. At the sentencing hearing, the Probation Department assessed the risk that the defendant posed as being "High Violent" and noted that the defendant had been out of prison for less than a month prior to committing his latest crimes.

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

- 1) "The inmate's prior criminal history began in 2002." (In reality his **adult** criminal history began in 1999, but his **juvenile** criminal history began in 1994.)
- 2) The inmate has adult convictions for... Second Degree Burglary in 2002 (really 2000), Vehicle Theft in 2009 (the conviction was Vehicle Theft with a Prior Conviction), Possession of a Firearm by a Felon in 2013 (really 2014);

- 3) “[T]he inmate is unable to follow the rules and norms of society.” (If this meant that he is unable to follow the law, our office agrees with that assessment.)
- 4) “When reviewing all of the case factors...including the passage of time, the inmate’s age and the inmate’s physical and cognitive limitations, the factors mitigating the inmate’s current risk of violence outweigh the factors aggravating the inmate’s current risk of violence.” (Unknown what “the passage of time” means, since the inmate is only 37 years old and reported in 2016 that his physical health was “good” and that he had no mental health issues.)

In the decision, Deputy Commissioner Guerrero also failed to note Mr. Daly’s prior misdemeanor convictions for Petty Theft (2) and Burglary, his Parole & Post-Release Community Supervision violations, and his prior Juvenile criminality.

To date, the BPH has granted early release to 26 prison inmates from Fresno County pursuant to Proposition 57, and many more early releases are expected. Inmates that are denied early release under Proposition 57 remain eligible for consideration for early release annually.

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

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 the “Public Safety and Rehabilitation Act of 2016,” but the measure did pass statewide.

A coalition of crime victims, business owners, public safety leaders, and law enforcement are currently working to correct some of the worst abuses of AB 109, Proposition 47, and Proposition 57 by passing the “Reducing Crime and Keeping California Safe Act of 2018.” The proposed Act would:

- 1) Reform the parole system so that violent felons are not released early from prison, and would strengthen the oversight of, and tighten the penalties for, violations of Post Release Community Supervision;
- 2) Reform theft laws to restore accountability for serial thieves and organized theft rings; and
- 3) Expand DNA collection from persons convicted of drug, theft, and domestic violence related crimes to help solve violent crimes and exonerate the innocent.

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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