

PAROLE SUITABILITY HEARING

STATE OF CALIFORNIA

BOARD OF PAROLE HEARINGS

In the matter of the Parole CDC Number: **W14944**
Consideration Hearing of:

BRENDA SPENCER

CALIFORNIA INSTITUTION FOR WOMEN

CORONA, CALIFORNIA

08/18/2022

8:42 AM

PANEL PRESENT:

DAVID NDUDIM, Presiding Commissioner
SELENA HARRELL, Deputy Commissioner

OTHERS PRESENT:

BRENDA SPENCER, Inmate
HEIDI RUMMEL, Inmate Attorney
JOHN CROSS, Deputy District Attorney
CHAVONNE BRAUN, Victim's Representative
KEN MILLER, Victim
CLAIRE HAGAN, Observer
UNIDENTIFIED, Correctional Officer

Transcribed by:

Carl Balba

INDEX

	<u>Page</u>
Proceedings	3
Case Factors	3
Pre- Commitment Factors	--
Post-Commitment Factors	--
Parole Plans	--
Closing Statements	--
Recess	--
Decision	--
Adjournment	12
Transcript Certification	13

PROCEEDINGS

DEPUTY COMMISSIONER HARRELL: On record.

PRESIDING COMMISSIONER NDUDIM: Good morning, everybody. Today's date is August 18th, 2022, and the time is 8:42 AM. We are conducting this hearing by video conference. Ms. Brenda Spencer, can you hear and see me?

INMATE SPENCER: Yes, I can.

PRESIDING COMMISSIONER NDUDIM: Thank you. If at any time that changes, please let us know so that we can make any necessary adjustment. For the record, I can hear and see you. Commissioner Harrell, can you see Ms. Brenda Spencer?

DEPUTY COMMISSIONER HARRELL: Yes, I can hear and see Ms. Spencer.

PRESIDING COMMISSIONER NDUDIM: Thank you. This is the subsequent parole suitability hearing number seven for inmate Brenda Spencer, who is present in the BPH hearing room at CIW, all other participants are participating <inaudible>, and we'll identify themselves for the record shortly. Ms. Spencer was received into CDCR on April 14th, 1980, for the controlling offense of multiple counts of PC 187, PC 245 Subsection (b), PC 245 Subsection (a) with an enhancement PC 12022.5 use of firearm. As this is being audio recorded, so for the purposes of voice identification, all parties will state their first name

1 and last name, spelling their last name, and state your
2 role at this hearing. I'll go first. My name is David
3 Ndudim. I'm a Commissioner with the Board of Parole
4 Hearings appearing by video conference. Commissioner
5 Harrell?

6 **DEPUTY COMMISSIONER HARRELL:** Selena Harrell, H-A-R-
7 R-E-L-L, Deputy Commissioner, Board of Parole Hearings.

8 **PRESIDING COMMISSIONER NDUDIM:** Thank you. Uh,
9 representative from the San Diego District Attorney's
10 Office?

11 **DEPUTY DISTRICT ATTORNEY CROSS:** Good morning.
12 Deputy District Attorney John Cross, C-R-O-S-S, County of
13 San Diego.

14 **PRESIDING COMMISSIONER NDUDIM:** Thank you, sir.
15 Ms., uh, Heidi Rummel?

16 **ATTORNEY RUMMEL:** Good morning. Heidi Rummel, R-U-
17 M-M-E-L with the USC Post-Conviction Justice Project
18 representing Brenda Spencer.

19 **PRESIDING COMMISSIONER NDUDIM:** Thank you. Ms.
20 Spencer, please give us your full name, spelling your last
21 name, also give us your CDCR number.

22 **INMATE SPENCER:** Brenda Spencer, S-P-E-N-C-E-R,
23 W14944.

24 **PRESIDING COMMISSIONER NDUDIM:** Thank you. We also
25 have observer that been approved by the Board of Parole

1 Hearings to observe this hearing. I will have Ms. Hagan
2 introduce herself?

3 **OBSERVER HAGAN:** Good morning. Claire Hagan, H-A-
4 G-A-N, USC Post-Conviction Justice Project student,
5 observer.

6 **PRESIDING COMMISSIONER NDUDIM:** Thank you. We also
7 have a <inaudible> representative, uh, Braun, please
8 identify yourself?

9 **VICTIM'S REPRESENTATIVE BRAUN:** Hi, Chavonne
10 Braun, B-R-A-U-N.

11 **PRESIDING COMMISSIONER NDUDIM:** Thank you. And
12 also have the victim appearing by video conference. Ms. -
13 Mr. Miller, please identify yourself?

14 **VICTIM MILLER:** Ken Miller, M-I-L-L-E-R, victim.

15 **PRESIDING COMMISSIONER NDUDIM:** Thank you. I
16 believe that's all that's participating at this hearing
17 this morning. So, Ms. Spencer, were you able to hear all
18 other participants who identify themselves?

