

Stephen B. Turner

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MAY 10 2018

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

STEPHEN BRIAN TURNER,

Plaintiff-Appellant,

v.

MELODY SMITH, in her Individual and
Official Capacity as Parole Officer;
GREGORY SIMS, in his Individual and
Official Capacity as Assistant Parole
Supervisor; JOHN BENT, in his Individual
and Official Capacity as Parole
Supervisor; BRETT EVERIDGE, in his
Individual and Official Capacity as Parole
Officer,

Defendants-Appellees.

No. 17-15538

D.C. No. 3:11-cv-05176-CRB

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Charles R. Breyer, District Judge, Presiding

Argued and Submitted April 11, 2018
San Francisco, California

Before: KLEINFELD, W. FLETCHER, and FISHER, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

Stephen Turner (“Appellant”) appeals the district court’s summary judgment in his 42 U.S.C. § 1983 action against parole officials Melody Smith, Gregory Sims, John Bent, and Brett Everidge (“Appellees”). Appellant claimed that one of his parole conditions and two of his parole revocations were unconstitutional. The district court granted summary judgment to Appellees. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

We review de novo a district court’s grant of summary judgment. *Branch Banking & Tr. Co. v. D.M.S.I., LLC*, 871 F.3d 751, 759 (9th Cir. 2017).

Appellees are entitled to absolute immunity for the imposition of Appellant’s challenged parole condition. Appellant contends that the special parole condition prohibiting contact with his fiancée violated clearly established law. However, a parole officer’s quasi-judicial acts, including the establishment of a parole condition, are subject to absolute immunity. *Thornton v. Brown*, 757 F. 3d 834, 839-840 (9th Cir. 2013); *see also Swift v. California*, 384 F.3d 1184, 1189 (9th Cir. 2004) (“Absolute immunity has also been extended to parole officials for the imposition of parole conditions...”).

Appellant failed to “put forward specific, nonconclusory factual allegations” to establish that Appellee Smith harbored a retaliatory motive when initiating his 2011 and 2012 parole revocations. *Jeffers v. Gomez*, 267 F.3d 895, 903, 907 (9th

Cir. 2001)(internal citations omitted); *see Conner v. Heiman*, 672 F.3d 1126, 1130 n. 1 (9th Cir. 2012). Prior to the arrests, Appellee Sims warned Appellant that “bad things” would happen if he did not drop his litigation against the Parole Department. Appellant contends that his failure to drop this litigation led to retaliation in the form of his challenged parole revocations. However, the record shows Appellee Smith’s reasonable belief that there had been a parole violation motivated her decision to initiate each arrest. *See Sherman v. U.S. Parole Comm’n*, 502 F.3d 869, 884 (9th Cir. 2007) (holding that parole officers need only a reasonable belief that a parole violation has occurred to arrest a parolee).

Appellant’s threatening statement during a counseling session prompted his December 2011 parole revocation. As reported to Appellee Smith, Appellant stated, “Melody Smith? By the time I get done with her, she won’t be singing any more melodies.” This statement caused another parolee to call Smith and report it out of “concern for [Smith]’s welfare.” The parolee also reported that Appellant made “several agitated and threatening statements regarding [Smith] and the Department of Parole Operations.” The counselor in charge of the session confirmed the parolee’s report to Smith. Noting that Appellant’s criminal history included a charge for possession of a loaded firearm in public, Smith recommended Appellant’s parole revocation for making a criminal threat.

Appellant now contends that he actually stated his “lawsuits” would stop Smith from “singing anymore melodies,” and that this comment was made in jest. But Appellee Smith could have reasonably believed the reports of the parolee and the counselor. *See Reichle v. Howards*, 566 U.S. 658, 664 (2012).

Appellant’s violation of his traveling parole condition prompted his April 2012 revocation. It is undisputed that Appellant left Alameda County to travel to the Federal Courthouse in San Francisco. It is also undisputed that Appellant did so without first receiving approval from his parole officer, as the conditions of his parole required.

Appellant presented no evidence implicating Appelles Sims, Bent, or Everidge in any of his constitutional claims.

AFFIRMED.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

STEPHEN B. TURNER,

No. 11-cv-5176 CRB

Plaintiff,

**ORDER GRANTING DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT AND DENYING
PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY JUDGMENT**

v.

MELODY SMITH, et al.,

Defendants.

This case has gone on for quite some time. And now it ends.

I. BACKGROUND

Since filing this suit pro se in 2011, Plaintiff Stephen Turner has submitted 342 pages of complaints alleging that his parole officers mistreated him in an impressive variety of ways. See Compl. (dkt. 1) (4 pages); FAC (dkt. 9) (89 pages); SAC (dkt. 64) pt. 1 (86 pages); SAC (dkt. 64–1) pt. 2 (74 pages); TAC (dkt. 79) (63 pages); 4AC (dkt. 134) (26 pages); 5AC (dkt. 168) (9 pages). His sprawling allegations have included that his parole officers conducted unlawful searches and seizures, violated the “knock-and-announce” rule, and retaliated against him by conducting parole compliance checks, arresting him for parole violations, and revoking his parole. See, e.g., 4AC ¶¶ 75(a)–(g). He has also alleged that parole conditions barring him from associating with his fiancée or traveling out of the county without prior permission were unconstitutional. See, e.g., id. ¶¶ 35(a)–(d); 65(b)(iii)–(v).

After Turner filed his Fourth Amended Complaint, the Court granted in part and denied in part the officers’ motion for judgment on the pleadings. From the bench, it granted the motion as to—among other things—Turner’s claims for violations of his right “to petition and access the courts” and his right against “unlawful search and seizure.” See Hr’g Transcript (dkt. 15) at 4:17–21. The Court denied the motion as to—among other things—“absolute immunity,” “retaliation,” “right to freedom of association,” “right to marry,” and substantive due process. Id. at 4:21–5:5.

1 The Court then appointed counsel to represent Turner. See Order (dkt. 153). When
2 that didn't work out, the Court appointed new counsel. See Mot. to Withdraw (dkt. 160);
3 Order Granting Mot. to Withdraw (dkt. 165); Not. of New Counsel (dkt. 167). With
4 counsel's assistance, Turner filed his (mercifully) nine-page Fifth Amended Complaint. He
5 alleges that the officers prohibited him from associating with his fiancée as a special
6 condition of parole, see 5AC ¶ 16, conducted a retaliatory compliance check in April 2011,
7 see 5AC ¶ 17; Turner Depo. (dkt. 181) 145:1–146:21, threatened that “bad things” would
8 happen if he did not drop pending lawsuits or refrain from filing new ones in December
9 2011, see 5AC ¶¶ 18–20, and arrested him on April 13, 2012 for traveling to San Francisco
10 for a court hearing without permission, see 5AC ¶ 21. Although he makes no mention of it in
11 his complaint, Turner also alleges that he was arrested on December 12, 2011 in retaliation
12 for reporting the threat of “bad things” to come. Turner Decl. (dkt. 182) ¶¶ 21–22; Turner
13 Depo. 111:19–112:8.

14 Turner maintains that these acts violated his “constitutional rights under the First,
15 Fourth, Fifth and Fourteenth Amendments” to (1) “use the judicial system to petition the
16 government for redress,” (2) “associate and communicate with close family members,” and
17 (3) “be free from arbitrary and capricious law enforcement and undue police intrusions.”
18 5AC ¶¶ 25(a)–(c). He also brings state law claims. See 5AC ¶¶ 29–44. Because Turner is
19 no longer on parole, he seeks money damages. See Prayer (5AC p.7) ¶¶ 1–6. The officers
20 moved for summary judgment.¹ See Def. MSJ (dkt. 184) at 1. Turner moved for partial
21 summary judgment as to (2) and (3). Pl. MPSJ (dkt. 180) at 2.

22 After reviewing the moving papers, the Court ordered further briefing on whether
23 “Defendants Sims, Smith, and/or Bent [are] entitled to summary judgment on the claim that

24
25 ¹ Turner insists that the officers have moved only for partial summary judgment. See Pl. Opp'n
26 (dkt. 190) at 10 (“Defendants make no arguments concerning the other aspects of Plaintiff’s case); id.
27 at 1 (“[T]heir motion makes no argument that they are entitled to judgment on”); Pl. Supp. Resp.
28 (dkt. 200) at 1 (“Neither party sought summary judgment on the issue of access to Court.”). He is
mistaken. The officers captioned their motion for summary judgment as such and asked the Court “to
grant summary judgment in their favor and against Plaintiff Stephen Turner”—full stop. MSJ at 1.
They also argued that “any access to courts or unlawful arrest claims have already been dismissed by
the Court and continue to fail for the reasons already determined[.]” Id. That is all they said, but they
said it, and so they have properly moved for summary judgment as to all of Turner’s claims.

1 Turner's arrest in December 2011 violated his First Amendment rights because it was made
2 in retaliation for refusing to drop pending lawsuits." See Order (dkt. 196). The parties'
3 submissions brought the following facts to light:

4 On December 7, 2011, Defendant Gregory Sims allegedly told Plaintiff Stephen
5 Turner that "bad things" would happen if he did not drop his pending lawsuits and refrain
6 from filing new ones.² 5AC ¶¶ 18–20; Turner Depo. 122:20–24; Turner Supp. Decl. (dkt.
7 201) ¶ 4. "Around the same time, approximately December 7," Turner was at a sex-offender
8 group therapy session.³ Turner Supp. Decl. ¶ 5. Another parolee in the group reported to
9 Defendant Melody Smith that, during the session, Turner yelled, "They can fuck with anyone
10 else, but they ain't fucking with me! I'm too old to be told what to do. What's her name?
11 Melody Smith? By the time I get done with her, she won't be singing any more melodies."⁴
12 Smith Supp. Decl. (dkt. 199–1) ¶ 7; Parole Revocation Dec. (dkt. 199–2) at 3. Smith then
13 contacted the group counselor, who confirmed the other parolee's account.⁵ Smith Supp.
14 Decl. ¶ 7. Knowing that Turner had a prior conviction for publicly carrying a loaded firearm,
15 she informed the Sexual Assault Felony Enforcement ("SAFE") Task Force about the
16 statements, who took Turner into custody on December 12. Id. ¶¶ 7–8. Turner resisted arrest
17 and had to be carried to the patrol car. Id. ¶ 8. Because he expressed suicidal ideations, the
18 SAFE agents took Turner to a psychiatric facility for treatment. Id.; Turner Supp. Decl. ¶ 8.

20 ² The next day, Turner "went to the Federal Bureau of Investigation and to the U.S. Attorney's
21 office in San Francisco" to report Sims. Turner Supp. Decl. (dkt. 203–1) ¶ 4.

