

Appellate Courts Case Information

Supreme Court

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Court data last updated: 08/13/2020 08:26 PM

Disposition

GARCIA (JOSEPH BELARDE) ON H.C.

Division SF

Case Number S259872

Only the following dispositions are displayed below: Orders Denying Petitions, Orders Granting Rehearing and Opinions. Go to the Docket Entries screen for information regarding orders granting review.

Case Citation:

none

Date	Description
06/10/2020	Petition for writ of H.C. denied

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Appellate Courts Case Information

2nd Appellate District

[Change court](#) ▾

Court data last updated: 08/13/2020 08:26 PM

Disposition

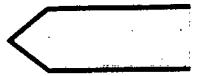
In re JOSEPH BELARDE GARCIA on Habeas Corpus

Division 6

Case Number B300566

Description:	Petition summarily denied by order
Date:	10/22/2019
Disposition Type:	Final THE COURT: The petition for a writ of habeas corpus is denied (GYT)
Publication Status:	
Author:	
Participants:	
Case Citation:	none

[Click here](#) to request automatic e-mail notifications about this case.



Appendix C

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September 18, 2015

Chief Counsel
Howard Moseley
Board of Parole Hearings

RE: Request for Decision Review of Joseph Garcia H-01695

Dear Mr. Moseley:

On September 16, 2015, I represented Joseph Garcia (H01695) at his initial parole consideration hearing at CIM. I was not appointed by the Board in this matter but was hired privately by Mr. Garcia. The Commissioners presiding over the hearing on behalf of the Board were Commissioner Brian Roberts and Deputy Commissioner Lau. Please accept this letter as my request for review of the Board's decision in this matter wherein Mr. Garcia received a 10-year denial.

From the beginning my client has asserted his innocence and claims that he did not commit any of the crimes for which he received his life sentence. At the hearing there were representatives for some of the victims of the life crimes, which are unequivocally acceptable under Marcy's law.

The first issue that my client and I have is the fact that the victim assaulted in Mr. Garcia's fourth prison term (CDCR No. C16145), Ms. Marjorie Bassin. (**a prison commitment that took place years before the life crimes**) was allowed to sit in the hearing room and make a victim's impact statement despite my numerous objections that were subsequently overruled by Commissioner Roberts.

During his recital of the Board's decision in this matter, Commissioner Roberts stated that Ms. Bassin's statement was "helpful" in rendering the Board's 10-year denial decision. Mr. Garcia was sentenced to 13 years 8 months for that crime and paid his debt owed to Ms. Bassin and society years before the life crimes. We believe to allow Ms Bassin to make a victim's impact statement when she **WAS NOT** a victim of any of the crimes that make up the life crimes related to those proceedings, was in violation of Marcy's Law, my clients due process rights, and was a blatant abuse of Commissioner Robert's Administrative discretion.

After a thorough reading of Marcy's Law under *California Penal Code* § 3043(3)(b)(1), I interpret that section to allow a victim of the instant matter for which he or she has been affected to give an victim's impact statement for the crime(s) that the inmate committed against that or those victims, for crimes that the inmate has served a determinate sentence for which he has been paroled and other crimes, but it does not provide for a victim of past crimes for which that victim was affected wherein the inmate has served his time and paroled to give a victim's impact statement at a parole consideration hearing for crimes unrelated to that victim.

The second issue my client and I have is the fact that despite my client taking years self help related courses addressing his drug and alcohol issues, by attending Criminal and Gang Members Anonymous (CGA), and a four (4) year course called "Intervention for Sexual Behavior," the Board members openly made statements and opinions to discredit and/or minimize his participation. Most of my client's crimes that make up the life crimes were drug and alcohol induced sexual assaults and he has addressed those issues despite proclaiming his innocence.

Thirdly, my client received a nonviolent CDC 115 for "over familiarity with staff" dated 10/6/14. Prior to receiving the latest 115, my client was disciplinary free for over 14 years because the few 115's received during that 14 year time span were either dismissed or reduced to CDC 128's. In some of Commissioner Robert's questions of my client he asked Mr. Garcia "why did he fight the 115's" and appeared to be upset with my client that he had done so successfully.

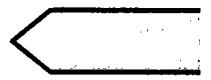
My client and I knew that the 2014 115 would be a problem and we were of the belief that if he was to be denied parole that it would be either a 3 or 5-year denial given that this was his initial hearing, his latest 115 coupled with his positive programming and nonviolent record. Never in my wildest dreams did I believe that my client would receive a 10-year denial.

Therefore, we respectfully request that you commence a decision review of this ruling for the reasons outlined above and review the transcript of this hearing. We believe that clear and convincing evidence (under Marcy's Law) was not shown or presented during the hearing that would warrant or justify such a lengthy denial period. Thank you

Sincerely,

DeJen R. Lewis, Esq.

/drl



INITIAL PAROLE CONSIDERATION HEARING

STATE OF CALIFORNIA

BOARD OF PAROLE HEARINGS

In the matter of the Life) CDC Number: H-01695
Term Parole Consideration)
Hearing of:)
)
JOSEPH GARCIA)
)
)

**INMATE
COPY**

CALIFORNIA INSTITUTION FOR MEN

CHINO, CALIFORNIA

SEPTEMBER 16, 2015

1:20 P.M.

