

UNITED STATES COURT OF APPEALS

FILED

FOR THE NINTH CIRCUIT

JUL 16 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

WILLIAM ROUSER,

Petitioner-Appellant,

v.

UNKNOWN,

Respondent-Appellee.

No. 20-16234

D.C. No.

2:18-cv-01358-JAM-EFB

Eastern District of California,
Sacramento

ORDER

The district court's post-judgment order was entered on the docket on May 12, 2020. Appellant's notice of appeal was delivered to prison officials on June 15, 2020, and received by the district court on June 22, 2020. Accordingly, the record suggests that this court may lack jurisdiction over this appeal because the notice of appeal was not filed or delivered to prison officials within 30 days after entry of the district court's judgment. *See* 28 U.S.C. § 2107(a); Fed. R. App. P. 4(a)(1)(A), 4(c); *United States v. Sadler*, 480 F.3d 932, 937 (9th Cir. 2007) (requirement of timely notice of appeal is jurisdictional); *Houston v. Lack*, 487 U.S. 266, 270 (1988) (notice of appeal deemed filed when it was delivered to prison authorities for forwarding to the court).

Within 21 days after the date of this order, appellant shall move for voluntary dismissal of the appeal, or show cause why it should not be dismissed for lack of jurisdiction.

4

If appellant does not comply with this order, the Clerk shall dismiss this appeal pursuant to Ninth Circuit Rule 42-1.

Briefing is suspended pending further order of the court.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Corina Orozco
Deputy Clerk
Ninth Circuit Rule 27-7

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM ROUSER,

Petitioner,

v.

UNKNOWN,

Respondent.

No. 2:18-cv-1358-EFB P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Petitioner is a state prisoner proceeding without counsel on a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.¹ He challenges the results of a rules violation report for possession of a weapon, claiming the proceedings failed to satisfy due process requirements. *See* ECF No. 1. The determination of guilt resulted in a loss of credits for petitioner. *Id.* at 69-72.

Under Rule 4 of the Rules Governing Section 2254 Cases, the court is required to conduct a preliminary review of all petitions for writ of habeas corpus filed by state prisoners. The court must summarily dismiss a petition if it “plainly appears . . . that the petitioner is not entitled to relief” The court has conducted the review required under Rule 4 and concludes that summary dismissal of the petition is required.

¹ Petitioner also seeks leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a). ECF No. 7. Examination of the in forma pauperis affidavit reveals that petitioner is unable to afford the costs of suit. His request for leave to proceed in forma pauperis is granted.

1 A prisoner's claim which, if successful, would not necessarily lead to immediate or
2 speedier release falls outside the "core of habeas corpus" and must be pursued in an action
3 brought pursuant to 42 U.S.C. § 1983. *Nettles v. Grounds*, 830 F.3d 922 (9th Cir. 2016). In this
4 case, restoration of petitioner's lost credits would not guarantee petitioner's earlier release from
5 prison, as he is serving an indeterminate life sentence. *See Rouser v. California*, No. 2:10-cv-
6 2437-MCE-CKD (E.D. Cal.), ECF No. 20 at 2 ("On November 17, 1995, petitioner was
7 sentenced to an indeterminate term of fifty-seven years to life").² Petitioner's claims, therefore,
8 do not fall within the "core of habeas corpus." As there is no basis for finding habeas jurisdiction
9 over petitioner's due process claims, the petition must be dismissed.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Petitioner's application for leave to proceed in forma pauperis (ECF No. 7) is granted;
12 and
- 13 2. The Clerk of the Court shall randomly assign a United States District Judge to this
14 action.

15 Further, IT IS HEREBY RECOMMENDED that petitioner's application for writ of
16 habeas corpus be summarily dismissed without prejudice to filing a new action pursuant to 42
17 U.S.C. § 1983.

18 These findings and recommendations are submitted to the United States District Judge
19 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
20 after being served with these findings and recommendations, any party may file written
21 objections with the court and serve a copy on all parties. Such a document should be captioned
22 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
23 shall be served and filed within fourteen days after service of the objections. Failure to file
24 objections within the specified time may waive the right to appeal the District Court's order.
25 *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir.
26 1991). In his objections petitioner may address whether a certificate of appealability should issue

27 ² A court may take judicial notice of court records. *See MGIC Indem. Co. v. Weisman*,
28 803 F.2d 500, 505 (9th Cir. 1986); *United States v. Wilson*, 631 F.2d 118, 119 (9th Cir. 1980).

1 in the event he files an appeal of the judgment in this case. *See* Rule 11, Rules Governing Section
2 2254 Cases (the district court must issue or deny a certificate of appealability when it enters a
3 final order adverse to the applicant).

4 DATED: October 18, 2018.

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6 EDMUND F. BRENNAN
7 UNITED STATES MAGISTRATE JUDGE
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Appendix B

William Rouser C-10659
CALIFORNIA STATE PRISON, SACRAMENTO (290066)
P.O. BOX 290066
REPRESA, CA 95671-0066

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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10

11 WILLIAM ROUSER,

12 Petitioner,

13 v.

14 UNKNOWN,

15 Respondent.
16

No. 2:18-cv-1358-JAM-EFB P

ORDER

17 On December 19, 2018, this habeas action was dismissed without prejudice to the filing of
18 a civil rights action pursuant to 42 U.S.C. § 1983. ECF No. 14. Judgment was duly entered.
19 ECF No. 15. On April 15, 2020, petitioner filed a motion for relief from judgment pursuant to
20 Rule 60(b) of the Federal Rules of Civil Procedure. ECF No. 16.

21 Rule 60(b) provides for reconsideration of a final judgment where one of more of the
22 following is shown: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly
23 discovered evidence which, with reasonable diligence, could not have been discovered within
24 twenty-eight days of entry of judgment; (3) fraud, misrepresentation, or misconduct of an
25 opposing party; (4) voiding of the judgment; (5) satisfaction of the judgment; and (6) any other
26 reason justifying relief. Fed. R. Civ. P. 60(b). A motion under Rule 60(b) must be made within a
27 “reasonable time—and for reasons (1), (2), and (3) no more than a year after the entry of the
28 judgment of order or the date of the proceedings.” Fed. R. Civ. P 60(c)(1).

1 Because petitioner filed his Rule 60(b) motion more than a year after the entry of
2 judgment, he must demonstrate he is entitled to relief for reasons (4), (5), and/or (6). Petitioner,
3 however, has not shown he is entitled to relief from judgment for any of the reasons enumerated
4 in Rule 60(b). Petitioner argues that the court erred in dismissing his petition, which challenged
5 the results of a prison rules violation report, because on April 2, 2020, the Board of Parole
6 Hearings relied upon that disciplinary report to deny him parole for ten years. ECF No. 16.
7 Even so, petitioner's challenge to the disciplinary action does not fall within the "core of habeas
8 corpus." Nettles v. Grounds, 830 F.3d 922 (9th Cir. 2016). As stated in the findings and
9 recommendations underlying the order of dismissal (ECF No. 12), the petition does not present a
10 basis for habeas jurisdiction because even if the disciplinary report were expunged from
11 petitioner's record, it would not *necessarily* result in petitioner's speedier release. See id.
12 (observing that a rules violation is just one of many factors a parole board may consider in
13 determining a prisoner's suitability for parole).

14 Accordingly, IT IS ORDERED that petitioner's Rule 60(b) motion seeking relief from
15 judgment (ECF No. 16) is DENIED.