22 ³ Although it is not clear that the session occurred after the encounter with Sims, the Court must
23 assume that it was for the purposes of summary judgment. See Anderson v. Liberty Lobby, Inc., 477
U.S. 242, 255 (1986).

24 ⁴ Turner maintains that he in fact "said something to the effect that 'when I'm done with these
25 lawsuits, Smith isn't gonna be singing any more melodies.'" Turner Supp. Decl. (dkt. 203–1) ¶ 5. He
also insists that these statements were "done jokingly and certainly not threateningly." Id.

26 ⁵ Turner is mistaken that these statements from his fellow parolee and group counselor are
27 necessarily hearsay. See Opp'n (dkt. 200); Objection (dkt. 204). They could—and presumably
28 would—be offered for their effect on the listener (that Smith had cause for concern) rather than for the
truth of the matter asserted (that Turner did in fact say these words). That is not hearsay. See Fed. R.
Evid. 801(c)(2); see also, e.g., United States v. Payne, 944 F.2d 1458, 1472 (9th Cir. 1991). Defendants
had every right to respond to Turner's argument to the contrary on reply, while the Court has every right
to, well, get it right.

After being medically cleared three days later, Turner was transferred to the Santa Rita Jail for allegedly violating his parole by making criminal threats and resisting arrest. Smith Supp. Decl. ¶ 9. The Board of Parole found probable cause to detain Turner on both charges. *Id.* ¶ 10. It ultimately upheld the latter but dismissed the former because “the threat was not immediate.” Parole Revocation Dec. at 3.

II. LEGAL STANDARD

The Court may grant a motion for summary judgment “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). A principal purpose of summary judgment “is to isolate and dispose of factually unsupported claims.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 323–24 (1986). A dispute is genuine if the admissible evidence on the record “is such that a reasonable jury could return a verdict” for either party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A fact is material if it could affect the outcome of the suit under the governing law. *Id.* at 248–49 (quoting *First Nat’l Bank of Ariz. v. Cities Serv. Co.*, 391 U.S. 253, 288 (1968)). To determine whether a genuine dispute as to any material fact exists, the Court must view the evidence in the light most favorable to the non-moving party. *Id.* at 255.

In determining whether to grant or deny summary judgment, it is not the Court’s task “to scour the record in search of a genuine issue of triable fact.” *Keenan v. Allan*, 91 F.3d 1275, 1279 (9th Cir. 1996) (internal citation omitted). Rather, the Court may rely on the nonmoving party to “identify with reasonable particularity the evidence that precludes summary judgment.” *Id.* But although the Court need only consider materials cited by the parties, it may also consider other materials in the record. Fed. R. Civ. P. 56(c)(3).

III. DISCUSSION

In their initial briefs, the parties focused almost entirely on whether Turner may recover for the alleged violation of his substantive due process right to associate with his fiancée. *See* Def. MSJ at 6–14; Pl. Opp’n (dkt. 190) at 3–10; Def. Reply (dkt. 194) 4–10; Pl. MPSJ at 4–7; Def. Opp’n (dkt. 189) at 4–9; Pl. Reply (dkt. 195) at 2–5. That was regrettably

a fruitless exercise.⁶ Absolute immunity is an absolute bar to damages claims against “parole officers for imposing allegedly unconstitutional parole conditions,” like the one prohibiting Turner from associating with his fiancée.⁷ Thornton v. Brown, 757 F.3d 834, 839–40 (9th Cir. 2013); Swift v. California, 384 F.3d 1184, 1189 (9th Cir. 2004).

Absolute immunity does not, however, bar claims that parole officers “enforced” conditions of parole in “an unconstitutionally arbitrary or discriminatory manner.” Thornton, 757 F.3d at 840. Turner alleges something of the sort, namely that he was retaliated against when (1) parole officers conducted a compliance check in April 2011, see 5AC ¶ 17; Turner Depo. 145:1–146:21, (2) Defendant Gregory Sims said in December 2011 that “bad things” would happen if he did not drop pending lawsuits or refrain from filing new ones, see 5AC ¶¶ 18–20; Turner Depo. 122:2–24, (3) Defendant Melody Smith had him arrested on December 12, 2011 for making criminal threats, Turner Decl. (dkt. 182) ¶¶ 21–22; Turner Depo. 111:19–112:8; Turner Supp. Decl. ¶ 9, and (4) arrested him again on April 13, 2012 for traveling to San Francisco without permission for a court hearing, see 5AC ¶ 21; Turner Depo. 105:5–110:24.

As to the first allegation, the only evidence that the April 2011 compliance check was retaliatory is Turner’s testimony that Defendants “despise” him. See Turner Depo. 146:2–19. A “naked assertion” of nefarious intent will not survive a motion to dismiss, Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 557 (2007), let alone summary judgment. Turner’s First Amendment retaliation claim arising out of this incident therefore fails. And because even

⁶ It appears that the parties took the Court’s reference to “absolute immunity” when ruling on the officers’ motion for judgment on the pleadings as removing that issue from the case entirely, rather than just for acts that, unlike imposing a parole condition, are not quasi-judicial.

⁷ Besides disposing of Turner’s claim that Defendants violated his “right to associate and communicate with close family members, including [his] fiancée, and the right to marry his fiancée,” 5AC ¶ 25(b), it also does away with his claim that they violated his “right to use the judicial system to petition the government for redress,” to the extent that other parole conditions allegedly impinged on that right, 5AC ¶ 25(a). And to the extent Turner maintains that his “difficulty reaching” Smith about attending court hearings also violated that right, Turner Supp. Decl. ¶ 2, he is wrong. For one thing, Turner must have some evidence that he suffered an actual injury related to his lawsuits caused by that difficulty—for example that his case was dismissed. See Lewis v. Casey, 518 U.S. 343, 351 (1996). He has none. For another, Turner could simply have requested leave to appear in court by telephone. Instead, he chose to leave the jurisdiction without permission in violation of his parole. That’s on him.

suspicionless searches of California parolees pose no Fourth Amendment problem,⁸ that is the end of the matter. See Samson v. California, 547 U.S. 843, 846 (2006); see also Cal. Penal Code § 3067(b)(3) (requiring all California inmates to agree to searches done “with or without a search warrant” and “with or without cause” before being released on parole).

As to the second, third, and fourth allegations, the most Turner can do is bring First Amendment claims for retaliatory arrest on the theory that the “bad things” threatened by Sims were his arrests on December 12, 2011 and April 13, 2012.⁹ To prevail on such a claim, Turner must show that a retaliatory motive was “a but-for cause” of his arrest. Ford v. City of Yakima, 706 F.3d 1188, 1193 (9th Cir. 2013). But because there is “almost always a weak inference of retaliation whenever a plaintiff and a defendant have had previous

⁸ Turner also alleges that Defendant Brett Everidge violated the knock-and-announce rule when conducting the April 2011 compliance check. See 5AC ¶ 17; Turner Depo. 121:5–8. But that is not a per se Fourth Amendment violation. Wilson v. Arkansas, 514 U.S. 927, 934 (1995). And even if it made a difference that Turner’s parole conditions referenced searches done “without a warrant” but not searches done “without suspicion,” Parole Conditions (dkt. 186–2) at 2, and even if the compliance check was indeed done without suspicion, the officers would still be entitled to qualified immunity. In 2013, the Ninth Circuit expressly declined to decide “whether the Fourth Amendment permits suspicionless searches of probationers who have not accepted a suspicionless-search condition,” United States v. King, 736 F.3d 805, 810 (9th Cir. 2013) (emphasis added), to say nothing of California parolees who, again, are required by law to agree to such a condition before being released, see Cal. Penal Code § 3067(b)(3). It was thus far from clearly established law in 2011 that an omission like the one here transforms an otherwise reasonable search into an unreasonable one.

⁹ Turner asserts that Sims’s alleged threat is a stand-alone First Amendment claim that survives summary judgment. See Pl. Supp. Resp. at 6 n.3. Not so. “In a constitutional tort, as in any other, a plaintiff must allege that the defendant’s action caused him some injury.” Resnick v. Hayes, 213 F.3d 443, 449 (9th Cir. 2000). So to survive summary judgment, a plaintiff must offer enough admissible evidence for a reasonable jury to find that he suffered an injury as a result of the defendant’s retaliatory action. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986) (laying out summary judgment standard). Turner has not done so. In the First Amendment retaliation context, although a plaintiff need not show that his “speech was actually suppressed or inhibited” as a general matter, he must still show (1) that the defendant “intended to interfere” with his First Amendment rights and (2) that he suffered “some injury as a result” of the defendant’s action. Arizona Students’ Ass’n v. Arizona Bd. of Regents, 824 F.3d 858, 867 (9th Cir. 2016). For example, a defendant might have deprived the plaintiff of a financial benefit, see id. at 863, or arrested him without probable cause, see Mendocino Env’tl Ctr. v. Mendocino Cty., 192 F.3d 1283, 1290 (9th Cir. 1999). Turner, however, points to words and words alone. He alleges that he “was really shook up and extremely nervous and upset” after the interaction, Turner Supp. Decl. ¶ 4, but “hurt feelings differ from legal injury,” Freedom From Religion Foundation, Inc. v. Obama, 641 F.3d 803, 807 (7th Cir. 2011). No reasonable jury, for that matter, could conclude that Sims’s alleged threat caused Turner’s larger psychological problems. With nothing else to satisfy the actual-injury requirement, Turner must indeed show an actual chilling effect on his speech. Cf. Spokeo, Inc. v. Robins, 136 S. Ct. 1540, 1548 (2016) (holding that, for an injury to be “concrete” under Article III, it must “actually exist”). Because he did not drop pending lawsuits, see Turner Decl. ¶ 21, or indicate that he refrained from filing any new lawsuits because of the alleged threat, see, e.g., Turner Supp. Decl. ¶ 4, he cannot, and so this claim cannot survive summary judgment standing alone.

negative interactions,” whether the arrest was objectively reasonable plays a critical role in the analysis.¹⁰ See Dietrich v. John Ascuaga’s Nugget, 548 F.3d 892, 901 (9th Cir. 2008). Otherwise, “nearly every retaliatory First Amendment claim would survive summary judgment,” threatening government officials with “the disruption caused by unfounded claims.” Id. (quoting Skoog v. Cnty. of Clackamas, 469 F.3d 1221, 1232 (9th Cir. 2006)).

For most retaliatory arrest cases, courts look to whether the officers had probable cause because, for most arrests, that is the bar for objective reasonableness. See id. Ninth Circuit law is unclear whether the presence of probable cause is dispositive or merely highly probative in such cases. Compare Beck v. City of Upland, 527 F.3d 853, 863–64 (9th Cir. 2008) (requiring plaintiff to prove the absence of probable cause), with Dietrich, 548 F.3d at 901 (observing that probable cause, though “not dispositive,” is highly probative). But, at a minimum, it is clear that a retaliatory-arrest claim will not survive summary judgment if there is “very strong evidence of probable cause and very weak evidence of retaliatory motive.” Dietrich, 548 F.3d at 901.