19 **INMATE SPENCER:** Yes, I was.

20 **PRESIDING COMMISSIONER NDUDIM:** Thank you. Also
21 present in the hearing room are Correctional Officers who
22 may be relieved from time to time throughout this hearing.
23 As I mentioned, this proceeding is being recorded as
24 mandated under the Penal Code Section 3042 Subsection (b)
25 and will be transcribed as the official record of this

1 hearing. No other recordings are authorized including a
2 recording available by video conference software. A
3 violation of this provision may result in exclusion from
4 this or future hearing. Commissioner, do we need to take a
5 break to check the quality of the recording?

6 **DEPUTY COMMISSIONER HARRELL:** Yes. Briefly.

7 **PRESIDING COMMISSIONER NDUDIM:** We are off the
8 record, the time is 8:46.

9 **DEPUTY COMMISSIONER HARRELL:** Off record.

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[RECESS]

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1 **DEPUTY COMMISSIONER HARRELL:** Back on record.

2 **PRESIDING COMMISSIONER NDUDIM:** Thank you. Again,
3 the time is 8:47. We took a brief break to check the
4 quality of the recording. So, Ms. Spencer, before we
5 proceed any further, I'd like to conduct a review under
6 the Americans with Disabilities Act. In reviewing the form
7 1073, I do see that you have a TABE score of 12.9. Is that
8 correct?

9 **INMATE SPENCER:** Yes, it is.

10 **PRESIDING COMMISSIONER NDUDIM:** Thank you. I see
11 that you're wearing your glasses today. Are those
12 prescription glasses?

13 **INMATE SPENCER:** Yes, they are.

14 **PRESIDING COMMISSIONER NDUDIM:** Do you see well
15 with those?

16 **INMATE SPENCER:** Yes.

17 **PRESIDING COMMISSIONER NDUDIM:** Okay. Also, on the
18 table that you are seating, there's a magnifying device,
19 if should you need those, you can call the attention of
20 the officer and they will provide that to you. I also see
21 that you wear your foot orthosis. Are you wearing those
22 today?

23 **INMATE SPENCER:** Yes, I am, sir.

24 **PRESIDING COMMISSIONER NDUDIM:** <inaudible>. So,
25 Ms. Spencer, have you been a part of the mental health

1 system at CDC, either CCCMS level of EOP?

2 **INMATE SPENCER:** Yes, I have.

3 **PRESIDING COMMISSIONER NDUDIM:** When was the last
4 time that you access that program?

5 **INMATE SPENCER:** EOP?

6 **PRESIDING COMMISSIONER NDUDIM:** Yes.

7 **INMATE SPENCER:** Uh, 2000.

8 **PRESIDING COMMISSIONER NDUDIM:** Year 2000. Do you
9 take any psychotropic medications?

10 **INMATE SPENCER:** Yes, I do.

11 **PRESIDING COMMISSIONER NDUDIM:** When was the last
12 time that you took any of those medications?

13 **INMATE SPENCER:** This morning.

14 **PRESIDING COMMISSIONER NDUDIM:** Do you believe are
15 those going to affect your ability to communicate with us
16 this morning?

17 **INMATE SPENCER:** No, they're not.

18 **PRESIDING COMMISSIONER NDUDIM:** Thank you. Uh, to
19 Counsel, does your client require any other reasonable
20 accommodation for this hearing today?

21 **ATTORNEY RUMMEL:** Yes. Oh, I'm sorry. I concur.
22 She, her to come at her, she's, she's adequately
23 accommodated.

24 **PRESIDING COMMISSIONER NDUDIM:** Thank you,
25 Counsel. So, based on those answers to our question and

1 the information we do have, this Panel does not see a
2 reason why this hearing cannot go forward today. Counsel,
3 before we get on the re- go on the record, you indicated
4 that your client would like to make a request to the Panel
5 this morning. You may proceed.

6 **ATTORNEY RUMMEL:** Yes. We are requesting a, um,
7 three-year stipulation so that my client may continue to
8 develop and firm up parole plans and be prepared for the
9 hearing.

10 **PRESIDING COMMISSIONER NDUDIM:** Thank you. So, Ms.
11 Spencer, your, uh, Attorney has made a request that she
12 indicated that you want to have a three-year stipulation.
13 In order to make further improvement regarding a program.
14 Is that correct?

15 **INMATE SPENCER:** Yes, it is, sir.

16 **PRESIDING COMMISSIONER NDUDIM:** Do you, Ms.
17 Spencer, understand that you do have a he- a right to a
18 hearing today?

19 **INMATE SPENCER:** Yes.

20 **PRESIDING COMMISSIONER NDUDIM:** Do you understand
21 by stipulating to unsuitability you are giving up that
22 right?