16
17 DATED: May 11, 2020

18 /s/ John A. Mendez

19 UNITED STATES DISTRICT COURT JUDGE
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MIME-Version:1.0 From:caed_cmecf_helpdesk@caed.uscourts.gov To:CourtMail@localhost.localdomain
Message-Id: Subject:Activity in Case 2:18-cv-01358-JAM-EFB (HC) Rouser v. Unknown Order on
Motion for Miscellaneous Relief. Content-Type: text/html

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** *There is no charge for viewing opinions.*

U.S. District Court

Eastern District of California – Live System

Notice of Electronic Filing

The following transaction was entered on 5/12/2020 at 9:11 AM PDT and filed on 5/12/2020

Case Name: (HC) Rouser v. Unknown

Case Number: 2:18-cv-01358-JAM-EFB

Filer:

WARNING: CASE CLOSED on 12/19/2018

Document Number: 17

Docket Text:

ORDER signed by District Judge John A. Mendez on 5/11/2020 DENYING [16] petitioner's Rule 60(b) motion seeking relief from judgment. (Reader, L)

2:18-cv-01358-JAM-EFB Notice has been electronically mailed to:

2:18-cv-01358-JAM-EFB Electronically filed documents must be served conventionally by the filer to:

William Rouser
C-10659
CALIFORNIA STATE PRISON, SACRAMENTO (290066)
P.O. BOX 290066
REPRESA, CA 95671-0066

The following document(s) are associated with this transaction:

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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10

11 WILLIAM ROUSER,

12 Petitioner,

13 v.

14 UNKNOWN,

15 Respondent.
16

No. 2:18-cv-1358-EFB P

ORDER AND FINDINGS AND
RECOMMENDATIONS

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18 corpus pursuant to 28 U.S.C. § 2254.¹ He challenges the results of a rules violation report for
19 possession of a weapon, claiming the proceedings failed to satisfy due process requirements. *See*
20 ECF No. 1. The determination of guilt resulted in a loss of credits for petitioner. *Id.* at 69-72.

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23 must summarily dismiss a petition if it “plainly appears . . . that the petitioner is not entitled to
24 relief” The court has conducted the review required under Rule 4 and concludes that
25 summary dismissal of the petition is required.
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27 ¹ Petitioner also seeks leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a).
28 ECF No. 7. Examination of the in forma pauperis affidavit reveals that petitioner is unable to
afford the costs of suit. His request for leave to proceed in forma pauperis is granted.

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6 2437-MCE-CKD (E.D. Cal.), ECF No. 20 at 2 ("On November 17, 1995, petitioner was
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4 DATED: October 18, 2018.

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7 UNITED STATES MAGISTRATE JUDGE
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William Rouser C10659
P.O. Box 2000
UACA Ville, CA 95696

UNITED STATES District Court
EASTERN DISTRICT OF CALIFORNIA

William Rouser

Petitioner

NO. 2:18-CV-1358-JAN-EEB

OPPOSITION TO ORDER

v.

UNKNOWN

RESPONDENT

This is an issue that due fit for GOLB(16)
For it is this disciplinary for a 3 inch plastic
knife in my brand new mattress, where there is
no evidence it had been searched before I moved
in and by the rules I could not search.
Where I was denied all witnesses at the hearing
and the hearing was held without my. Deputy
Attorney General Danielle Hamble has reviewed my
I.E. List. The based Psychologist assessed me
being dangerous behind this. It was this and
another 115 that the based expanded on and
gave me a 10 year denial. When this is a 25 to
life for a non violent, non serious felony for
less than a 1/2 a gram of crystal meth when
the confession of my cell was with the held same me

1 Almost 7 years (see Rouse v. ~~WASH~~, Rouse v.
2 Piller, Rouse v. California) Petitioner has
3 filed a 1983 on this Rouse v. Clowce 1:19-00550-
4 NONE. OVER A YEAR AGO But it has been delayed
5 due to Plaintiff not wanting Magistrates to decide
6 though He has to write this court and ask if
7 He can change that.
8

9 For these reasons it would be a TRAVESTY of
10 Justice for this Court to continue to contend that
11 His boss does not affect him for the board
12 said if A-4 rule change on those RORS that
13 They will take us back to the Parole
14 board, so this Court is attempting to deny
15 us Justice.
16

17 Dated: 5-31-20

Respectfully Submitted

William Krumm

Signature Petitioner



8C 1024

RVR SUPPLEMENTAL

CDC NUMBER	INMATE'S NAME	FACILITY	LOG NUMBER	DATE
C10659	ROUSER, WILLIAM E. JR	CCI-Facility B	000000002501426	04/10/2017

☒ SUPPLEMENTAL REPORT ☐ INVESTIGATIVE REPORT ☐ STAFF ASSISTANT REPORT

On April 7, 2017 at approximately 0900 hours, I correctional Officer S. Vasquez, advised Inmate Rouser that I have been assigned as the IE to investigate the RVR. I informed him that the IE works for the SHO as a fair and impartial employee to gather incomplete and / or missing relevant information regarding this hearing. Inmate Rouser stated that he understood my function as the IE and expressed NO objection to my assignment. Inmate Rousers statement goes as follows; "We were moved to that cell right after they had just moved two inmates involved in a STG incident to the hole. We were made to leave our own mattresses yet this cell had not been searched after the other inmates left of before we moved in. I have moved 4 times since I have been here and at no time has the cell or mattress been searched after the other inmates left or I moved in. This time the officers told us to kick the other inmates stuff on the tier they just moved. Under 3011 of the title 15, if I would have opened and searched that mattress I could have received a 115, had to pay for a mattress and receive a criminal charge. By this prison and officers refusal to follow 3287(a) it is a breach of security and violate my ability to due process and equal protection. For 3287 states the purpose of it is to establish responsibility."

Inmate Rouser stated he has received all pertinent supplemental reports.

Inmate Rouser IS a participant in the department's mental health services delivery system at the CCCMS level of care.

Per the Disability and Effective Communication System (DECS), the accused has a documented TABE score of 12.9; thereby establishing effective communications.

A Staff Assistant was NOT assigned as Inmate Rouser does not meet the criteria per CCR 3315(D)(2).

Inmate Rouser has NO documented disability that would require reasonable accommodations.

Inmate Rouser does NOT request the presence of the Reporting Employee at the hearing.

Inmate Rouser does NOT request the presence of the Investigative Employee at the hearing.

Inmate Rouser requested the following INMATES witnesses be interviewed: Whiteside (CDC G41295)

Inmate Rouser had 3 questions he would like answered by the staff witnesses.

Inmate Rouser requested the following STAFF witnesses be interviewed: NONE

Inmate Rouser stated he has received all pertinent supplemental reports.

Interviewed Staff Witness Officer:

Question 1) At what time was me and inmate Whiteside moved to that cell?

Answer 1) Per SOMS, on March 3, 2017 at 2124 hours

Question 2) When were the people moved before us?

Answer 2) March 3, 2017

Question 3) when was the last time on record that mattress had been scanned?

Answer 3) A cell search of cell 1C110 was completed on March 3, 2017 with completed cell inspection.

Inmate witness interviewed: Whiteside CDC#G41295 on April 7, 2017

question 1) Did i place weapon in mattress or have any knowledge of it?

Answer 1) No

Question 2) Did my mattress look mew with no holes in it?