This is not most retaliatory arrest cases. Turner was on parole for both arrests. Parole officers do not need probable cause to arrest a parolee. See Sherman v. U.S. Parole Comm’n, 502 F.3d 869, 884 (9th Cir. 2007). Instead, they need only a reasonable belief that a parole violation has occurred.¹¹ Id.; see also United States v. Butcher, 926 F.2d 811, 814 (9th Cir. 1994) (citation omitted) (reasoning that the “arrest of a parolee is more like a mere transfer of the subject from constructive custody into actual or physical custody”). The parties do not cite a case—and the Court knows of none—that clearly establishes whether probable cause or this lower standard informs the analysis of a retaliatory-arrest claim brought by a parolee.

So just as it was unclear in Reichle v. Howards, 132 S. Ct. 2088 (2012), whether the average person has a “right to be free from a retaliatory arrest that is otherwise supported by probable cause,” id. at 2094, here it was unclear whether a parolee has right to be free from a

¹⁰ This is all the more critical when it comes to parole, which is chock-full of potential for negative interactions. See, e.g. Turner v. Smith et al., no. 11-cv-5176-CRB (N.D. Cal) (this case).

¹¹ Parole officers may also ask the police to make the arrest rather than do it themselves. See Butcher, 926 F.2d at 814.

1 retaliatory arrest otherwise supported by a reasonable belief that he had violated his parole
 2 or, for that matter, posed a potential threat to his parole officer. As a result, the officers are
 3 entitled to qualified immunity unless it was unreasonable to believe that either concern
 4 applied here.¹² See id.; see also Mullenix v. Luna, 136 S. Ct. 305, 309 (2015) (per curiam)
 5 (holding that critical question for qualified immunity is “whether the violative nature of
 6 particular conduct is clearly established”).

7 Turner does not (and cannot) dispute that he violated his parole in April 2012, or that
 8 Smith knew about the violation. See Turner Depo. 109:12–21 (“She arrested me because I
 9 went to the federal courthouse without her prior approval.”); Am. Parole Conditions (dkt.
 10 186–5) at 5 (requiring prior approval for travel outside Alameda County). It was therefore
 11 reasonable to believe that he had violated his parole.¹³ Qualified immunity applies.

12 The same is true for his December 2011 arrest. Because this piece of the puzzle is
 13 objective, it does not matter what Turner actually said or intended—or what Smith actually
 14 thought. What matters is what the fellow parolee and group counselor communicated to
 15 Smith.¹⁴ See, e.g., Terry v. Ohio, 392 U.S. 1, 21–22 (1968) (noting that an objective test asks
 16 whether “the facts available to the officer at the moment of the seizure or the search ‘warrant
 17 a man of reasonable caution in the belief’ that the action taken was appropriate”). And even
 18 though their version of what Turner said fell short of a true criminal threat, see Cal. Penal
 19 Code § 422, Smith could reasonably believe that Turner posed a potential threat to her safety
 20 based on their account.¹⁵ Qualified immunity applies here too.

21
 22
 23 ¹² “The plaintiff bears the burden of showing that the right at issue was clearly established.”
Sorrels v. McKee, 290 F.3d 965, 969 (9th Cir. 2002). Turner has not met that burden here.

24 ¹³ For this reason, there was no Fourth Amendment violation. See Sherman, 502 F.3d at 884.

25 ¹⁴ As already discussed, see supra note 5, Smith may testify to these statements so long as they
 26 are offered for their effect on the listener. The Court considers them for that purpose only. What is
 27 more, Turner was present for the session and could thus at the very least identify the group counselor.
 28 But because Turner did not seek her out—or because she would have confirmed corroborating the other
 parolee’s story—she did not offer a declaration putting what she told Smith in dispute. (Their
 conversation is of course outside Turner’s personal knowledge, so his word won’t do.)

¹⁵ So again: no Fourth Amendment violation. See Sherman, 502 F.3d at 884.

The foregoing is enough to dispose of Turner’s retaliatory-arrest claims, but it is not their only fatal flaw. Here, as in Dietrich v. John Ascuaga’s Nugget, 548 F.3d 892 (9th Cir. 2008), “no reasonable juror could find from the undisputed facts that Defendants acted in retaliation for Plaintiff’s First Amendment activities.” Id. at 901. Turner alleges that Sims threatened “bad things” to come but does not dispute that Smith instigated both arrests. That being so, “the causal connection required here is not merely between the retaliatory animus of one person and that person’s own injurious action,” as in most retaliatory-arrest cases, “but between the retaliatory animus of one person and the action of another,” as in Hartman v. Moore, 547 U.S. 250, 262 (2006) (holding that, for this reason, the absence of probable cause must be pleaded and proved in retaliatory-prosecution cases). Turner points to no affirmative evidence suggesting that Smith instigated his arrest not out of reasonable concern for her safety, but to ensure that Sims’s alleged threat of “bad things” had teeth. Likewise, he points to no affirmative evidence suggesting that Sims played a role in the arrests. As for Defendant John Bent, Turner baldly asserts that he “ratified” the arrests but, yet again, provides no evidence to back it up. See Turner Decl. (dkt. 182) ¶ 22; see generally Turner Supp. Decl (making no mention of Bent).

The most Turner can muster regarding his December 12, 2011 arrest is that it came five days after Smith learned about his alleged statements, which he argues is a “remarkable” delay. Pl. Supp Resp. (dkt. 200) at 2. There is nothing remarkable about it. Arrests do not always, or even often, happen immediately.¹⁶ But whatever scintilla of evidence the five-day delay might provide, it is insufficient. For example, Maidhof v. Celaya, 641 F. App’x 734 (9th Cir. 2016), reversed a denial of summary judgment on a retaliatory-arrest claim against a police chief even though he had praised protesters “getting booked so they won’t be able to participate in [a] rally.” Id. at 736. If that is not enough, this is far from enough.¹⁷

¹⁶ Here, to name one of countless possibilities, Turner’s housing situation was in flux during those five days. See Turner Supp. Decl. ¶ 7.

¹⁷ Although Beck v. City of Upland, 527 F.3d 853 (9th Cir. 2008), allowed a retaliatory-arrest claim to survive summary judgment where the plaintiff was accused of making criminal threats, that case is readily distinguishable. First, there the very same officers confronted by the plaintiff about

1 Turner's claim regarding the April 13, 2012 arrest is even weaker. Sims allegedly
2 threatened him on December 7, 2011—four months earlier. That is a remarkable delay.

3 **IV. CONCLUSION**

4 For the foregoing reasons, none of Turner's federal law claims can survive summary
5 judgment. The Court therefore lacks supplemental jurisdiction over his state law claims. See
6 28 U.S.C. § 1367. Accordingly, the Court GRANTS the officers' motion for summary
7 judgment and DENIES Turner's motion for partial summary judgment. Pursuant to Civil
8 Local Rule 7–1(b), it does so without oral argument.

9 **IT IS SO ORDERED.**

10 Dated: March 7, 2017



11 CHARLES R. BREYER
12 UNITED STATES DISTRICT JUDGE
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28 unfair treatment filed affidavits supporting the warrant for his arrest. Id. at 859–60. Second, the officers
admitted that they took plaintiff's statement ("You don't know who you're dealing with") as a threat
to their jobs, not their persons. Id. at 858–859. Third, the plaintiff was not on parole. See id. at 857–58.

SUMMARY OF REVOCATION HEARINGS AND DECISION**Preliminary Information (cont.)**

H. HEARING: Occurred

REASON:

Specify Witnesses/Documents needed for next hearing:

SUMMARY OF FINDINGS**ADMISSIONS/DENIALS AND FINDINGS**

Charges			Plea			Findings		
Charge Number	Code Number	Charge Specified	Admit	Deny	No Plea	Good Cause	Dismiss	Postponed
1.	019	NOT TO DATE, SOCIALIZE, ETC W/PERSON W/ MINOR		X		X		
2.	019	NOT TO VIEW, POSSESS, OR ACCESS SEXUAL ORNTD MATERIAL		X		X		
3.	019	NOT TO HAVE ACCESS TO INTERNET UNLESS WORK RELATED		X		X		
4.	383	Pimping/pandering		X			X	
5.	999	UNAUTHORIZED PRACTICE OF LAW		X			X	
6.	024	Failure to follow instructions from P&CSD		X		X		

NAME
TURNER, STEPHENCDC NUMBER
F23495INST/REGION / AGENT
EAST BAY / 2
SMITH, MELODYHEARING DATE
04-MAY-2010

SUMMARY OF REVOCATION HEARING AND DECISION**REASON FOR DECISION****Basis for Conclusion:**

BPH 1073 AND DEC REVIEWED AND INTERVIEW CONDUCTED. PAROLEE IS A HS AND COLLEGE GRADUATE WITH ADVANCED DEGREES IN MEDICINE. NO HEARING, NOR MOBILITY ISSUES. PAROLEE WEARS GLASSES. NO PSYCH CONCERNS, ALTHOUGH PAROLEE SELF REPORTS GENERAL ANXIETY DISORDER, OBSESSIVE COMPULSIVE DISORDER, AND DEPRESSION. HE IS NOT RECEIVING ANY MEDICATIONS AND STATES THAT THE DISORDERS DO NOT PREVENT HIM FROM HAVING EFFECTIVE COMMUNICATION. NO ACCOMODATIONS REQUIRED. DUE PROCESS RIGHTS REVIEWED AND DISCUSSED. COUNSEL SATISFIED THAT PAROLEE'S ADA RIGHTS HAVE BEEN MET.

CHARGE 1: GOOD CAUSE FOUND BY A PREPONDERANCE OF THE EVIDENCE BASED ON THE TESTIMONY OF AGENT SMITH THAT PAROLEE WAS INSTRUCTED NOT TO DATE, SOCIALIZE OR FORM A ROMANTIC RELATIONSHIP WITH A PERSON HAVING CUSTODY OF A MINOR CHILD. PAROLEE ADMITS THAT HE HAS A ROMANTIC RELATIONSHIP WITH AMY MIRANDA. HE TESTIFIED THAT MS. MIRANDA IS HIS FIANCE. PAROLEE ADMITS THAT MS. MIRANDA HAS CUSTODY OF HER NINE YEAR OLD DAUGHTER THAT IS IS FOND OF AND THAT HE SPENDS TIME WITH.

