

U.S. Department of Justice  
United States Parole Commission  
90 K Street, N.E., 3rd Floor  
Washington, D.C. 20530

## Notice of Action on Appeal

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Name: Shakur, Mutulu

Institution: Victorville USP

Register Number: 83205-012

Date: July 25, 2018

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The National Appeals Board examined the appeal of the above named and ordered the following:

Affirm the previous decision.

### REASONS:

In your petition, you argue that there exist 10 grounds to support your appeal. For the following reasons, the National Appeals Board denies your Petition for Reconsideration.

- (1) You first argue that the Commission relied upon prior findings to support the 2018 Notice of Action. In particular you note that there was, "no basis to support this (NOA) determination in the record. In fact new evidence was not considered in making this determination." This argument is spurious and therefore fails.

As you are aware, a statutory interim hearing is different than a mandatory parole hearing. The sole purpose of an SIH is to see if there has been any significant changes since your mandatory parole hearing on April 20, 2016, that would positively affect your case to justify an earlier parole date. The Commission reviewed not only the relevant testimony given in your most recent statutory interim hearing but also the findings of past hearings and information contained in your file. After reviewing this information, the Commission decided that there had been no significant (See 18 USC 2.14(a)) developments or changes your status. Since the record shows that the Commission considered the applicable information, your first claims fails.

- (2) Second, you claim that you have, in fact, accepted responsibility for all your criminal conduct and that, therefore, this should have been deemed a significant development in your status leading to your parole. You also argue that if your conduct and actions were viewed "as a whole" it would be clear that you are remorseful and have accepted responsibility for you actions.

The Commission has viewed your actions "as a whole" in that a thorough review of all of your relevant conduct, from your date of incarceration to the present, was analyzed to come to the conclusion that you have failed to adequately accept responsibility for your conduct. Had the Commission not viewed your statements and conduct in their totality the Commission would be left only with the proclamations you most recently made at your May 2018, hearing where you, for the first time, admitted your involvement in the offense conduct. However, by viewing these self-serving statements against the backdrop of three decades of declarations to the contrary, the Commission was able to conclude that they lacked true credibility. A review of the record indicates that from your incarceration and leading up to your 2016 Mandatory Hearing, you have denied being involved in the murder of the victims and posited the government manufactured the charges against you. The Commission, after reviewing everything, came to the conclusion that your words lacked credibility, were self-serving, and disingenuous. As such, the National

Appeals Board does not find merit in your argument that you should have been given credit for acceptance of responsibility.

- (3) Third, you claim that the Commission's finding that there is a reasonable probability that you will commit a Federal, State, or local crime conflicts with the available facts in the record. Again, the Commission has reviewed the entire record of your case and has come to the conclusion that per the standard for SIH hearings, there have been no significant developments or changes in your status to justify releasing you on parole.

The Commission has relied upon the entire record in finding that there is a reasonable probability that you will commit a Federal, State, or local crime. For over three decades you have held to a position that, only within the last two months, you have cast off. In addition to this fact, there have been numerous infractions accumulated while incarcerated. The record shows that the Commission weighed all these factors before finding that there had been no significant developments or changes in your case as to warrant a change in the previous decision.

- a. In addition, you argue that there was no consideration or recognition of the fact that other than your offense conduct, you had no previous convictions.

The Commission is well aware of your clean record prior to the events at hand. In fact, that point has been raised repeatedly by you and your counsel over the past three decades. The Commission considered this factor every time any action was taken on your case. Sadly, the fact that your first offenses to be involved with were the murder of innocent individuals along with armed taking of millions of dollars tends to undercut the argument that your clean record should offset the offense conduct.

- b. You also renew a past argument that the use of the victims' statements impacted the hearing and unduly influenced the examiner and the Commission. In particular, you argue that only new or relevant information from the victims should be admitted at the hearings.

This argument has been raised numerous times before and has failed each time. Pursuant to 28 C.F.R. § 2.19, in making parole determinations, the Commission shall consider statements by any victim of the offense for which the prisoner is imprisoned, about the financial, social, psychological, and emotional harm done by, or loss suffered by the victim. (emphasis added.) Additionally these statements can provide information relevant to whether there is a reasonable probability that you will commit any Federal State, or local crime, if released on parole. Your argument that the victims are constrained to only providing new or "relevant" information has no basis in the law and therefore fails. It is incumbent on the Commission to review these statements in their entirety as it is also to review all statements that you proffer in support of your position.