Answer 2) Yes

16

STATE OF CALIFORNIA
CRIME / INCIDENT REPORT
PART C - STAFF REPORT
 CDCR 837-C (Rev. 10/15)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

PAGE 1 Of 2

INCIDENT LOG NUMBER
 CCI-FAB-17-03-0105

NAME: LAST YBARRA		FIRST		MI	DATE OF INCIDENT 3/22/2017	TIME OF INCIDENT 1130
POST #	POSITION FACILITY B PROGRAM 2 SERGEANT	YEARS OF SERVICE YRS. MO.	DATE OF REPORT 3/22/2017		LOCATION OF INCIDENT FACILITY B HU 1 C SECTION	
RDO'S	DUTY HOURS	DESCRIPTION OF CRIME / INCIDENT Possession of an Inmate Manufactured Weapon				CCR SECTION / RULE 3006 (a) <input type="checkbox"/> N/A

YOUR ROLE	WITNESSES (PREFACE S-STAFF, V-VISITOR, O-OTHER)	INMATES (PREFACE S-SUSPECT, V-VICTIM, W-WITNESSES)	
<input type="checkbox"/> Primary	(S) J. Andrade	(S) Medina (G11774)	
<input checked="" type="checkbox"/> Responder	(S) G. Medina	(S) Gardea (T59930)	
<input type="checkbox"/> Witness	(S) J. Presson	(S) Rouser (C10659)	
<input type="checkbox"/> Camera		(S) Whiteside (G41295)	
<input type="checkbox"/> Victim			
<input type="checkbox"/> Other:			

<input checked="" type="checkbox"/> N/A									
FORCE USED BY YOU - TYPE OF WEAPON / SHOTS FIRED / NON-CONVENTIONAL FORCE									
<input type="checkbox"/> Physical:	Lethal Weapons:	Warning:	Effect:	Less Lethal Weapons:	# Effect:	Chemical Agent:	Projector:	# Deployed:	
<input type="checkbox"/> Hand-Held Baton	<input type="checkbox"/> Mini 14			<input type="checkbox"/> 37 mm		<input type="checkbox"/> OC			
<input type="checkbox"/> X-10 BRD w/o OC	<input type="checkbox"/> .38 Cal			<input type="checkbox"/> 40 mm		<input type="checkbox"/> CN			
<input type="checkbox"/> X-10 BRD w/ OC	<input type="checkbox"/> .40 Cal			<input type="checkbox"/> L8		<input type="checkbox"/> CS			
	<input type="checkbox"/> 9 mm			<input type="checkbox"/> 40 mm Multi					
	<input type="checkbox"/> Shotgun			<input type="checkbox"/> HFWRS					

☐ Non-Conventional or Force Not Listed Above:

FORCE OBSERVED BY YOU ☒ N/A ☐ Physical ☐ Hand-Held Baton ☐ Chemical Agent ☐ X-10 ☐ Less Lethal ☐ Lethal ☐ Non-Conventional

EVIDENCE COLLECTED BY YOU	EVIDENCE DESCRIPTION	EVIDENCE DISPOSITION	BIO HAZARD	PPE
<input checked="" type="checkbox"/> YES			<input type="checkbox"/> YES	<input type="checkbox"/> YES
<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> NO

REPORTING STAFF INJURED	DESCRIPTION OF INJURY	LOCATION TREATED (HOSPITAL/CLINIC)	FLUID EXPOSURE	SCIF 3301/306 COMPLETED
<input type="checkbox"/> YES			<input type="checkbox"/> BODILY <input checked="" type="checkbox"/> N/A	<input type="checkbox"/> YES
<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> UNKNOWN	<input checked="" type="checkbox"/> NO
			<input type="checkbox"/> Other:	

NARRATIVE: On March 22, 2017 at approximately 1130 hours, while working Facility B Program 2 Sergeant, I was in Housing Unit 1 supervising cell searches when I was informed by Officer J. Andrade that he had discovered an Inmate Manufactured Weapon in the mattress that belonged to Inmate Rouser (C10659) Facility B 1C-110L. Officer Andrade stated he found the weapon while he was monitoring the screen of the Rapid scan machine. I instructed Officer Andrade to maintain sole possession of the weapon, take measurements, and to have the weapon secured into an evidence locker located at the Security Administration Building (SAB). At approximately 1135 hours, Officer G. Medina informed me that he had discovered an Inmate Manufactured Weapon lying next to the toilet on the ground in cell C 204 which is occupied by Inmates Gardea (T59930) Facility B 1C-204U and Medina (G11774) Facility B 1C-204L. I instructed Officer Medina to maintain sole possession of the weapon, take measurements of the weapon, and to have it secured into an evidence locker located at the Security Administration Building (SAB). At 1410 hours, upon the completion of housing unit 1 cell searches, I notified Registered Nurse J. Presson to conduct a medical evaluation on Inmates Rouser, Gardea, Medina, and Whiteside (G41295) Facility B 1C-110U.

☒ CHECK IF NARRATIVE IS CONTINUED ON CDCR 837-C1.

SIGNATURE OF REPORTING STAFF	TITLE CORRECTIONAL SERGEANT	BADGE # / ID #	DATE 3/22/2017
NAME AND TITLE OF REVIEWER (PRINT/SIGNATURE) K. NOUWELS	DATE RECEIVED 3/22/2017	CLARIFICATION NEEDED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	APPROVED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
			DATE 3/22/2017

STATE OF CALIFORNIA
CRIME / INCIDENT REPORT
PART C1 - SUPPLEMENT

DEPARTMENT OF CORRECTIONS AND REHABILITATION

CDCR 837-C1 (Rev. 10/15)

PAGE 2 Of 2

INCIDENT LOG NUMBER
 CCI-FAB-17-03-0105

NAME: LAST
 ANDRADE

FIRST

MI

TYPE OF INFORMATION:

☒ CONTINUATION OF REPORT

☐ CLARIFICATION OF REPORT

☐ ADDITIONAL INFORMATION

NARRATIVE:

On 3-22-2017, at approximately 1400 hours I witnessed Sergeant Ybarra read Inmate Medina his Constitutional Miranda Rights pursuant to the Miranda Decision. Inmate Medina verbally acknowledged that he understood his Miranda Rights, but refused to sign the Miranda advisement form and elected to remain silent.

On 3-22-2017, at approximately 1405 hours I witnessed Sergeant Ybarra read Inmate Gardea his Constitutional Miranda Rights pursuant to the Miranda Decision. Inmate Gardea verbally acknowledged that he understood his Miranda Rights, but refused to sign the Miranda advisement form and elected to remain silent.

On 3-22-2017, at approximately 1410 hours I witnessed Sergeant Ybarra read Inmate Rouser his Constitutional Miranda Rights pursuant to the Miranda Decision. Inmate Rouser verbally acknowledged that he understood his Miranda Rights, but refused to sign the Miranda advisement form and elected to remain silent.

On 3-22-2017, at approximately 1415 hours I witnessed Sergeant Ybarra read Inmate Whiteside his Constitutional Miranda Rights pursuant to the Miranda Decision. Inmate Whiteside verbally acknowledged that he understood his Miranda Rights, but refused to sign the Miranda advisement form and elected to remain silent.

☐ CHECK IF NARRATIVE IS CONTINUED ON ADDITIONAL CDCR 837-C1.