CHARGES 2 AND 3: GOOD CAUSE FOUND BY A PREPONDERANCE OF THE EVIDENCE BASED ON THE TESTIMONY OF AGENT SMITH THAT WHEN SHE REVIEWED PAROLEE'S COMPUTER HISTORY, SHE FOUND EVIDENCE THAT PAROLEE HAS USED THE INTERNET TO ACCESS PORNOGRAPHIC WEBSITES INCLUDING WWW.MYREDBOOK.COM AND WWW.BACKPAGE.COM, AND OTHERS WHICH ARE WEB SITES FOR ESCORTS, PROSTITUTES, AND OTHER ADULT ENTERTAINMENT. THE WEBSITE CONTAINS NUMEROUS PORNOGRAPHIC AND PROVOCATIVE PHOTOS OF WOMEN INCLUDING PAROLEE'S FIANCE, AMY MIRANDA.

CHARGE 4: DISMISSED FOR INSUFFICIENT EVIDENCE. THERE WAS EVIDENCE SUBMITTED THAT TENDED TO SHOW THAT PAROLEE ASSISTED MS. MIRANDA IN HER PROSTITUTION ENTERPRISE BY WRITING REVIEWS OF HER SERVICES, BUT THERE IS NO EVIDENCE THAT PAROLEE EVER PROFITTED IN ANY WAY FROM HIS ACTIVITIES. THE EVIDENCE SHOWED THAT PAROLEE'S EFFORTS WERE DIRECTED TOWARDS INCREASING MS. MIRANDA'S LEGITIMATE MASSAGE CLIENTELE.

Basis for Disposition:

CHARGE 5: DISMISSED FOR INSUFFICIENT EVIDENCE. THE EVIDENCE SHOWED THAT PAROLEE CONDUCTED LEGAL RESEARCH FOR PAY. HOWEVER, PAROLEE DID NOT HOLD HIMSELF OUT AS AN ATTORNEY, NOR DID HE PREPARE ANY DOCUMENTS PURPORTING TO HAVE LEGAL EFFECT.

CHARGE 6: GOOD CAUSE FOUND BY PREPONDERANCE OF THE EVIDENCE BASED ON THE TESTIMONY OF AGENT SMITH THAT PAROLEE WAS INSTRUCTED NOT TO HAVE CONTACT WITH MS MIRANDA BY ANY MEANS, INCLUDING BY THIRD PARTIES. THE STATE PROVIDED A TAPE RECORDING OF TELEPHONE CALLS MADE BY PAROLEE WHILE HOUSED IN NORTH COUNTY JAIL IN WHICH PAROLEE ASKED HIS SISTER TO DO HIM A FAVOR AND MAKE A TELEPHONE CALL FOR HIM TO MS. MIRANDA AND GIVE HER A MESSAGE FOR HIM. HE PROVIDED HIS SISTER WITH MS. MIRANDA'S TELEPHONE NUMBER.

PAROLEE OFFERED NO REASONABLE EXPLANATIONS FOR HIS CONDUCT WHILE VIOLATING PAROLE OTHER THAN TO INSIST THAT THE PC 290 SPECIAL CONDITIONS OF PAROLE SHOULD NOT APPLY TO HIM.

PAROLEE STRIKES THIS HEARING OFFICER AS HAVING A SENSE OF ENTITLEMENT AND AN ATTITUDE OF BEING ABOVE THE LAW. IN ORDER TO PROTECT THE PUBLIC A RETURN TO CUSTODY IS WARRANTED.

PAROLEE IS RETURNED TO CUSTODY FOR NINE MONTHS ELIGIBLE.

NAME
TURNER, STEPHEN

CDC NUMBER
F23495

INST/REGION / AGENT
EAST BAY / 2
SMITH, MELODY

HEARING DATE
04-MAY-2010

SUMMARY OF REVOCATION HEARING AND DECISION**SUMMARY OF DISPOSITION**

Parole Referral: REFER

Custody Status: In Custody as of 06-APR-10

☐ Continue on Parole ☐ Schedule for Revocation☐ NIC ☐ Other Non-Rev Sanction☐ Dismiss Reason☒ Parole Revoked-Return to Custody: 9 monthsServe ☐ Consecutively ☐ Concurrently☐ Parole Revoked-Return to Custody: months for Psych Rx☐ Time Served: toHold Order: ☐ Place ☐ Remove**3057 Credits**☒ Eligible☐ Ineligible 3057d-1 Reason for Ineligibility:☐ Commitment Offense:☐ Revocation Offense:☐ Parole Violation:☐ Sentenced under PC 1168:☐ Unsuitable for credits because of PC 3057(d)(2)(e)☐ Prior Criminal History☐ Circumstances & Gravity of Parole Violation

Specify Reason

BPH HEARING PANEL**Parolee Decision**☐ Accept ☐ Reject ☐ Optionally Waive**Optional Waivers**☐ Previous BPH Action of is:☐ Rescinded ☐ Reaffirmed**Reasons Remedial Sanctions not Chosen**☒ PC 290 registration**Special Conditions of Parole**☐ Noted ☐ Reaffirmed ☒ Amended**Other**

Special Condition

NO CONTACT WITH A MY
MIRANDA BY ANY MEANS

Reason

DUE TO SEX OFFENDER SCOP

Instructions to CDCR or DAPO Staff**Miscellaneous Actions**

NAME

NAME *Stephen Turner*

DECISION REVIEW BY:

REVOCATION HEARING TIME (MINUTES)

1. Prehearing Prep. Time: 15

2. Actual Hearing Time: 180

3. Report Completion Time: 30

4. Other:

Total: 225Hearing Accommodations (ADA) Provided: ☐ Yes ☐ NoNAME
TURNER, STEPHENCDC NUMBER
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SMITH, MELODYHEARING DATE
04-MAY-2010

Accom:

SUMMARY OF REVOCATION HEARING AND DECISION**V. OBJECTIONS**☐ None ☒ Yes

Objections / Basis for Ruling	Ruling
DUE PROCESS VIOLATION PAROLEE ENTITLED TO EXPEDITED HEARING	DENY
PAROLEE CLAIMS THAT HE WAS ENTITLED TO AN EXPEDITED HEARING IN LIGHT OF HIS COMPLETE DEFENSE TO ALL THE CHARGES. RULING RESERVED UNTIL THE END OF HEARING, HOWEVER IT IS NOTED THAT THERE ARE NO REMARKS THAT THE DRU RECEIVED A REQUEST FOR AN EXPEDITED HEARING. AT THE CONCLUSION OF THE EVIDENCE THE OBJECTION WAS DENIED BASED ON GOOD CAUSE FINDINGS ON SEVERAL OF THE CHARGES.	

Objections / Basis for Ruling	Ruling
DUE PROCESS VIOLATION DUE TO ERRONEOUS INFORMATION INCLUDED IN DOJ RAP SHEET	DENY
PAROLEE REQUESTS DISMISSAL OF ALL CHARGES DUE TO DUE PROCESS VIOLATION FOR BEING INCORRECTLY CLASSIFIED AS A PAROLEE SUBJECT TO PC 290 REGISTRATION. PAROLEE CLAIMS THAT HIS 1984 CONVICTION FOR INDECENT EXPOSURE WAS DISMISSED IN 1986 IN THE INTEREST OF JUSTICE AND IS THE EQUIVALENT TO A GUBERNATORIAL PARDON, THUS, IT WAS COMPLETELY EXPUNGED AND CANNOT BE USED AS THE BASIS FOR PC 290 CONDITIONS OF PAROLE. OBJECTION DENIED BECAUSE PAROLEE'S 1993 CONVICTION FOR MISDEMEANOR INDECENT EXPOSURE IS THE BASIS FOR THE PC 290 REGISTRATION DESPITE HIS SUBSEQUENT DISMISSAL UNDER PC 1203.4 IN 1996. PC 290.007 SPECIFICALLY STATES THAT A CONVICTION FOR CERTAIN QUALIFYING OFFENSES WILL REQUIRE REGISTRATION DESPITE DISMISSAL UNDER 1203.4.	

Objections / Basis for Ruling	Ruling
DUE PROCESS VIOLATION RELATED TO VAGUENESS BECAUSE CHARGE #2 ON 1502 REFERS TO "OBSCENE" MATERIAL	DENY
THE CDC 1502 DOES LIST AS CHARGE #2 VSC - NOT TO POSSESS OR VIEW ANY MATERIAL CONSIDERED TO BE OBSCENE. PAROLEE OBJECTS TO THE CHARGE AS IT IS VAGUE AND DOES NOT GIVE HIM ACTUAL NOTICE OF WHAT CONDUCT CONSTITUTES THE VIOLATION. HE REQUESTS DISMISSAL. OBJECTION DENIED BECAUSE THE CDC 1502 IS AN INITIAL REPORT SUBMITTED TO THE UNIT SUPERVISOR TO SUBSTANTIATE THE PAROLE HOLD. LATER, A FULL REVOCATION REPORT (1676) WAS SUBMITTED WITH SUPPORTING EVIDENCE AND CHARGE 2 WAS MORE FULLY DESCRIBED AS VSC- NOT TO VIEW, POSSESS OR ACCESS SEXUALLY ORIENTED MATERIAL. THE 1676 CONTAINED A FULL DESCRIPTION OF THE PROHIBITED CONDUCT AS WELL AS PHOTOGRAPHIC EVIDENCE OF THE SEXUALLY EXPLICIT MATERIALS ACCESSED BY PAROLEE WHICH SUBSTANTIATES THE CHARGE.	

Objections / Basis for Ruling	Ruling
DUE PROCESS VIOLATION DUE TO SCOP NOT SERVED ON INMATE ALONG WITH 1676.	DENY
PAROLEE CLAIMS THAT HIS DUE PROCESS RIGHTS WERE VIOLATED BECAUSE CERTAIN OF THE CHARGES ARE BASED ON A VIOLATION OF HIS SCOP AND A COPY OF THE SCOP WERE NOT SERVED TO PAROLEE ALONG WITH THE VIOLATION REPORT. AT THE HEARING, PAROLEE AND A ATTORNEY WERE GIVEN A COPY OF THE SCOP AND SEX OFFENDER ADDENDUM. IT IS NOTED THAT PAROLEE HAD ADEQUATE NOTICE OF EACH OF THESE CONDITIONS BECAUSE HE INITIALED EACH ONE AND SIGNED HIS 1515 AND SEX OFFENDER ADDENDUM ON 2/24/10.	

NAME
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EAST BAY / 2
SMITH, MELODYHEARING DATE
04-MAY-2010

NOTICE AND CONDITIONS OF PAROLE

CDC 1515 (Rev 05/01)

You will be released on parole effective 1/5, 20 10 for a period of Duration of Parole. This parole is subject to the following notice and conditions. Should you violate conditions of this parole, you are subject to arrest, suspension and/or revocation of your parole.

