

INDETERMINATE SENTENCE PAROLE RELEASE REVIEW
(Penal Code Section 3041.2)

GERARDO ZAVALA, F-53298
Second Degree Murder

AFFIRM: _____

MODIFY: _____

REVERSE: _____ **X** _____

STATEMENT OF FACTS

On January 24, 2001, Gerardo Zavala, Gerardo Soto, and Tyrone Ebaniz invited 17-year-old Eric Jones to smoke methamphetamine at Juan Soto's house. When they arrived, they went into the garage where Juan and Daniel Portugal were waiting for them. Mr. Zavala punched Mr. Jones in the face, knocking him to the ground. He and Daniel Portugal then bound Mr. Jones with an electrical cord while Gerardo Soto pointed a .30 caliber AK-47 assault rifle at Mr. Jones. Jorge Vidal and Keith Seriales arrived. Mr. Vidal jumped on Mr. Jones, slammed his head onto the cement floor, and hit him in the face with a pipe. Mr. Vidal said, "You want to steal my shit, nigger?" Mr. Jones started crying and asked, "What did I do?" Mr. Vidal asked Mr. Jones why he tried to steal Mr. Vidal's car, and Mr. Jones said, "It wasn't me man." Mr. Vidal picked up a screwdriver, stabbed Mr. Jones, and said, "Hey, remember you wanted to take my car. Hey, I'm returning your screwdriver, here."

Mr. Ebaniz and Daniel Portugal used a box cutter to strip the electrical cord and expose the wires. Mr. Vidal taped the wires to Mr. Jones's fingers, and plugged the other end of the cord into a wall outlet, shocking Mr. Jones. Mr. Vidal told Mr. Jones, "Today, you're going to die." Mr. Zavala and Mr. Seriales got plastic and duct tape, because Mr. Vidal wanted to cut Mr. Jones "like Jeffrey Dahmer." One of the men removed the electrical cord. Mr. Ebaniz and Daniel Portugal bound Mr. Jones's ankles and wrists with duct tape. Mr. Ebaniz and Daniel Portugal used scissors and box cutters to strip off Mr. Jones's clothes. Mr. Vidal picked up a squeegee and removed the handle. Mr. Vidal poured motor oil into Mr. Jones's buttocks, then inserted the handle into Mr. Jones's rectum four or five times. Mr. Ebaniz took the handle, inserted the handle into Mr. Jones's rectum once, and kicked the handle while it was inserted into Mr. Jones's body.

Mr. Ebaniz and Zavala wrote "Pepe's bitch" in permanent blue ink on Mr. Jones's back. Mr. Zavala and Mr. Seriales put Mr. Jones into the trunk of Gerardo Soto's car. Mr. Zavala, Mr. Vidal, Daniel Portugal, Mr. Seriales, Mr. Ebaniz, and Gerardo Soto drove out to a remote road. Mr. Zavala and Mr. Seriales pulled Mr. Jones out of the trunk and threw him onto the ground, still bound and gagged, and with the handle still in his rectum. Mr. Vidal walked up to Mr. Jones, and shot him with a 9 millimeter handgun once in the face, and nine times in the shoulder at point-blank range, killing him. The men drove back to Juan Soto's house where they drank beer and smoked methamphetamine, then used money they stole from Mr. Jones to purchase

more methamphetamine. Mr. Zavala was arrested on January 28, 2001. On the same day, he confessed to Mr. Jones' torture and murder.

GOVERNING LAW

The question I must answer is whether Mr. Zavala will pose a current danger to the public if released from prison. The circumstances of the crime can provide evidence of current dangerousness when the record also establishes that something in the inmate's pre- or post-incarceration history, or the inmate's current demeanor and mental state, indicate that the circumstances of the crime remain probative of current dangerousness. (*In re Lawrence* (2008) 44 Cal. 4th 1181, 1214.)

DECISION

The Board of Parole Hearings found Mr. Zavala suitable for parole based on the plausibility of his claim of innocence, his remorse, stellar disciplinary record while incarcerated, lack of criminal history, educational and vocational upgrades, increased maturity, and parole plans.

I acknowledge Mr. Zavala has made efforts to improve himself while incarcerated. He has participated in self-help groups, including Alcoholics Anonymous, Getting Out by Going In and Correcting Destructive Behavior. Mr. Zavala has furthered his education and received a vocational certificate. Mr. Zavala has remained discipline-free throughout his 17 years of incarceration. I commend Mr. Zavala for taking these positive steps. But they are outweighed by negative factors that demonstrate he remains unsuitable for parole.

Mr. Zavala's crimes were horrifying and disturbing. Mr. Zavala assisted his crime partners in the torture, kidnapping, and shooting of Mr. Jones. After being called racial epithets, beaten with a pipe, cut, electrocuted, and rammed in the rectum with a squeegee handle, Mr. Jones was thrown into a field where he was shot 10 times at point-blank range, killing him. The callousness and brutality displayed in this murder is unfathomable.

I have serious doubts that Mr. Zavala has been honest and forthcoming about the killing in this case. Mr. Zavala's initial confession was extremely detailed, as if he were present while the crime was being committed. The amount of detail provided suggests Mr. Zavala was far from a passive participant in these crimes. By his own admission, he lured Mr. Jones to Juan Soto's house under the promise of getting high. Shortly after arriving, Mr. Zavala punched Mr. Jones and bound him with duct tape. Mr. Jones was then brutally tortured by Mr. Zavala's crime partners. After Mr. Jones had been tortured for hours, Mr. Zavala shoved Mr. Jones into the trunk of a car, pulled Mr. Jones out of the car, and dropped him on the side of the road. The level of detail in his initial confession also throws doubt on his subsequent recantation. Mr. Zavala now claims he was not present at the scene of the crime, was unaware that a crime was occurring, and was forced by Mr. Seriales to provide a false confession. I am not convinced that Mr. Zavala's confession was false, and given that, it does not appear that Mr. Zavala has confronted or addressed what it was that led him to participate in such a terrible crime.

CONCLUSION

I have considered the evidence in the record that is relevant to whether Mr. Zavala is currently dangerous. When considered as a whole, I find the evidence shows that he currently poses an unreasonable danger to society if released from prison. Therefore, I reverse the decision to parole Mr. Zavala.

Decision Date: March 30, 2018


EDMUND G. BROWN JR.
Governor, State of California