SIGNATURE OF REPORTING STAFF

TITLE
 CORRECTIONAL OFFICER

BADGE # / ID #

DATE
 3/22/2017

NAME AND TITLE OF REVIEWER (PRINT/SIGNATURE)
 G. YBARRA SGT

DATE RECEIVED
 3/22/2017

CLARIFICATION NEEDED
☐ YES ☒ NO

APPROVED
☒ YES ☐ NO

DATE
 3/22/2017

DISTRIBUTION: Original: Incident Package Copy: Reporting Employee Copy: Reviewing Supervisor

Declaration of Harold Richardson

I Do Swear under the Penalty of Perjury the following is True and Correct to the best of my knowledge:

1. I am a Prisoner at California Correctional Institution - IUB
2. William Ransier is my Cellie in 8 B 102 AD-559
3. That I Did witness Him write out 10 Identical copies of I-6 Questions and His Statement.
4. I Did witness Him send one copy to Danielle R. Humpal Deputy Attorney General & Paul B. B. and watched Him place one in a envelope and mail it to the above addressed Person.
5. On April 7, 2017, I Did give the other copy to C/O Vasquez who came with other officers stating He was FBI I-6
6. When He Received the I-6 Report we both noticed that He had lied and I told inmate Ransier "I told you He would."
7. I Will testify to the above in a Court of Law.

Dated: 4-12-2017

Harold Richardson
Declarant

Harold Richardson
Supervisor

Declaration

I Harold Richardson E-40439 swear under the Penalty of Perjury the following is true and correct to the best of my knowledge and the laws of California:

1. That I am a prisoner of California Correctional Institution ~~etc~~
2. That on March 22, 2017 I was the only I.A.C. Clinician that this yard has had since opening back up.
3. That I lived in one building and watched many cell moves and even on the rare occasion when a officer did search a cell they ~~after~~ a cell move they did not word the mattress never did they take it to ROR to X-Ray unless it was a major search.
4. That I had access to all the buildings on the yard and I did not witness any officers in other buildings word a mattress or take it to ROR to scan with X-Ray after a cell move.
5. I will testify to this is a Court of Law

Dated: 4-13-17

Harold Richardson
Declarant

Harold Richardson
Signature

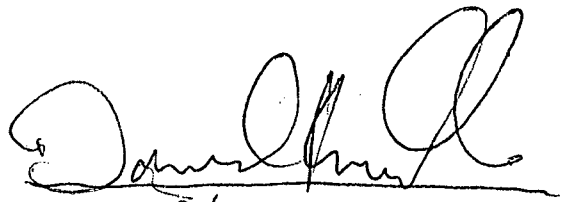
I David Kirkland #AM7643
SWEAR UNDER THE PENALTY OF
PERJURY The Following is True and correct TO THE BEST
OF MY KNOWLEDGE AND THE LAWS OF CALIFORNIA:

1. That I am a PRISONER of California Correctional
Institution 4B.
2. Until March 22, 2017 I WAS THE ONLY White Building
P.C. REPRESENTATIVE FOR THE BUILDING.
3. AT NO TIME AFTER A CELL MORG HAD I WITNESSED
THE CORRECTIONAL STAFF WAND A MATTRESS OR TAKE IT
TO RTR TO GRAB IT.
4. VERY SELDOM DID THEY SEARCH THE CELL THEY WOULD
JUST HAVE THE PORTERS CHECK THEM.
5. I WILL TESTIFY TO THIS IN A COURT OF LAW.

Dated: 4-13-17

David Kirkland #AM7643

DECLARATION
PRINT NAME


SIGNATURE



DISCIPLINARY HEARING RESULTS

Institution Name: California Correctional Institution	Facility: CCI-Facility B	Log Number: 000000002501426
Inmate Name: ROUSER, WILLIAM E. JR	CDC #: C10659	Bed Number: CCI-B - B 001C1 - 110001L
TABE Score: 12.9	Mental Health LOC: CCCMS	DDP Designation: NCF

DUE PROCESS

Rule Violation #: 3006(a)	Specific Act: Possession of a deadly weapon			
Level: Serious	Offense Division: Division A1			
Offense Occurrence: 1st Occurrence				
Violation Date: 03/22/2017	Violation Time: 11:30:00			
Hearing Date: 04/17/2017	Hearing Time: 08:30:00			
Actions Taken				
Date	Time	Type/Reason	Staff	Elapsed Days
03/23/2017	09:55:57	RVR Ready for Review by Supv.	J. Andrade	1
03/27/2017	07:11:18	RVR Approved by Supervisor	R. Cole	5
03/27/2017	13:08:35	RVR Classified	R. Mayo	5
03/29/2017	12:43:47	Inmate Copy Served Initial Rules Violation Report	H. Hoffman	7
03/29/2017	12:44:43	Notice of Pending Charges Sent to Rcds.	H. Hoffman	7
04/07/2017	08:28:00	IE Assigned	R. Cole	16
04/09/2017	09:39:29	MH Assessment Requested	H. Hoffman	18
04/10/2017	08:36:48	IE Report Prepared	S. Vasquez	19
04/11/2017	08:29:27	IE Report Approved By Supervisor	R. Cole	20
04/12/2017	12:03:27	Inmate Copy Served Other	H. Hoffman	21
04/12/2017	12:07:29	Inmate Copy Served Incident Report	H. Hoffman	21

04/14/2017	09:41:17	MH Assessment Received	H. Hoffman	23
04/14/2017	09:41:39	Inmate Copy Served MH Assessment Report	H. Hoffman	23

All Time Constraints Met?: Yes

SHO/HO DDP Certified?:

Due Process Additional Information:

ROUSER was present for the hearing. The SHO had ROUSER sign page 3 of the RVR indicating if he wanted the hearing postponed pending outcome of the referral for criminal prosecution. ROUSER signed the document indicating he did not want to postpone the hearing pending outcome of the referral for prosecution. At the beginning of the hearing ROUSER became belligerent, demanding to know where his requested witnesses were, claiming he gave an unidentified officer a list of witnesses ROUSER wanted for the hearing. ROUSER then demanded another SHO, claiming that he had filed a staff complaint against Lieutenant Crounse and therefore Lieutenant Crounse was prohibited from conducting the hearing for this RVR. Lieutenant Crounse informed ROUSER that there is no reason to assign the RVR to another SHO and therefore he would not assign another SHO. ROUSER then said he would not talk to Lieutenant Crounse so ROUSER was removed and the hearing completed in ROUSER's absence.

HEARING

- ☐ Subject elected not to participate in the adjudication process by refusing to attend the hearing. An Informational Chrono was generated documenting the refusal to attend the hearing.
- ☒ Subject was Present, in good health and ready to proceed.

Hearing Additional Information

ROUSER was present at the beginning of the hearing but due to his refusal to cooperate with the SHO, he was removed from the hearing prior to the completion.

DISABILITY

☐ Hearing ☐ Vision ☐ Mobility ☐ Learning ☐ Developmental/Cognitive
☐ Other ☒ None

Requires Accommodation?

DDP Specific Information

128-C2 Reviewed?

DDP Designation Date:

Did the Reporting Employee document the use of Adaptation Support(s)?