You waive extradition to the State of California from any state or territory of the United States or from the District of Columbia. You will not contest any effort to return you to the State of California.

When the Board of Prison Terms determines, based upon psychiatric reasons, that you pose a danger to yourself or others, the Board may, if necessary for psychiatric treatment, order your placement in a community treatment facility or state prison or may revoke your parole and order your return to prison.

You and your residence and any property under your control may be searched without a warrant by an agent of the Department of Corrections or any law enforcement officer.

If another jurisdiction has lodged a detainer against you, you may be released to the custody of that jurisdiction. Should you be released from their custody prior to the expiration of your California parole, or should the detainer not be exercised, you are to immediately contact the nearest Department of Corrections' Parole and Community Services Division Office for instructions concerning reporting to a parole agent.

You have been informed and have received in writing the procedure for obtaining a Certificate of Rehabilitation (4852.21 PC).

CONDITIONS OF PAROLE

1. **SPECIAL CONDITIONS MUST:** a) Relate to the crime for which you were convicted, b) Relate to conduct which is itself criminal,

c) Prohibit conduct which may be related to future criminality. You are subject to the following special conditions: _____

1. See attached-CDCR 1515-Addendum "C" Special Condition of Sex Offenders.

Reasons for the imposition of special conditions of parole: 1) Related to commitment offense and other case factors.

[Signature] I acknowledge my special conditions of parole.

PAROLEE'S INITIALS

G. Sims, USA [Signature]
SIGNATURE OF UNIT SUPERVISOR

DATE SIGNED

2. **RELEASE, REPORTING, RESIDENCE AND TRAVEL:** Unless other arrangements are approved in writing, you will report to your parole agent on the first working day following your release. Any change of residence shall be reported to your parole agent in advance. You will inform your parole agent within 72 hours of any change of employment location, employer or termination of employment.
3. **PAROLE AGENT INSTRUCTIONS:** You shall comply with all instructions of your parole agent and will not travel more than 50 miles from your residence without his/her prior approval. You will not be absent from your county of residence for a period of more than 48 hours and not leave the State of California without prior written approval of your parole agent.
4. **CRIMINAL CONDUCT:** You shall not engage in conduct prohibited by law (state, federal, county or municipal). You shall immediately inform your parole agent if you are arrested for a felony or misdemeanor crime. Conduct prohibited by law may result in parole revocation even though no criminal conviction occurs.
5. **WEAPONS:** You shall not own, use, have access to, or have under your control: (a) any type of firearm or instrument or device which a reasonable person would believe to be capable of being used as a firearm or any ammunition which could be used in a firearm; (b) any weapon as defined in state or federal statutes or listed in California Penal Code Section 12020 or any instrument or device which a reasonable person would believe to be capable of being used as a weapon as defined in Penal Code Section 12020; (c) any knife with a blade longer than two inches, except kitchen knives which must be kept in your residence and knives related to your employment which may be used and carried only in connection with your employment; or (d) a crossbow of any kind.
6. You shall sign this parole agreement containing the conditions of parole specified in Board of Prison Terms (BPT) Rules Sections 2512 and any special conditions imposed as specified in BPT Rules Section 2513. Penal Code Section 3060.5 provides that the BPT shall revoke the parole of any prisoner/parolee who refuses to sign the Notice and Conditions of parole. You have the right to appeal the special conditions of parole. Special conditions imposed by the Parole and Community Services Division may be appealed pursuant to California Code of Regulations (CCR), Section 3084 and 3085. Special Conditions of parole imposed by the BPT may be appealed pursuant to CCR, Section 2050.

I have read or have had read to me and understand the conditions of parole as they apply to me.

CDC NUMBER F23495	PAROLEE NAME (Print or Type) TURNER, STEPHEN	PAROLEE SIGNATURE <u>[Signature]</u>	DATE SIGNED 9-20-11
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TO BE COMPLETED BY STAFF:

Does the inmate/parolee have a qualifying disability requiring effective communication? ☒ Yes ☐ No

If yes, cite the source document and/or observations: Per DECS: CCCMS/TABE 1.1

What type of accommodation/assistance was provided to achieve effective communication to the best of the inmate's/parolee's ability?

Subject has a medical degree in Radiology and does not require assistance.

STAFF NAME (Print or Type)

M. SMITH, PAI

STAFF SIGNATURE

DATE SIGNED

9/20/11

NAME: TURNER, STEPHEN CDC NUMBER: F23411 DATE: 9/19/11

You shall comply with all of the following special conditions while you are on parole. Any exceptions must be approved in writing by the Unit Supervisor.

SUBSTANCE ABUSE:

		Reason	Initial
✓	1. You shall provide an anti-narcotic test when instructed to do so by a parole agent.	1	ST
	2. You shall not consume, possess or have access to any alcoholic beverages, liquors, or over-the-counter medication that contains alcohol; i.e., NyQuil. You shall provide a urine or breath sample for the purpose of detecting the presence of alcohol.		
	3. You shall not enter a business whose primary purpose is to sell or serve alcoholic beverages.		
	4. You shall enroll in and successfully complete a substance abuse treatment program as directed by your parole agent.		
	5. You shall immediately enroll in and successfully complete 150 days in a residential drug treatment program. Successful completion, as determined by the Aftercare Successful Completion Team, will result in discharge from parole.		

TREATMENT:

		Reason	Initial
✓	6. You shall attend Parole Outpatient Clinic (POC) for an initial evaluation and remain in that treatment program as deemed necessary by a POC clinician.	7, 8	ST
✓	7. You shall participate in a mental health treatment program as directed by your parole agent.	7, 8	ST
✓	8. You shall submit to psychological or physiological assessments to assist in treatment planning and/or parole supervision.	8, 11	ST
✓	9. You shall actively participate in a DAPO-approved treatment program specific to Sex Offenders.	8, 11	ST
✓	10. You shall report to, enroll in, and actively participate in outpatient sex offender treatment.	8, 11	ST
✓	11. You hereby agree to waive psychotherapist-patient privilege, and agree to polygraph examinations while in treatment during parole.	8, 11	ST
✓	12. Upon reporting to outpatient sex offender treatment, you shall sign forms presented by the treatment providers, including an information release form and a <i>Consent To Polygraph</i> form.	8, 11	ST

CONTACT WITH MINORS:

		Reason	Initial
✓	13. You shall have no contact with any minor male you know or reasonably should know is under the age of 18. "No contact" means no contact in any form, whether direct or indirect, personally, by telephone, by writing, electronic media, computer, or through another person, etc.	4, 5	ST
✓	14. You shall not have contact with any minor female you know or reasonably should know is under the age of 18. "No contact" means no contact in any form, whether direct or indirect, personally, by telephone, by writing, electronic media, computer, or through another person, etc.	4, 5	ST

NAME: TURNER, STEPHEN CDC NUMBER: F23411 DATE: 9/19/11

	15. You shall not have any contact with any minor male you know or reasonably should know is between the ages of 13 and 18. "No contact" means no contact in any form, whether direct or indirect, personally, by telephone, by writing, electronic media, computer, or through another person, etc.		
	16. You shall not have any contact with any minor female you know or reasonably should know is between the ages of 13 and 18. "No contact" means no contact in any form, whether direct or indirect, personally, by telephone, by writing, electronic media, computer, or through another person, etc.		
✓	17. You shall immediately inform your parole agent regarding any contact with a minor. This includes "accidental" or "incidental" contact.	4, 5	ST
✓	18. You shall not enter or loiter within 100 yards of the perimeter of places where children congregate; i.e., day care centers, schools, parks, playgrounds, video arcades, swimming pools, state fairgrounds, county fairgrounds, etc.	4, 5	ST

RELATIONSHIPS:

		Reason	Initial
✓	19. You shall not date, socialize or form a romantic interest or sexual relationship with any person who has physical custody of a minor.	4, 5	ST
✓	20. You shall inform all persons with whom you have a significant relationship; i.e., employer, dating, roommate, about your criminal history, and you will inform your parole agent about the relationship.	5	ST
	21. You shall inform all persons with whom you have a sexual or romantic relationship, that you have been diagnosed as having a communicable disease.		

VICTIM(S): (Put in victim's full name; if unable to produce victim's name, supply law enforcement agency number/DA case number and conviction date(s))

		Reason	Initial
✓	22. You shall not enter the premises, unnecessarily travel past, or loiter near where your victim frequents, resides, is employed, or attends classes.	4, 5	ST
✓	23. You shall not contact or attempt to contact your crime victim(s): or their immediate families. "No contact" means no contact in any form, whether direct or indirect, personally, by telephone, by writing, electronic media, computer, or through another person, etc.	4, 5	ST
✓	24. You shall not threaten, stalk, abuse, harass, or commit further violent acts against the victim(s).	4, 5	ST
✓	25. You shall not have in your possession any of your victim's personal effects; i.e., pictures, letters, etc.	4, 5	ST

ASSOCIATION:

		Reason	Initial
✓	26. You shall not associate with any sex offenders except when approved in writing by your parole agent.	15	ST
	27. You shall not have contact with co-defendants or other arrestees of your offenses. "No contact" means no contact in any form, whether direct or indirect, personally, by telephone, by writing, electronic media, computer, or through another person, etc.		

NAME: TURNER, STEPHEN CDC NUMBER: F23411 DATE: 9/19/11

TRAVEL:		Reason	Initial
	28. You shall not travel more than _____ miles from your residence of record.		
	29. You shall maintain and have in your possession a travel log which shall include: date and time of departure, destination, time of arrival, mileage, route taken, with whom, and include daily starting and ending mileage. (Circle all that apply.)		
	30. You shall not hitchhike or pick up hitchhikers.		
✓	31. You shall not enter or loiter within 100 yards of areas of sexual or pornographic activity; i.e., adult bookstores, massage parlors, nude or topless bars, sex shops, etc.	5, 9	SP
	32. You shall not drive or be a passenger in a motor vehicle with female occupants.		
	33. You shall not drive or be a passenger in a motor vehicle with male occupants.		
✓	34. You shall notify your parole agent in advance of operating any motor vehicle, giving the make, model, year, color, and license number.	15	SP

EMPLOYMENT:		Reason	Initial
✓	35. Employment shall be preapproved by your parole agent.	4, 5	SP
✓	36. You shall not obtain employment that allows you to enter a residence where a stranger resides.	4, 5	SP
✓	37. Volunteer work shall be preapproved by your parole agent.	4, 5	SP

RESIDENCE:		Reason	Initial
✓	38. You shall not reside in a residence with any person also required to register pursuant to PC Section 290, unless he or she is legally related to you by blood, marriage, or adoption. This does not include treatment programs and/or board and care facilities with the appropriate use permit.	12	SP
	39. You shall not reside within <u>one-half mile</u> of any public or private school (kindergarten and grades 1 to 12, inclusive) per PC Section 3003(g).		
✓	40. You shall not reside within <u>2,000 feet</u> of any public or private school (kindergarten and grades 1 to 12, inclusive), or parks where children regularly congregate per PC Section 3003.5(b).	12	SP
	41. You shall not reside in the county of _____.		
✓	42. You shall be in your approved residence from <u>10</u> p.m. to <u>6</u> a.m.	6(b)	SP
✓	43. You shall not establish a residence that has not been preapproved by your parole agent.	12	SP
	44. You shall not reside within 35 miles of your victim.		