- c. Your final argument (under this section) is that the Commission did not taken into consideration the fact that other unindicted and/or convicted members of the instant case have maintained their ideas regarding social change but have not reoffended and, as such, you should be given more latitude to prove you can accomplish the same.

Contrary to your assertion, the Commission is aware of the statistical evidence of parolees and their likelihood to reoffend. The Commission examines this empirical data constantly and does, in fact, consider it when assessing the likelihood of recidivism. However, the Commission also examines the prisoner's past words and conduct as well.

After reviewing the record in its entirety, the Commission found that your infractions coupled with the long history of denial of acceptance (your most recent statements notwithstanding) militates in favor of the current finding.

- (4) Your fourth argument on appeal is that it was an abuse of discretion for the Commission to rely on your “stiff resistance” salutation.

You have previously raised this argument before and again, the National Appeals Board rejects your claim. The Board finds it reasonable for the Commission to consider these past statements to be incompatible with the goals and conditions of supervision as well as evidence that you have not truly disavowed yourself from the set of beliefs you had when you were convicted for your role as a leader in the racketeering conspiracy. In addition, the Commission looks at the totality of all the evidence and does not merely isolate one factor in making a decision.

- (5) Your fifth argument is that the Commission should not have found that your infractions were “serious” or “frequent” and that relying on your positive drug test and the phone-related infractions to deny parole violates the “spirit” of § 4206(d).

The Board notes that the Commission made no such finding previously that your infractions were “frequent.” Instead, the Commission found that you seriously violated the rules of the institution and such a finding was reasonable. As you are aware, your positive drug test is a “100” level infraction (most serious level in the BOP). This fact and the nature and circumstances of your other infractions, were reviewed and formed the basis of the opinion that you have seriously violated the rules of the institution.

- (6) Sixth, you claim that new evidence was not reviewed by the Commission in deciding to deny parole. In particular you allege that BOP Associate Warden’s letter that you submitted and the fact that you have refrained from using “stiff resistance” or referring to yourself as a “political prisoner” were not considered by the Commission in determining whether there existed new facts that would justify a different decision.

The Board rejects this claim. The Commission is presumed to have reviewed all evidence submitted by you including the letter from Associate Warden Keilman. The Notice of Action documents the Commission’s decision and the specific reasons for that decision. It does not summarize all of the pertinent information considered by the Commission during its decision making process. Here, these factors were considered and were found not to rise to the level of being significant enough developments to warrant a change the previous decision. Therefore, the National Appeals Board denies your claim.

- (7-8) Your seventh and eighth claims are interrelated and will be addressed together. You argue on appeal that the Commission improperly relied on your statements that you were a “political prisoner” and a victim of COINTELPRO to determine that you had not accepted responsibility for your actions.

The Board rejects these arguments. It is reasonable for the Commission to view the statements made continually over the past three decades as evidencing a failure to fully appreciate the role you played in the deaths of innocent individuals and to find that this suggests that there is a reasonable probability that you will commit any Federal, State, or local crime. Though you posit that your use of the term “political prisoner” has varying meanings, it is reasonable for the Board

to adopt the one that would suggest a failure to fully accept responsibility. Therefore, the National Appeals Board denies your claim on these grounds.

- (9) Your ninth argument on appeal is that the Commission should consider the fact that you want to establish a "Truth and Reconciliation Commission" as evidence that you will not re-offend.

The Board has reviewed this point and views this desire on your part against the backdrop of all the evidence submitted to include both the offense conduct, your infractions, and your statements over the past three decades denying your guilt and your most recent statements admitting such. The National Appeals Board finds that the Commission's decision that there had not been any significant developments to warrant any change in your parole status was reasonable.

- (10) Your tenth and final claim is that the U.S. Parole Commission has inadequate resources or dedication of time to conduct parole hearings

Both the Commission and the National Appeals Board have had an adequate opportunity to review your filings, statements, and exhibits along with those of the victims. In addition, the structure of the United States Parole Commission requires numerous individuals to independently review the submitted information and findings, and either concur or dissent with any recommendations. Thus, the National Appeals Board finds no merit to this ground of your claim.

All decisions by the National Appeals Board on appeal are final.

cc: Designation & Sentence Computation Ctr  
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