Adaptive Support	Contribute	How
<input type="text"/>		<input type="text"/>

Victimization	Contribute	How
<input type="text"/>		<input type="text"/>

Disability Additional Information:

23

MENTAL HEALTH ASSESSMENT

Mental Health Assessment Requested: Yes

Reason for Mental Health Assessment Request: Division A, B, or C offense or may result in a SHU term

Clinician Recommended Staff Assistance Assignment: ☐ NoClinician determined Mental Health Symptoms/Developmental Disability strongly influenced behavior: ☐ No**Clinician Rational:**Clinician Staff recommended alternate manner of documentation: ☐ No**Clinician Rational:**Clinician determined Mental Health Symptoms/Developmental Disability contributed to behavior: ☐ No**Clinician Rational:**Clinician provided information when assessing the penalties: ☐ No**Clinician Rational:****STAFF ASSISTANT**

Staff Assistant Assigned: No

Reason for assignment of Staff Assistant:

SA Name	Date Assigned	Certified?	Meet 24 hours prior to hearing?	Present?	

Staff Assistant Additional Information:**INVESTIGATIVE EMPLOYEE**

Investigative Employee Assigned: Yes

Reason for assignment of Investigative Employee: Housing Status

Investigative Employee Additional Information:**CONFIDENTIAL INFORMATION**Confidential Information Used: ☐ No

Confidential Document Number	Author of Confidential Document	Date of Confidential Document	Reviewed by SHO/HO	Deemed Confidential	Reason(s) Information was Deemed Confidential	
					<input type="checkbox"/> Information which, if known to inmates, would endanger the	

safety of person(s).
☒ Information which, if known to inmates, would jeopardize the security of the institution.
☐ Specific medical or Psychological information which, if known to inmates, would be medically or psychologically detrimental to the inmate.
☒ Information provided and classified confidential by another governmental agency.
☒ A Security Threat Group debrief report, reviewed and approved by the debriefing subject, for placement in the confidential section of the central file.

Confidential Document Number	Confidential Source Number	Confidential Disclosure Form Issued	Sufficient Information Disclosed	Reason(s) Deemed Reliable
				<input checked="" type="checkbox"/> The confidential source has previously provided information which has proved to be true. <input type="checkbox"/> Other confidential sources have independently provided the same information. <input checked="" type="checkbox"/> The information provided by the confidential source is self-incriminating. <input type="checkbox"/> Part of the information provided by the confidential source is corroborated through investigation or by information provided by non-confidential sources. <input type="checkbox"/> The confidential source is the victim. <input type="checkbox"/> This source successfully completed a polygraph examination.
Confidential Additional Information:				

WITNESSES

Witnesses requested at Hearing

245

☐ Reporting Employee☐ Staff Assistant☐ Investigative Employee☐ Other☒ Inmate☐ None**Non-Inmate Witness(es)**

Name	Rank	Type	Granted?
Questions Asked			

Inmate Witness(es)

CDC#	Name	Bed	Granted?
G41295	WHITESIDE, RICARDO	CCI-B - B 006A1 - 111001L	<input type="checkbox"/> No
Questions Asked			

Witness Additional Information:

ROUSER claimed he gave the officer who served him copies of the RVR a list of witnesses he wanted present at the hearing. ROUSER claimed this list included Inmate Whiteside. The SHO informed ROUSER there was no list included in the folder with other documents but that any witness who had relevant information to the RVR would be summoned if necessary. ROUSER became angry, claiming officers were lying in their reports and forging documents such as cell search logs to unjustly blame ROUSER for having the weapon found in his assigned cell. Because ROUSER refused to cooperate with the SHO and because ROUSER was removed from the hearing, no witnesses were summoned to the hearing.

PLEA AND STATEMENT

PLEA/STATEMENT: The above circumstances were read aloud to subject and elected to plea: ☐ Not Guilty entered on behalf of inmate by Hearing Official

☐ Subject declined to make a statement☐ Subject made a statement**Comments:**

ROUSER was removed from the hearing prior to entering a plea.

FINDINGS

Subject was found: ☐ Guilty as Charged based on a preponderance of evidence.

Lesser Included Charge:

Level:

Offense Division:

Offense Occurrence:

Comments:**EVIDENCE**

The following evidence was used to support the findings:

Comments:

1. The written testimony offered by the reporting employee, J. Andrade, Correctional Officer, wherein he states that on March 22, 2017, he searched cell B-1C-110, assigned to ROUSER and Whiteside. As part of the search,

Officer Andrade x-rayed both mattresses in a machine called a Rapid Scan. During the x-ray, Officer Andrade observed an object hidden inside of ROUSER's mattress. When Officer Andrade removed the object from the mattress he discovered it was an inmate manufactured weapon made from plastic with a point at one end and a cardboard handle on the other end. The weapon was approximately three inches long and 1/2" in width.

2. ROUSER asked the investigative employee (IE) to research when ROUSER moved into cell B-1C-110. ROUSER moved into that cell on March 3, 2017. The weapon was found on March 22, 2017, two weeks after ROUSER moved there. This is adequate time to find and report any contraband to staff. ROUSER also asked when the cell was last searched. The IE report shows the cell was searched on March 3, 2017, the day ROUSER moved in. At the time of the search, nothing unusual was found, including nothing wrong with either mattress. If there had been a tear in either mattress during the cell search and inspection, staff would have removed the mattress and searched for contraband at that time.

3. ROUSER asked Inmate Whiteside if he thought ROUSER placed the weapon in the mattress and Whiteside said no. ROUSER also asked if Whiteside looked new with no holes and Whiteside said no. The SHO considered this information but finds that ROUSER could have hidden the weapon in the mattress at any time without Whiteside knowing. Moreover, the size of the weapon was small enough that ROUSER could have hidden it from Whiteside until he could put it in the mattress without Whiteside seeing it.

4. ROUSER submitted a declaration claiming that he was unaware of the weapon and blamed the presence of the weapon on the inmates who were previously assigned to the cell. ROUSER also claimed he was never read his rights but a review of the CDCR 837 Crime/Incident Report shows that ROUSER was read his rights pursuant to the Miranda court decision by G. Ybarra, Correctional Sergeant, and witnessed by Officer Andrade. ROUSER claimed whoever documented the search of the cell falsified the search, claiming there was no search done. There is no evidence to support ROUSER's claim that the cell was not searched prior to ROUSER being assigned there.

5. ROUSER claims in his declaration that the weapon was placed in the cell by the previous inmates who he knows were removed because of their misconduct relative to participation in a security threat group (STG). If ROUSER knew the previous inmates were members of a STG and that they were responsible for the weapon being in the cell, he should have notified staff immediately that he suspected there was a weapon in the cell somewhere. ROUSER was assigned to the cell for two weeks before the weapon was discovered and ROUSER never notified staff that he suspected the previous inmates had a weapon hidden in the cell. Moreover, the cell was searched prior to ROUSER moving in and no weapon was found, indicating the weapon was placed into ROUSER's cell after he moved in. Since only ROUSER and Whiteside lived in the cell, it is reasonable one of them was responsible for the weapon. Since the weapon was found in ROUSER's mattress, he is more likely responsible for the weapon.

6. In a second declaration ROUSER submitted to the SHO, he claims that the IE didn't accept his list of questions to ask witnesses yet there was a document titled I.E. Questions in ROUSER's writing with questions. Officer Vasquez introduced himself to ROUSER over two weeks after the weapon was found, giving ROUSER adequate time to formulate a defense, make a list of witnesses and questions for those witnesses. The IE report was given to ROUSER on April 12, 2017, giving ROUSER adequate time to review the responses. Moreover, in the second declaration, ROUSER again claims it was the previous inmates who were responsible for the weapon yet ROUSER lived in the cell for two weeks before the weapon was found and ROUSER never notified staff that he thought there was a weapon in the cell.