NAME: TURNER, STEPHEN CDC NUMBER: F23411 DATE: 9/19/11

POSSESSIONS:

		Reason	Initial
✓	45. You shall not possess, or have access to any sexually oriented or sexually stimulating objects and/or devices.	6(a), 9	AP
✓	46. You shall not view, possess, or have access to any pornographic material; i.e., movies, photographs, drawings, literature, etc.	6(a), 9	AP
✓	47. You shall not view, possess, or have access to any material; i.e., periodicals, newspapers, magazines, catalogs, that depict adults or children in undergarments, nude, partially nude, etc.	6(a), 9	AP
✓	48. You shall not possess or have access to sexually oriented devices, handcuffs, handcuff keys, restraint equipment, or any other items that could be used for bondage, restraint, control, or confinement.	9	AP
✓	49. You shall not possess or have access to children's clothing, toys, games, or other similar material related to children's interests.	9	AP
	50. You shall not possess any household pets or animals including animals not traditionally considered household pets; i.e., snakes, lizards, gerbils, farm animals, etc.		
	51. You shall not use or possess law enforcement identification, insignia, badges, uniforms, or other items identified with law enforcement.		
	52. You shall not use, possess, or have access to surveillance equipment.		
	53. You shall not use, possess, or have access to police radio scanners, or other telecommunications device(s) which monitor police radio transmission.		
	54. You shall not wear, possess, purchase, or have access to costumes, masks, or other identity-concealing items.		
	55. You shall not use or have access to a post office box, safe deposit box, storage facility, or locker.		
	56. You shall not possess or have access to checks, money orders, or credit cards.		
✓	57. You shall not possess or have access to latex, surgical, or any other type of gloves.	4	AP

GANG:

		Reason	Initial
	58. You shall not contact or associate with any person you know or reasonably should know to be a member or associate of a prison gang, disruptive group, or street gang.		
	59. You shall not violate any gang abatement injunction, ordinance, or court order.		
	60. You shall not wear or carry on your person any clothing or apparel with gang colors, signs, symbols, or paraphernalia you know or reasonably should know to be associated with gang affiliation and/or activity.		
	61. You shall not possess items such as photographs, written material, publications, jewelry, or any other items depicting or describing activity you know or reasonably should know are associated with gang activity.		
	62. You shall not be within 100 yards of _____, a known place of gang activity, loitering (delaying, lingering, or idling about), or congregating.		

NAME: TURNER, STEPHEN CDC NUMBER: F23411 DATE: 9/19/11

FAMILY VIOLENCE:

		Reason	Initial
	63. You shall enroll in and successfully complete a certified Batterer's Program. Enrollment shall occur within 30 days from the date of release.		
	64. You shall enroll in and successfully complete a certified Parenting Program. Enrollment shall occur within 30 days from the date of release.		
	65. You shall enroll in and successfully complete an Anger Management Program. Enrollment shall occur within 30 days from the date of release or 30 days from the signature of these conditions, whichever occurs last.		
	66. You shall not come within 100 yards of the victim, the victim's residence, or the victim's workplace.		

GLOBAL POSITIONING SYSTEM (GPS):

		Reason	Initial
✓	67. You shall participate in continuous electronic monitoring, i.e., Global Positioning System (GPS) technology.	14	AP
✓	68. You may be charged criminally with grand theft, petty theft, or vandalism and be fined for the cost of the equipment's replacement in the event it is not returned, is purposely discarded, stolen, and/or damaged.	14	AP
✓	69. You are approved for a GPS modification: You shall maintain the GPS device on your person or ambulatory device 24 hours a day, 7 days a week, except when showering or sleeping. When showering or sleeping, you must keep the device within reach of your person.	14	AP
	70. You shall observe a _____ a.m. / p.m. to _____ a.m. / p.m. curfew and remain within your approved residence.		
✓	71. You shall charge the GPS device at least two times per day (every 12 hours). Charge the device at <u>8</u> a.m. for <u>at least 1 full hour</u> . Charge the device at <u>8</u> p.m. for <u>at least 1 full hour</u> . You shall charge the GPS device for 1 hour within 10 minutes of receiving a low battery alert.	14	AP
✓	72. You shall charge the GPS device at least two times per day (every 12 hours) for <u>at least 1 full hour</u> for each charging time.	14	AP
✓	73. You shall not tamper with the device or cover the device with any material that you know or reasonably should know will interfere with the GPS signal.	14	AP
✓	74. You shall contact your parole agent immediately if and when the device vibrates and/or makes an audible tone (beep).	14	AP
✓	75. You shall not expose the device to extreme temperatures or place it under water; i.e., pool, hot tub, bath, etc.	14	AP

NAME: TURNER, STEPHEN CDC NUMBER: F23411 DATE: 9/19/11

PC SECTION 290 TRANSIENT:

		Reason	Initial
✓	76. If you are transient, you shall register as a transient and comply with all transient registration requirements pursuant to PC Section 290.011.	12, 15	AP
✓	77. If you are transient, you shall report to the parole office once a week on M/TW/TH/F/S/SU. (Circle all that apply.)	12, 15	AP
	78. If you are transient, you shall contact your parole agent and provide him or her with the exact location that you spent the previous night and where you plan on spending the next night.		
✓	79. If you are transient, you shall complete a monthly report form each week and give it directly to your parole agent or to the Officer of the Day (if your agent is not in the office).	12, 15	AP
	80. If you are transient, you shall contact your parole agent by telephone between the hours of _____ and _____, on M/TW/TH/F/S/SU. (Circle all that apply.)		
	81. If you are transient, you shall report to the following destination* on M/TW/TH/F/S/SU. (Circle all that apply.) *		








COMPUTER USE AND ELECTRONIC MEDIA

		Reason	Initial
	82. You shall not have access to or use a personal computer and peripheral devices.		
	83. You shall not use or possess cameras, cell phones, video cameras, or photography equipment of any kind.		
✓	84. You shall agree to install, or allow to be installed at your own expense, equipment and/or software to monitor or limit computer use.	6(a,19)	AP
✓	85. You shall not use an electronic bulletin board system, internet relay chat channel, instant messaging, newsgroup, usergroup, peer to peer; i.e., Napster, Gnutella Freenet, etc. This would include any site-base; i.e., Hotmail, Gmail, or Yahoo e-mail, etc., which allows the user to have the ability to surf the internet undetected.	6(a,19)	AP
✓	86. You shall not use the computer for any purpose which might further sexual activity; i.e., possession of sexually explicit material in any form; sexually related "chat" or e-mail exchange; visiting or joining "chat rooms" which contain sexually explicit conversations; visiting/viewing sexually explicit material on web sites; downloading text or video files, digital images in any format, text files or multi-media material that is sexual in nature; or visiting and/or subscribing to usergroups, newsgroups, or list servers which contain sexual content.	6(a,19)	AP




NAME: TURNER, STEPHEN

CDC NUMBER: F23411







DATE: 9/19/11

✓	87. You shall not use the computer for any purpose which might further sexual activity involving minor children; i.e., possession of sexually explicit material in any form; sexually related "chat" or e-mail exchange; visiting or joining "chat rooms" which contain sexually explicit conversations; visiting/viewing sexually explicit material on web sites; downloading text or video files, digital images in any format, text files or multi-media material that is sexual in nature; or visiting and/or subscribing to usergroups, newsgroups, or list servers which contain sexual content.	5, 6(a)	
✓	88. You shall not possess or view certain materials related to, or part of, the grooming cycle for your crime; i.e., images of your victim, stories or images related to your crime or similar crimes, images which depict individuals similar to your victims; e.g., children, stories written about or for individuals similar to your victim, materials focused on the culture of your victim; e.g., children's shows or web sites.	5, 6(a)	
✓	89. You shall not use any method to hide or prevent unauthorized users from viewing specific data or files; i.e., encryption, cryptography, steganography, compression, password protected files. Log in and password information shall be provided to your parole agent upon request.	6(a,19)	
✓	90. You shall not alter or destroy records of computer use; i.e., delete or remove browser history data, possess software or items designed to boot into the memory in the computer, alter or "wipe" computer media, defeat forensic software, block monitoring software, restore a computer to a previous state, or reinstall operating systems, etc.	6(a,19)	
✓	91. You shall agree and voluntary consent to announced or unannounced examination and/or search of electronic devices to which you have access for the limited purpose of detecting content prohibited by your conditions of parole or court order; i.e., hard disks, zip disks, floppy diskettes, CD ROMs, optical disks, thumb drives, magnetic tape, and/or any other storage media whether installed within a device or removable and separate from the actual computer device.	6(a,19)	
✓	92. You shall not view, possess, or have access to television sets or monitors for the purpose of viewing sexually explicit programming.	5, 9	
✓	93. You shall not view, possess, or have access to Beta, VHS, VHS-C, CD, or DVD media that depicts sexually explicit content.	5, 9	

OTHER:

		Reason	Initial
✓	94. You shall not place or answer any type of classified personal advertisement seeking or soliciting a relationship with a stranger.	5, 9	
✓	95. You shall not use or access any telephone numbers designed for sexual arousal or stimulation.	5, 9	
✓	96. You shall not use any fictitious names or change your name in an attempt to conceal your registered name, conceal your true identity, or establish another identity.	4, 9	

NAME: TURNER, STEPHEN CDC NUMBER: F23411 DATE: 9/19/11

✓	97. If you spend the night away from your residence of record, you shall notify your parole agent in advance. You shall provide all contact information, including the address and the telephone number.	6(b, c)	
	98. You shall not loiter (to delay, to linger, or to idle about) or be in the vicinity of:		
	99. Unless you are a resident, you shall not enter or remain on the grounds of a day care or residential facility where elders or dependent adults are regularly present or living (PC 653c).		
	100. You shall not use any public shower facility, join any health club, physical fitness training facility, or sports club.		
✓	101. You shall wear clothing so as not to expose your genitals, breasts, or buttocks.	5	
✓	102. You shall contact your parole agent within 24 hours of any type of law enforcement contact; i.e., traffic stop, identification check, suspect, witness, etc.	15	
✓	103. You shall have your updated Penal Code 290 registration verification with you at all times. You must present it during any contact or interaction with any law enforcement officer.	5	
✓	104. You shall observe a <u>TBA</u> a.m./p.m. to <u>TBA</u> a.m./p.m. curfew on Halloween and remain within your approved residence.	5	
	105. You shall/shall not: a) You are not to leave the County of Alameda without prior approval from DAPO Reason: 4, 5, 6(b), 6(c) b) You must not access the internet from any computer, cell phone or other electronic device unless approved in advance in writing by your Agent of Record. Reason: 6(a), 19 c) You will have no contact with Amy Miranda a.k.a. Kelly, except with the prior approval of DAPO. Reason: 4, 5, 6(b), 6(c), 19 d) You are not to possess or have access to latex gloves, hypodermic needles, medication, lab coats or any other materials normally used to practice medicine except to the extent such materials or medication is for medical reasons related to your own health, in which case you shall provide a physician's letter to your Agent of Record approving them for your use. Reason: 4	Noted	

NAME: TURNER, STEPHEN CDC NUMBER: F23411 DATE: 9/19/11

REASONS FOR SPECIAL CONDITIONS OF PAROLE:

Special conditions of parole can be imposed if there is a nexus or are reasonably related to the Subject's commitment offense, criminal conduct, and/or future criminality. A special condition of parole that bars lawful activity is valid only if the prohibited conduct either:

1. Has a relationship to the crime of which the offender was convicted.
2. Is reasonably related to deter future criminality.