23 **INMATE SPENCER:** Yes.

24 **PRESIDING COMMISSIONER NDUDIM:** Did anyone
25 threatened you, promised you anything in exchange for

1 stipulating to unsuitability today?

2 **INMATE SPENCER:** No, sir.

3 **PRESIDING COMMISSIONER NDUDIM:** Thank you. Uh, Mr.
4 Cross, would you like to make any further comments with
5 regards to that stipulation <inaudible> request?

6 **DEPUTY DISTRICT ATTORNEY CROSS:** After reviewing
7 the file, I think given the circumstances, uh, three-year
8 stipulation is appropriate. I'll submit with that.

9 **PRESIDING COMMISSIONER NDUDIM:** Thank you,
10 Counsel. Uh, Mr. Miller, do you have any comments with
11 regards to the request for stipulation?

12 **VICTIM MILLER:** No, your honor. No, sir.

13 **PRESIDING COMMISSIONER NDUDIM:** Thank you. So, uh,
14 at this time, the time is 8:51. Uh, Commissioner Harrell
15 and I are going to drop off temporality to review the
16 request for stipulation. Uh, now, we'll come back and
17 announce our decision with regards to the request. Uh, the
18 time is 8:51 AM. We are off the record.

19 **DEPUTY COMMISSIONER HARRELL:** Off record.

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[RECESS]

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1 **DEPUTY COMMISSIONER HARRELL:** On record.

2 **PRESIDING COMMISSIONER NDUDIM:** We are back on the
3 record. The time is 8:53. Uh, we took a brief break to
4 deliberate on the request made by inmate Counsel for
5 three-year stipulation. So, Ms. Spencer, uh, uh,
6 Commissioner Harrell and I deliberate with regards to your
7 request for stipulation for three years. And the Panel
8 does accept the stipulation for unsuitability for three-
9 years. So, do you understand that you do have a right to
10 have a hearing today, correct?

11 **INMATE SPENCER:** Correct.

12 **PRESIDING COMMISSIONER NDUDIM:** Uh, are you making
13 this request freely and voluntarily?

14 **INMATE SPENCER:** Yes.

15 **PRESIDING COMMISSIONER NDUDIM:** Thank you. So, uh,
16 Mr. Miller, do you want to make a victim impact statement
17 on the right, you, you can do that or you can wait to the
18 next Panel to have that, uh, impact statement made.

19 **VICTIM MILLER:** I'll wait, sir.

20 **PRESIDING COMMISSIONER NDUDIM:** Given that, uh,
21 does anyone have any questions before we, uh, adjourn this
22 hearing? Thank you. So, the time now is 8:54. This is
23 hearing is hereby adjourned. Thank you everybody for
24 participating.

25 **DEPUTY COMMISSIONER HARRELL:** Off record.

1 **ATTORNEY RUMMEL:** Thank you, Commissioners.
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4 **ADJOURNMENT**

5 THIS TRANSCRIPT CONTAINS THE PROPOSED DECISION OF THE
6 BOARD OF PAROLE HEARINGS (BOARD) ANNOUNCED AT YOUR RECENT
7 BOARD HEARING AND IS PROVIDED TO YOU IN COMPLIANCE WITH
8 PENAL CODE SECTION 3041.5, SUBDIVISION (A) (4), AND
9 CALIFORNIA CODE OF REGULATIONS, TITLE 15, SECTION 2254.

10 THIS PROPOSED DECISION WILL BECOME FINAL WITHIN 120 DAYS
11 OF THE DATE OF THE HEARING AS REQUIRED BY PENAL CODE
12 SECTION 3041, SUBDIVISION (B), UNLESS THE BOARD NOTIFIES
13 YOU IN WRITING BEFORE THEN THAT THE PROPOSED DECISION HAS
14 BEEN MODIFIED, VACATED OR REFERRED TO THE FULL BOARD,
15 SITTING EN BANC, DUE TO AN ERROR OF LAW, ERROR OF FACT OR
16 NEW INFORMATION PURSUANT TO CALIFORNIA CODE OF
17 REGULATIONS, TITLE 15, SECTION 2042. THEREAFTER, THE
18 GOVERNOR HAS AUTHORITY TO REVIEW THE BOARD'S DECISION AND
19 AFFIRM, MODIFY, OR REVERSE IT PURSUANT TO PENAL CODE
20 SECTIONS 3041.1 AND 3041.2.

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25 **BRENDA SPENCER W14944 08/18/2022**

CERTIFICATE AND DECLARATION OF TRANSCRIBER

I, Carl Balba, am a disinterested party, and have no interest in the outcome of the hearing. Further, I certify this transcript is a true, complete, and accurate record, to the best of my ability, of the recorded material provided for transcription of proceeding for:

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Signed: *Carl Balba*

Transcribed by: Carl Balba

Conduit Transcriptions

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