DISPOSITION

Sanction Type	Quantity	Mitigated	Interest of Justice	DDP	MH LOC	MH-A	Start Date	End Date
Credit Loss	360 Days	<input type="checkbox"/> No	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Confined to Quarters Days			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Confined to Quarters Weekends			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Disciplinary Detention			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		

Privilege Group C			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Loss of Pay								
Canteen Privileges	90 Days	<input type="checkbox"/> No	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	04/17/2017	07/16/2017
Phone Privileges	90 Days	<input type="checkbox"/> No	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	04/17/2017	07/16/2017
Extra Duty			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Yard Recreation Privileges			<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Day Room Privileges			<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Packages Privileges			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Property Restrictions			<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Visiting Privileges			<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Contact Visiting Privileges			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Contact Visiting (Permanent Loss)								
Trust Account Hold								
Mandatory Drug Testing								
IEX Control Suit								

☐ Impose Suspended Sanctions

☐ Reinstate Suspended Sanctions

Comments:

Referred to Classification Committee ☐ ICC

For ☒ SHU Term Assessment ☐ Program Review ☐ Un-Assignment ☐ Substance Abuse Treatment

Disposition Additional Information:

The weapon was placed into evidence where it will be held pending completion of criminal proceedings.

ENEMY CONCERNS

- ☒ Not Applicable
☐ Subject states he/she does not have Enemy or Safety Concerns.
☐ One or more of the inmates involved has stated there is lingering animosity towards one another. Therefore, the SHO has entered non-confidential separation alerts for the following inmates:

SECURITY THREAT GROUP

Security Threat Group Nexus?: ☐ No

Security Threat Group Nexus Additional Information:**FINAL SECTION****Additional Information:**

Because ROUSER was removed from the hearing prior to its completion, the SHO was unable to inform ROUSER of his rights.
When ROUSER is served his copies of the completed RVR, he will be able to read the following;
1. ROUSER is advised that pursuant to CCR 3327, there is no restoration of credit available for a division A1 offense.
2. ROUSER is advised that pursuant to CCR 3084.1, he has the right to appeal this decision.

CREDIT RESTORATION

- ☐ Subject was advised of his/her right to restoration of credits under CCR 3327, 3328, and 3329.
☐ Subject was advised Credit Forfeiture for a Division 'A', 'B' or 'C' offense will not be restored.
☐ Subject was advised he/she would not be able to file for restoration of credits under CCR 3327(a)(4).
☐ At the conclusion of the hearing Subject was advised of the findings, disposition, and his/her right to appeal per CCR 3084.1.

Hearing Official

D. Crounse



TITLE:
Lt

DATE:
04/18/2017

FINDINGS (BY CDO)

Subject was found: Guilty as Charged based on a preponderance of evidence.

Lesser Included Charge:

Level:

Offense Division:

Offense Occurrence:

CDO Summary: Affirming The Hearing Results

Comments:

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DISPOSITION (BY CDO)

Sanction Type	Quantity	Mitigated	Interest of Justice	DDP	MH LOC	MH-A	Start Date	End Date
Credit Loss	360 Days	<input type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Confined to Quarters Days			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Confined to Quarters Weekends			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Disciplinary Detention			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Privilege Group C			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Loss of Pay								
Canteen Privileges	90 Days	<input type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	04/17/2017	07/16/2017
Phone Privileges	90 Days	<input type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	04/17/2017	07/16/2017
Extra Duty			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Yard Recreation Privileges			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Day Room Privileges			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Packages Privileges			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Property Restrictions			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Visiting Privileges			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Contact Visiting Privileges			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Contact Visiting (Permanent								

Loss)								
Trust Account Hold								
Mandatory Drug Testing								
IEX Control Suit								

☐ Impose Suspended Sanctions

☐ Reinstate Suspended Sanctions

Comments:

Chief Disciplinary Officer

Comments:

P. Matzen



TITLE:
AW

DATE:
04/24/2017

CDCR SOMS ISST126 - DISCIPLINARY HEARING RESULTS

34

DECLARATION OF WILLIAM ROUSSE

CCI

0-17 01559

I DO SWEAR UNDER THE PENALTY OF PERJURY THE FOLLOWING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND THE LAWS OF CALIFORNIA:

1. I DID NOT HAVE ANY KNOWLEDGE OF WEAPON IN MY MATTRESS NOR DID ME OR MY CELLIE MAKE IT OR SEE IT.
2. THE CELL HAD NOT BEEN SEARCHED BEFORE WE MOVED IN WE HAD TO STRIP THE BEDS OF THE SHEETS AND THEN THE CLOTHES OUT. THERE WAS EVEN A RAZOR BLADE ON MY LOCKER WHICH I FLUSHED. "I TOLD MY CELLIE A SET UP."
3. WHOEVER WROTE IN LOG THEY SEARCHED CELL CREATED A FALSE DOCUMENT. THOUGH EVEN IF THEY HAD SEARCHED THE CELL THEY WOULDN'T HAVE FOUND IT UNLESS THEY TOOK MATTRESS TO ROR AND X-RAYED IT WHICH THEY NEVER DO FOR CELL SEARCHES ON MOVES.
4. AT NO TIMES WAS I READ MY RIGHTS OR I WOULD HAVE MADE A STATEMENT.
5. THE F.E. CLOVASQUEZ DID ME ON F.E. REPORT AND I HAD SENT THE DEPUTY ATTORNEY GENERAL HENRIS A COPY OF MY QUESTIONS AND STATEMENTS BEFORE I GAVE IT TO HIM (DAYS BEFORE).
6. THAT I AM REQUESTING OF THE ATTORNEY GENERAL'S OFFICE, THE GOVERNOR, SECRETARY OF THE CDCR TO TAKE A ME DETECTOR TEST FOR ALL OF THE ABOVE AND IF I FAIL I WILL EVEN DISMISS WITH PROSECUTOR REGINA JEWELL-ROUSSE V. WHITE.

Dated 4-13-17

William Rousse
Declarant

over

William Rousse 32
Signature

CC: Governor Brown

SCOTT KERNAN Secretary CDCR

Gretchen Buechsenwieschultz Supervising Deputy Attorney General

Danella R. Hemple Deputy Attorney General

INTERNAL AFFAIRS

WARDEN

PACAN Community

SCOTT BUCKWICK ARC

SENIOR HEARING OFFICER

CC

0-17 01559

JUN 9 2017 AM 10:31

Declaration of Harold Richardson

I Do Swear under the Penalty of Perjury the following is True and Correct to the best of my knowledge:

1. I am a Detective at California Correctional Institution IUB
2. William Ransie is my Colleague in 8 & 102 AD-559
3. That I Did witness him write out 10 Identical copies of I-6 Questions and His Statement.
4. I Did witness him send one copy to Danielle R. Hemphill, Deputy Attorney General, E. Paul Bartz and watched him place one in a envelope and mail it to the above addressed person, on April 7, 2017. I Did give 14 other copies to CLO Vasquez who came with other officers stating he was for I-6. When he received the I-6 Report we both noticed that he had lied and I told inmate Ransie "I told you he would."
5. I Will testify to the above in a Court of Law.

Dated: 4-12-2017

Harold Richardson

Declarant

Harold Richardson

Signature

34

I David Kirkland #AM1645 SWEAR UNDER THE PENALTY OF
Perjury The following is true and correct to the best
of my knowledge and the laws of California. JUN 9 2017 AM 10:3

1. That I am a PRISONER of California Correctional
Institution 4B. CCI 0-17 01559

2. until March 22, 2017 I was the only White Building
I.T.C. Representative for the building.