Conditions may regulate conduct that is not in itself criminal, but rather reasonably related to future criminality by regulating or prohibiting non-criminal conduct.

Reason Codes	Description
1	Subject has a history, supported by an arrest, conviction, or documented admission or pattern of illegal or illicit drug use.
2	Subject has a history, supported by an arrest, conviction, or documented admission or pattern of alcohol use and/or abuse, where continued use could result in criminal or harmful activity.
3	Based on factors and circumstances directly related to the Subject's commitment offense(s), the imposition of this condition will assist in the goal of preventing the Subject from committing subsequent criminal offenses under Federal, State, or local law. These factors include:
4	Based on the nature of the commitment offense(s), a nexus exists between the behavior displayed during the course of committing his or her prior crime(s), and the behavior that is being restricted by imposing this condition. The nature of the commitment offense is described as: Subject gave physical exams to minors and adults without a medical license.
5	Based on previous offense(s) as noted in the Subject's criminal history, the restrictions imposed by this condition will assist in the goal of preventing the Subject from committing subsequent criminal offenses under Federal, State, or local law. Previous offenses include: INDECENT EXPOSURE (Subject exposed himself to minors and adults.
6	Based on previous offense(s) as noted in the Subject's probation or parole violation history, the restrictions imposed will assist in the goal of preventing the Subject from committing subsequent criminal offenses under Federal, State, or local law, or additional violation of his or her conditional release. Previous violations include: (a) View/possess pornography. (b) Spending the night w/o prior approval. (c) No contact w/minors.
7	Subject has a documented history of psychiatric/psychological illness and/or related symptoms.
8	Parole Outpatient Clinic referral as required per PC 3002 and/or DAPO PAROLE AGENT policy.
9	Based on behavior displayed by offenders convicted of similar crimes, or displaying similar criminal behavior, imposition of this condition may regulate conduct that is not in itself criminal, but rather reasonably related to future criminality.

NAME: TURNER, STEPHEN

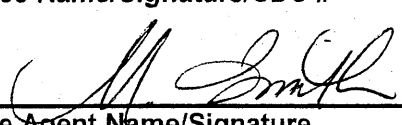
CDC NUMBER: F23411

DATE: 9/19/11

10	Based on current federal, State, or local laws, or Regulations cited in the California Code of Regulations, Title 15, as described below, this condition is imposed to ensure compliance with the following laws or regulations:
11	Based on your lawful requirement to register as a sex offender pursuant to PC 290, and your designation as a High Risk Sex Offender, you are subject to relapse prevention treatment programs pursuant to PC 3008(b).
12	Subject has a current and/or prior sex offender conviction; therefore, residence is restricted per PC 3003(g), PC 3003.5(b), current and/or prior offense(s), arrests and/or behavior as noted in the parolee's criminal history.
13	Subject has a documented history which reflects actions of predatory sexual behavior.
14	GPS/electronic monitor use is authorized for use on Subject by PC 3010, 3010.1, 3010.5, 3010.7.
15	Other good cause determined by parole agent as the specific condition controls those behaviors associated with Subject's sexual deviancy and sex offender profile behavioral characteristics.
16	Subject is a validated gang member.
17	Subject has a documented history of gang involvement/activity/association.
18	Subject has a current or prior conviction of PC 182.5 and PC 186.22.
19	Board of Parole Hearings (BPH) imposed Special Conditions of Parole.
20	Parolee volunteered to participate in the 150-day aftercare program. This special condition is to be placed on all Treatment Incentive Program participants.


Parolee Name/Signature/CDC #

F23411 9/20/11
Date


Parole Agent Name/Signature

9/20/11
Date

 Unit Supervisor
Unit Supervisor Name/Signature

9/20/11
Date

NOTICE AND CONDITIONS OF P. .OLE

CDC 1515 (Rev 05/01)

You will be released on parole effective _____, 20_____ for a period of duration of parole. This parole is subject to the following notice and conditions. Should you violate conditions of this parole, you are subject to arrest, suspension and/or revocation of your parole.

You waive extradition to the State of California from any state or territory of the United States or from the District of Columbia. You will not contest any effort to return you to the State of California.

When the Board of Prison Terms determines, based upon psychiatric reasons, that you pose a danger to yourself or others, the Board may, if necessary for psychiatric treatment, order your placement in a community treatment facility or state prison or may revoke your parole and order your return to prison.

You and your residence and any property under your control may be searched without a warrant by an agent of the Department of Corrections or any law enforcement officer.

If another jurisdiction has lodged a detainer against you, you may be released to the custody of that jurisdiction. Should you be released from their custody prior to the expiration of your California parole, or should the detainer not be exercised, you are to immediately contact the nearest Department of Corrections' Parole and Community Services Division Office for instructions concerning reporting to a parole agent.

You have been informed and have received in writing the procedure for obtaining a Certificate of Rehabilitation (4852.21 PC).

CONDITIONS OF PAROLE

1. SPECIAL CONDITIONS MUST: a) Relate to the crime for which you were convicted, b) Relate to conduct which is itself criminal, c) Be necessary to protect the public, and d) Be reasonable and feasible.

1. See attached-CDCR 1515-Addendum "C" Special Condition of Parole Sex Offenders.

Reasons for the imposition of special conditions of parole: 1) Related to 290 registration requirement and other case factors.

PAROLEE'S INITIALS I acknowledge my special conditions of parole.

J. Bent, US
SIGNATURE OF UNIT SUPERVISOR

DATE SIGNED

2. **RELEASE, REPORTING, RESIDENCE AND TRAVEL:** Unless other arrangements are approved in writing, you will report to your parole agent on the first working day following your release. Any change of residence shall be reported to your parole agent in advance. You will inform your parole agent within 72 hours of any change of employment location, employer or termination of employment.
3. **PAROLE AGENT INSTRUCTIONS:** You shall comply with all instructions of your parole agent and will not travel more than 50 miles from your residence without his/her prior approval. You will not be absent from your county of residence for a period of more than 48 hours and not leave the State of California without prior written approval of your parole agent.
4. **CRIMINAL CONDUCT:** You shall not engage in conduct prohibited by law (state, federal, county or municipal). You shall immediately inform your parole agent if you are arrested for a felony or misdemeanor crime. Conduct prohibited by law may result in parole revocation even though no criminal conviction occurs.
5. **WEAPONS:** You shall not own, use, have access to, or have under your control: (a) any type of firearm or instrument or device which a reasonable person would believe to be capable of being used as a firearm or any ammunition which could be used in a firearm; (b) any weapon as defined in state or federal statutes or listed in California Penal Code Section 12020 or any instrument or device which a reasonable person would believe to be capable of being used as a weapon as defined in Penal Code Section 12020; (c) any knife with a blade longer than two inches, except kitchen knives which must be kept in your residence and knives related to your employment which may be used and carried only in connection with your employment; or (d) a crossbow of any kind.
6. You shall sign this parole agreement containing the conditions of parole specified in Board of Prison Terms (BPT) Rules Sections 2512 and any special conditions imposed as specified in BPT Rules Section 2513. ~~Penal Code Section 3060.5 provides that the BPT shall revoke the~~ parole of any prisoner/parolee who refuses to sign the Notice and Conditions of parole. You have the right to appeal the special conditions of parole. Special conditions imposed by the Parole and Community Services Division may be appealed pursuant to California Code of Regulations (CCR), Section 3084 and 3085. Special Conditions of parole imposed by the BPT may be appealed pursuant to CCR, Section 2050.


3. **PAROLE AGENT INSTRUCTIONS:** You shall comply with all instructions of your parole agent and will not travel more than 50 miles from your residence without his/her prior approval. You will not be absent from your county of residence for a period of more than 48 hours and not leave the State of California without prior written approval of your parole agent.

4. **CRIMINAL CONDUCT:** You shall not engage in conduct prohibited by law (state, federal, county or municipal). You shall immediately inform your parole agent if you are arrested for a felony or misdemeanor crime. Conduct prohibited by law may result in parole revocation even though no criminal conviction occurs.

5. **WEAPONS:** You shall not own, use, have access to, or have under your control: (a) any type of firearm or instrument or device which a reasonable person would believe to be capable of being used as a firearm; (b) any weapon as defined in state or federal statutes or listed in California Penal Code Section 12020 or any instrument or device which a reasonable person would believe to be capable of being used as a weapon as defined in Penal Code Section 12020; (c) any knife with a blade longer than two inches, except kitchen knives which must be kept in your residence and knives related to your employment which may be used and carried only in connection with your employment; or (d) a crossbow of any kind.

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I have read or have had read to me and understand the conditions of parole as they apply to me.

I have read or have had read to me and understand the conditions of parole as they apply to me.			
CDC NUMBER	PAROLEE NAME (Print or Type)	PAROLEE SIGNATURE	DATE SIGNED
F23495	TURNER, STEPHEN		8/20/10

TO BE COMPLETED BY STAFF:

TO BE COMPLETED BY STAFF: Does the inmate/parolee have a qualifying disability requiring effective communication? ☒ Yes ☐ No

Does the inmate/parolee have a qualifying disability requiring special accommodations? Per Dec's, CCCMS / TABE 1.1

If yes, cite the source document and/or observations: Per Dec's, CCCMS / TABE 1.1

If yes, what accommodations were provided to achieve effective communication to the best of the inmate's/parolee's ability?