PANEL PRESENT:

BRIAN ROBERTS, Presiding Commissioner
NGA LAM, Deputy Commissioner

OTHERS PRESENT:

JOSEPH GARCIA, Inmate
DEJON LEWIS, Attorney for Inmate
LINDA DUNN, Deputy District Attorney
MARGARITA BASSIN, Victim
HELEN CHANG, Victim's Support
JAMES MILLER, Victim's Advocate
RICHARD JALLINS, Deputy Commissioner, Observer
JOHN BARRICK, Deputy District Attorney, Observer
CORRECTIONAL OFFICER(S), Unidentified

CORRECTIONS TO THE DECISION HAVE BEEN MADE

 No See Review of Hearing
 Yes Transcript Memorandum

Annette Bishop, Transcriber, NCCR

1 Office after three months, and I refused it because my
2 wife said, look, you didn't do this. But I'll get out,
3 honey, in 14 months. I said, no. She said, no. You're
4 going to fight this. So I fought it all the way. And I
5 could've been out in 13 years, but I think I learned a
6 lot in these 27 years, but more so about myself, about
7 society at large, and how to return to a hard
8 competitive society and be a productive citizen out
9 there and help other people. And I appreciate you
10 allowing me to talk today.

11 PRESIDING COMMISSIONER ROBERTS: All right.
12 Thank you. All right. We have a couple of -- I guess a
13 representative and a victim that wants to talk. Who
14 would like to go first?

15 MS. CHANG: Go ahead. You want to go first?

16 MR. MILLER: Yeah.

17 PRESIDING COMMISSIONER ROBERTS: All right. So
18 if you do me a favor. Have a seat and state your name,
19 spell your last, and I believe your representative, who
20 you're representing.

21 MR. MILLER: Sure.

22 PRESIDING COMMISSIONER ROBERTS: And if you give
23 us the victim impact statement, I'd appreciate it. Or
24 statements.

25 MR. MILLER: My name is --

1 PRESIDING COMMISSIONER ROBERTS: I said, or
2 statements.

3 MR. MILLER: Statements, yes. My name is James
4 William Miller. Most people call me Bill Miller. Good
5 afternoon. I'm Bill Miller. I'm a retired Senior
6 District Attorney Investigator. And I was the lead
7 investigator during the prosecution of this inmate,
8 Joseph Garcia, CDC Number H-01695. I helped investigate
9 this case 25 years ago and I'm here today to represent
10 some of the survivors and their families. I've been
11 asked to read statements on behalf of survivors Tyra
12 Wittmeyer, Jackie Brooks, Cathy Pinard (sic), Stacie
13 Deane, and Cheryl Picco. And I intend to give you this
14 copy when I'm done.

15 PRESIDING COMMISSIONER ROBERTS: We'd appreciate
16 that.

17 MR. MILLER: I did a little minor editing at the
18 last moment, but you'll have to -- okay. I have spoken
19 recently to Tyra, Jackie, Cathy's mother, Peg, and
20 Stacie. They told me they remain afraid of what they
21 know this inmate is capable of doing. And they don't
22 want him to assault and torment any more women and
23 girls. I see sitting here an inmate who in 25 years has
24 never admitted these crimes, has never shown any remorse
25 for his actions, has never taken responsibility for the

CERTIFICATE AND
DECLARATION OF TRANSCRIBER

I, Annette Bishop, as the Official Transcriber,
hereby certify that the attached proceedings:

In the matter of the Life) CDC Number: H-01695
Term Parole Consideration)
Hearing of:)
)
JOSEPH GARCIA)
)
)

CALIFORNIA INSTITUTION FOR MEN

CHINO, CALIFORNIA

SEPTEMBER 16, 2015

1:20 P.M.

were held as herein appears. Further, this transcript
is a true, complete, and accurate record, to the best of
my ability, of the recorded material provided for
transcription.

Annette Bishop

Annette Bishop
September 30, 2015
Northern California Court Reporters
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9 THIS TRANSCRIPT CONTAINS THE PROPOSED DECISION OF THE
10 BOARD OF PAROLE HEARINGS (BOARD) ANNOUNCED AT YOUR
11 RECENT BOARD HEARING AND IS PROVIDED TO YOU IN
12 COMPLIANCE WITH PENAL CODE SECTION 3041.5, SUBDIVISION
13 (A) (4), AND CALIFORNIA CODE OF REGULATIONS, TITLE 15,
14 SECTION 2254. THIS PROPOSED DECISION WILL BECOME FINAL
15 WITHIN 120 DAYS OF THE DATE OF THE HEARING AS REQUIRED
16 BY PENAL CODE SECTION 3041, SUBDIVISION (B), UNLESS THE
17 BOARD NOTIFIES YOU IN WRITING BEFORE THEN THAT THE
18 PROPOSED DECISION HAS BEEN MODIFIED, VACATED OR REFERRED
19 TO THE FULL BOARD, SITTING EN BANC, DUE TO AN ERROR OF
20 LAW, ERROR OF FACT OR NEW INFORMATION PURSUANT TO
21 CALIFORNIA CODE OF REGULATIONS, TITLE 15, SECTION 2042.
22 THEREAFTER, THE GOVERNOR HAS AUTHORITY TO REVIEW THE
23 BOARD'S DECISION AND AFFIRM, MODIFY, OR REVERSE IT
24 PURSUANT TO PENAL CODE SECTIONS 3041.1 AND 3041.2.

25 JOSEPH GARCIA H-01695 DECISION PAGE 20 9/16/15