3. at no time after a cell move have I witnessed
the correctional staff hand a mattress or take it
to RTR to GRAY it.

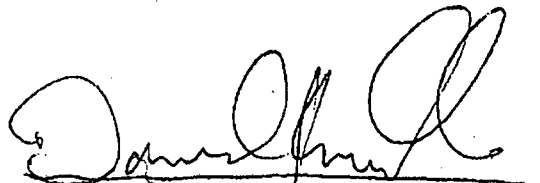
4. VERY seldom did they search the cell they would
just have the porters clean them.

5. I will testify to this in a court of law.

Dated: 4-13-17

David Kirkland #AM1645

Declarant
PRINT NAME


Signature

I Harold Richardson E-40439 Swear under the Penalty of Perjury the following is true and correct to the best of my knowledge and the laws of California:

1. That I am a prisoner of California Correctional Institution ~~etc~~
 2. That on March 22, 2017 I was the only I.A.C. Chairman that this yard has had since opening back up.
 3. That I lived in one building and watched many cell moves and even on the rare occasion when a officer did search a cell they ~~after~~ a cell move they did not want the mattress never did they take it to R&R to X-Ray unless it was a major search.
 4. That I had access to all the buildings on the yard and I did not witness any officers in other buildings want a mattress or take it to R&R to scan with X-Ray after a cell move.
5. I will testify to this is a Court of Law
- Dated: 4-13-17

Harold Richardson

Declarant

Harold Richardson

Signature

JUN 9 2017 AM 10:05

STATE OF CALIFORNIA

CRIME / INCIDENT REPORT

CC/ 0-17 01559

DEPARTMENT OF CORRECTIONS AND REHABILITATION

PART C - STAFF REPORT

CDCR 837-C (Rev. 10/15)

PAGE 1 of 2

INCIDENT LOG NUMBER
CCI-FAB-17-03-0105

NAME: LAST YBARRA		FIRST		MI	DATE OF INCIDENT 3/22/2017		TIME OF INCIDENT 1130	
POST #	POSITION FACILITY B PROGRAM 2 SERGEANT	YEARS OF SERVICE YRS. MO.	DATE OF REPORT 3/22/2017		LOCATION OF INCIDENT FACILITY B HU 1 C SECTION			
RDO'S	DUTY HOURS	DESCRIPTION OF CRIME / INCIDENT Possession of an Inmate Manufactured Weapon				CCR SECTION / RULE <input type="checkbox"/> N/A 3006 (a)		
YOUR ROLE		WITNESSES (PREFACE S-STAFF, V-VISITOR, O-OTHER)		INMATES (PREFACE S-SUSPECT, V-VICTIM, W-WITNESS)				
<input type="checkbox"/> Primary		(S) J. Andrade		(S) Medina (G11774)				
<input checked="" type="checkbox"/> Responder		(S) G. Medina		(S) Gardea (T59930)				
<input type="checkbox"/> Witness		(S) J. Presson		(S) Rouser (C10659)				
<input type="checkbox"/> Camera				(S) Whiteside (G41295)				
<input type="checkbox"/> Victim								
<input type="checkbox"/> Other:								
<input checked="" type="checkbox"/> N/A								
FORCE USED BY YOU - TYPE OF WEAPON / SHOTS FIRED / NON-CONVENTIONAL FORCE								
<input type="checkbox"/> Physical:	Lethal Weapons:	Warning:	Effect:	Less Lethal Weapons:	# Effect:	Chemical Agent:	Projector:	#Deployed
<input type="checkbox"/> Hand-Held Baton	<input type="checkbox"/> Mini 14			<input type="checkbox"/> 37 mm		<input type="checkbox"/> OC		
<input type="checkbox"/> X-10 BRD w/o OC	<input type="checkbox"/> .38 Cal			<input type="checkbox"/> 40 mm		<input type="checkbox"/> CN		
<input type="checkbox"/> X-10 BRD w/ OC	<input type="checkbox"/> .40 Cal			<input type="checkbox"/> L8		<input type="checkbox"/> CS		
	<input type="checkbox"/> 9 mm			<input type="checkbox"/> 40 mm Multi				
	<input type="checkbox"/> Shotgun			<input type="checkbox"/> HFWSR				
<input type="checkbox"/> Non-Conventional or Force Not Listed Above:								
FORCE OBSERVED BY YOU	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Physical <input type="checkbox"/> Hand-Held Baton <input type="checkbox"/> Chemical Agent <input type="checkbox"/> X-10 <input type="checkbox"/> Less Lethal <input type="checkbox"/> Lethal <input type="checkbox"/> Non-Conventional							
EVIDENCE COLLECTED BY YOU	EVIDENCE DESCRIPTION		EVIDENCE DISPOSITION			BIO HAZARD	PPE	
<input checked="" type="checkbox"/> YES						<input type="checkbox"/> YES	<input type="checkbox"/> YES	
<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A		<input checked="" type="checkbox"/> N/A			<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> NO	
REPORTING STAFF INJURED	DESCRIPTION OF INJURY		LOCATION TREATED (HOSPITAL/CLINIC)		FLUID EXPOSURE		SCIF 3301/306 COMPLETED	
<input type="checkbox"/> YES					<input type="checkbox"/> BODILY <input checked="" type="checkbox"/> N/A		<input type="checkbox"/> YES	
<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A		<input checked="" type="checkbox"/> N/A		<input type="checkbox"/> UNKNOWN		<input checked="" type="checkbox"/> NO	
					<input type="checkbox"/> Other:			

NARRATIVE: On March 22, 2017 at approximately 1130 hours, while working Facility B Program 2 Sergeant, I was in Housing Unit 1 supervising cell searches when I was informed by Officer J. Andrade that he had discovered an Inmate Manufactured Weapon in the mattress that belonged to Inmate Rouser (C10659) Facility B 1C-110L. Officer Andrade stated he found the weapon while he was monitoring the screen of the Rapid scan machine. I instructed Officer Andrade to maintain sole possession of the weapon, take measurements, and to have the weapon secured into an evidence locker located at the Security Administration Building (SAB). At approximately 1135 hours, Officer G. Medina informed me that he had discovered an Inmate Manufactured Weapon lying next to the toilet on the ground in cell C 204 which is occupied by Inmates Gardea (T59930) Facility B 1C-204U and Medina (G11774) Facility B 1C-204L. I instructed Officer Medina to maintain sole possession of the weapon, take measurements of the weapon, and to have it secured into an evidence locker located at the Security Administration Building (SAB). At 1410 hours, upon the completion of housing unit 1 cell searches, I notified Registered Nurse J. Presson to conduct a medical evaluation on Inmates Rouser, Gardea, Medina, and Whiteside (G41295) Facility B 1C-110U.

☒ CHECK IF NARRATIVE IS CONTINUED ON CDCR 837-C1.