What type of accommodation/assistance was provided to achieve effective communication to the best of the inmate's/parolee's ability?

Subject has a medical degree in Radiology -		DATE SIGNED
STAFF NAME (Print or Type)	App. 30	8/20/10
M. SMITH, PAI		

Department of Corrections
Division of Adult Parole Operations



ADDENDUM (C)
SPECIAL CONDITIONS OF PAROLE
SEX OFFENDER

CDC Number:
F23495

Name:
TURNER, STEPHEN BRIAN

You must comply with all of the following conditions while you are on parole. You must have prior written approval from your assigned parole agent for any exceptions.

PENAL CODE REQUIREMENTS:

Initial

X	A. You are prohibited from residing with another 290 PC Registrant in a single family dwelling unless you are legally related by blood, marriage or adoption. Pursuant to PC 3003.5. (All 290 PC registrants released to parole, re-released after revocation or who change their residence address on or after 1/1/99)	AT
	B. You are prohibited from residing within one-half mile of any school that contains grades Kindergarten through Twelve. Pursuant to PC Section 3003(g).	
X	C. You shall not maintain a residence, or reside within 2000 feet of any public or private school, and park where children regularly gather. JESSICA'S LAW PC Section 3003.5(b).	AT

DRUG/ALCOHOL ABUSE:

Reason Initial

X	You will participate in anti-narcotic testing in accordance with instructions from the Division of Adult Parole (DAPO).	1	AT
	You will actively participate in substance abuse treatment as directed by the BPH.		
	You must not consume, possess or have access to any alcohol beverages.		
	You will not be inside or in close proximity to businesses whose primary function is to sell or serve alcohol beverages.		

TREATMENT:

Reason Initial

X	You will attend the Parole Outpatient Clinic (POC) and remain in that treatment program as directed by DAPO.	4, 17	AT
X	You will actively participate in the psychiatric treatment program as approved by DAPO.	4, 17	AT
X	You will participate in any programs specific to the High Risk Sexual Offender/High Control/Sexual Habitual Offender/Sexually Violent Predator Program as directed by DAPO.	4, 17	AT
X	You must submit to any psychological or physiological assessment to assist in treatment planning and/or parole supervision.	4, 17	AT

CONTACT WITH MINORS/VICTIMS :

Reason Initial

X	You will not initiate, establish or maintain contact with anyone under the age of 18 without prior DAPO approval. "No contact" means exactly that: in any manner direct or indirect, personally, by telephone, letter or through another person. This includes attempting contact with an adult with the possibility that children may be in the area. This includes your own minor children.	4, 17	AF.
X	You may not be within 100 yards of the perimeter of places where children congregate (schools, parks, playgrounds, video arcades, swimming pools, etc.) without prior DAPO approval.	4, 17	AF.
X	You may not date, socialize or form a romantic relationship with any person who has physical custody of a minor without the prior approval from DAPO.	4, 17	AF.
X	You must immediately inform your parole agent about any contact with a minor whether it is "accidental" or not.	4, 17	AF.
X	You will have no contact with: victims of your commitment offense	3	AF.
X	You will have no contact with: victims of your 5/8/84 and 4/22/93 sex crimes.	4, 17	AF.
X	You will have no contact with: Amy Miranda a.k.a. "Kelly".	5, 13	AF.

CURFEW AND MONITORING:

Reason Initial

X	You will remain inside your residence of record between the hours of 10:00 PM and 6:00 AM.	4, 5, 17	AF.
	You will participate in pager monitoring at the direction of a parole agent. Once paged by a parole agent, you must respond by calling the listed number within 10 minutes.		
X	You must submit to Global Positioning Satellite (GPS) supervision as determined by a parole agent.	4, 17	AF.
	You will not be absent from your residence for more than sixteen (16) hours without approval of a parole agent.		

POSSESSIONS/ACTIVITIES :

Reason Initial

X	You are not to view television shows, movies or videos that are geared toward your criminal history or your modus operandi.	4, 17	AF.
X	You are not to view television shows, movies or videos designed to stimulate sexual fantasies or ones that are labeled as pornographic.	4, 17	AF.
X	You are not to view, possess or have access to video tapes, films, magazines or photographs depicting any type of sexual activity or sexually oriented material.	4, 17	AF.
X	You are not to enter, travel past or loiter near areas of sexual or pornographic activity such as adult bookstores, massage parlors, topless bars, sex shops, etc.	4, 17	AF.
	You are not to possess or have access to handcuffs, restraint equipment or other items that could be used for sadomasochistic purposes.		
X	You are not to possess or have access to children's clothing, toys, games or any items considered a child lure.	4, 17	AF.
X	You may not possess or view any material that can be considered obscene.	4, 17	AF.
	You are not to possess or have access to law enforcement identification, insignia, badges, uniforms or other items identified with law enforcement without prior P&CSD approval.		
X	You are not to possess or have access to latex gloves, hypodermic needles, medication, lab coats or any other materials normally used to practice medicine.	3	AF.

CDC Number:
F23495

Name:
TURNER, STEPHEN BRIAN

PAGE 2

ADDENDUM (C)

SPECIAL CONDITIONS OF PAROLE
SEX OFFENDER

RESIDENCE, TRAVEL AND MOVEMENT :

Reason Initial

X	You will not leave Alameda County without prior DAPO approval.	5	AS
X	You may not contact any of your 290 PC victim(s), their families or friends. This includes contact in person, by telephone, mail, computer or through another person. You are not to travel past or loiter near where they frequent, reside or are employed.	4, 17	AS
X	You will not be alone in a private residence or room with a female without prior DAPO approval.	4, 17	AS
X	You will notify your agent (in advance), if you plan to spend the night at another residence. You will provide the name, address and phone number of the person whose residence you will be staying at.	5, 17	AS
X	You are to notify your parole agent (in advance), of any vehicle which you drive. You must provide the vehicle make, model, color, year and license number.	4, 17	AS

ASSOCIATION:

Reason Initial

X	You are not to associate with any sex offenders except in a treatment program as approved by DAPO.	17	AS
X	You will inform all persons with whom you have a significant relationship about your criminal history.	4, 17	AS

OTHER:

Reason Initial

X	You are not to obtain employment that allows you to enter a personal residence or the yard of such residence.	4, 17	AS
X	Any employment is to have prior approval by DAPO.	3, 4, 17	AS
X	You may not place or answer any type of classified personal advertisement.	5, 17	AS
X	You may not use or access any sexually oriented "800" or "900" telephone numbers.	4, 17	AS
X	You must have your Penal Code 290 registration verification with you at all times. You must present it during any contact or interaction with any law enforcement officer.	17	AS
X	You will not be employed by a school district if you have any convictions for a violent or serious felony as defined in PC 667.5c or 1192.7c	12	AS
X	<i>You will not possess or have access to a computer or a device to access the Internet without prior approval from Agent of Record.</i> If allowed to have access to the internet, access will only be work related and all access passwords for computer equipment and e-mails will be provided to your Agent and the computer equipment will be subject to a scan for inappropriate content at any time.	5, 17	AS
X	You are not to obtain employment that has any connection with the medical field, etc., or seek employment as a janitor, accountant, or assistant in a hospital.	3	AS

CDC Number:	Name:
F23495	TURNER, STEPHEN BRIAN

PAGE 3

ADDENDUM (C)
 SPECIAL CONDITIONS OF PAROLE
 SEX OFFENDER

REASONS FOR SPECIFIC CONDITIONS OF PAROLE

- 1=History of drug use
- 2=History of alcohol use/abuse
- 3=Related to commitment offense(s)
- 4=Related to previous offense(s)
- 5=Related to parole violation(s)
- 6=Victim of your commitment crime
- 7=Victim of your parole violation
- 8=Victim of previous conviction
- 9=Restraining order
- 10=Designation as Gang Member
- 11=Victim Protection
- 12= Assembly Bill 1612 (school employment)
- 13=Order of the Board of Parole Hearings
- POC CONDITIONS
- 14=Diagnosed with a mental disorder in the institution
(Inpatient/Outpatient/Enhanced Outpatient/CCCMS)
- 15=History of mental disorder
- 16=Committed for violent offense pursuant to PC 667.5
- 17=290 PC Registrant
- 18=Displaying behavior warranting assessment/treatment
- 19=Required per PC 3002 (minor is the victim)

DOMESTIC VIOLENCE CRITERIA

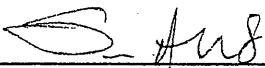
OFFENSES OCCURRING ON OR AFTER 1/1/97

- 1. PC 262; 273.5
- 2. PC 136.1; 273.6; 422; 646.9
(If the victim meets the criteria of FC Section 6211)
- 3. Any PC Section where the victim meets the domestic violence criteria as defined in FC Section 6211

FC 6211

- 1. A spouse or former spouse
- 2. A cohabitant or former cohabitant
- 3. A person with whom you have had a child
- 4. Any person related by blood or marriage
- 5. Someone with which you have had a dating or engagement relationship
- 6. A child of a party or a child who is the subject of an action under the uniform Parentage Act

Cases subject to PC 3053.2 shall be entered into IPTS Special Condition #99 as:
"Subject to PC Section 3053.2"



Parole Unit Supervisor Signature

8/18/10


Date



Parole Agent Signature

8/20/10

Date



Parolee Signature

8/20/10

Date

CDC Number:
F23495

Name:
TURNER, STEPHEN BRIAN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STEPHEN B. TURNER,
Plaintiff,

vs.

MELODY SMITH, et al.,
Defendants.

)

)

) Case Number: C-11-05176CRB

)

) ORDER APPOINTING COUNSEL

)

)

)

)

Because the plaintiff has requested and is in need of counsel to assist him in this matter and a volunteer attorney is willing to be appointed to undertake this representation at the request of the Federal Pro Bono Project, Paul Nathan from the Law Offices of Paul H. Nathan is hereby appointed as counsel for Stephen B. Turner in this matter.

The scope of this referral shall be for:

- ☒ all purposes for the duration of the case
- ☐ the limited purpose of representing the litigant in the course of
- ☐ mediation
 - ☐ early neutral evaluation
 - ☐ settlement conference
 - ☐ briefing ☐ and hearing on the following motion (e.g., motion for summary judgment or motion to dismiss): _____
- ☐ discovery as follows: _____
- ☐ other: _____

All proceedings in this action are hereby stayed until four weeks from the date of this order. Counsel shall be familiar with General Order No. 25 and the Federal Pro Bono Project Guidelines posted on the Court's website.

IT IS SO ORDERED.

Dated: July 31, 2015



United States District Judge