SIGNATURE OF REPORTING STAFF		TITLE CORRECTIONAL SERGEANT	BADGE # / ID #	DATE 3/22/2017
NAME AND TITLE OF REVIEWER (PRINT/SIGNATURE) K. NOUWELS		DATE RECEIVED 3/22/2017	CLARIFICATION NEEDED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	APPROVED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
				DATE 3/22/2017

DISTRIBUTION: Original: Incident Package Conv: Reporting Employee Conv: Reviewing Supervisor



8C 102

RVR SUPPLEMENTAL

CDC NUMBER	INMATE'S NAME	FACILITY	LOG NUMBER	DATE
C10659	ROUSER, WILLIAM E. JR	CCI-Facility B	000000002501426	04/10/2017

☒ SUPPLEMENTAL REPORT ☒ INVESTIGATIVE REPORT ☒ STAFF ASSISTANT REPORT

On April 7, 2017 at approximately 0900 hours, I correctional Officer S. Vasquez, advised Inmate Rouser that I have been assigned as the IE to investigate the RVR. I informed him that the IE works for the SHO as a fair and impartial employee to gather incomplete and / or missing relevant information regarding this hearing. Inmate Rouser stated that he understood my function as the IE and expressed NO objection to my assignment. Inmate Rousers statement goes as follows; "We were moved to that cell right after they had just moved two inmates involved in a STG Incident to the hole. We were made to leave our own mattresses yet this cell had not been searched after the other inmates left of before we moved in. I have moved 4 times since I have been here and at no time has the cell or mattress been searched after the other inmates left or I moved in. This time the officers told us to kick the other inmates stuff on the tier they just moved. Under 3011 of the title 15, if I would have opened and searched that mattress I could have received a 115, had to pay for a mattress and receive a criminal charge. By this prison and officers refusal to follow 3287(a) it is a breach of security and violate my ability to due process and equal protection. For 3287 states the purpose of it is to establish responsibility."

Inmate Rouser stated he has received all pertinent supplemental reports.

Inmate Rouser IS a participant in the department's mental health services delivery system at the CCCMS level of care.

Per the Disability and Effective Communication System (DECS), the accused has a documented TABE score of 12.9; thereby establishing effective communications.

A Staff Assistant was NOT assigned as Inmate Rouser does not meet the criteria per CCR 3315(D)(2).

Inmate Rouser has NO documented disability that would require reasonable accommodations.

Inmate Rouser does NOT request the presence of the Reporting Employee at the hearing.

Inmate Rouser does NOT request the presence of the Investigative Employee at the hearing.

Inmate Rouser requested the following INMATES witnesses be interviewed: Whiteside (CDC G41295)

Inmate Rouser had 3 questions he would like answered by the staff witnesses.

Inmate Rouser requested the following STAFF witnesses be interviewed: NONE

Inmate Rouser stated he has received all pertinent supplemental reports.

Interviewed Staff Witness Officer:

Question 1) At what time was me and inmate Whiteside moved to that cell?

Answer 1) Per SOMS, on March 3, 2017 at 2124 hours

Question 2) When were the people moved before us?

Answer 2) March 3, 2017

Question 3) when was the last time on record that mattress had been scanned?

Answer 3) A cell search of cell 1C110 was completed on March 3, 2017 with completed cell inspection.

Inmate witness interviewed: Whiteside CDC#G41295 on April 7, 2017

question 1) Did i place weapon in mattress or have any knowledge of it?

Answer 1) No

Question 2) Did my mattress look mew with no holes in it?

Answer 2) Yes

CCI 0-1.7 01559

JUN 9 2017 AM 10:35

Loss)								
Trust Account Hold								
Mandatory Drug Testing								
IEX Control Sult								

☐ Impose Suspended Sanctions☐ Reinstate Suspended Sanctions

Comments:

Chief Disciplinary Officer

Comments:

P. Matzen

TITLE:
AWDATE:
04/24/2017

CDCR SOMS ISST126 - DISCIPLINARY HEARING RESULTS

34



CALIFORNIA DEPARTMENT of
Corrections and Rehabilitation

CCI

0-17 01559

DISCIPLINARY HEARING RESULTS

Institution Name: California Correctional Institution	Facility: CCI-Facility B	Log Number: 000000002501426
Inmate Name: ROUSER, WILLIAM E. JR	CDC #: C10659	Bed Number: CCI-B - B 001C1 - 110001L
TABE Score: 12.9	Mental Health LOC: CCCMS	DDP Designation: NCF

DUE PROCESS

Rule Violation #: 3006(a)	Specific Act: Possession of a deadly weapon
Level: Serious	Offense Division: Division A1
Offense Occurrence: <u>1st Occurrence</u>	
Violation Date: 03/22/2017	Violation Time: 11:30:00
Hearing Date: 04/17/2017	Hearing Time: 08:30:00

Actions Taken				
Date	Time	Type/Reason	Staff	Elapsed Days
03/23/2017	09:55:57	RVR Ready for Review by Supv.	J. Andrade	1
03/27/2017	07:11:18	RVR Approved by Supervisor	R. Cole	5
03/27/2017	13:08:35	RVR Classified	R. Mayo	5
03/29/2017	12:43:47	Inmate Copy Served Initial Rules Violation Report	H. Hoffman	7
03/29/2017	12:44:43	Notice of Pending Charges Sent to Rcds.	H. Hoffman	7
04/07/2017	08:28:00	IE Assigned	R. Cole	16
04/09/2017	09:39:29	MH Assessment Requested	H. Hoffman	18
04/10/2017	08:36:48	IE Report Prepared	S. Vasquez	19
04/11/2017	08:29:27	IE Report Approved By Supervisor	R. Cole	20
04/12/2017	12:03:27	Inmate Copy Served Other	H. Hoffman	21
04/12/2017	12:07:29	Inmate Copy Served Incident Report	H. Hoffman	21

40

JUN 9 2017 AM 10:32

RE: Screening at the SECOND Level

Friday, June 2, 2017

CCI 0-17 01559

ROUSER, C10659

KVSP - S INF 1111001LP

DISCIPLINARY, Division A-1, 05/31/2017

Log Number: KVSP-O-17-01610

(Note: Log numbers are assigned to all appeals for tracking purposes. Your appeal is subject to cancellation for failure to correct noted deficiencies.)

The enclosed documents are being returned to you for the following reasons:

Be advised that your appeal has been forwarded to another CDCR unit for processing.

CCI

☐ A. Lucas

☐

Appeals Coordinator
KVSP

NOTE: If you are required to respond/explain to this CDCR Form 695, use only the lines provided below.

Be advised that you cannot appeal a rejected appeal, but should take the corrective action necessary and resubmit the appeal within the timeframes specified in CCR 3084.6(a) and CCR 3084.8(b). Pursuant to CCR 3084.6(e), once an appeal has been cancelled, that appeal may not be resubmitted. However, a separate appeal can be filed on the cancellation decision. The original appeal may only be resubmitted if the appeal on the cancellation is granted.

NOTE THIS CDCR 695 IS A PERMANENT APPEAL ATTACHMENT AND IS NOT TO BE REMOVED

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D. Continuation of CDCR 602, Section D only (Dissatisfied with First Level response):

BYPASS

Inmate/Parolee Signature:

Date Submitted:

F. Continuation of CDCR 602, Section F only (Dissatisfied with Second Level response):

Inmate/Parolee Signature:

Date Submitted:

4/3

IAB USE ONLY	Institution/Parole Region CVSP-0-17-01610	Log #	Category: 1 A1
CC1		0-17-01559	
FOR STAFF USE ONLY			

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.

Appeal is subject to rejection if one row of text per line is exceeded. WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First): Ronsell William	CDC Number: C10659	Unit/Case Number: LSU-1 A109	Assignment:
--	-----------------------	---------------------------------	-------------

A. Continuation of CDCR 602, Section A only (Explain your issue): The mother's looked band new and 3011 of the title is do not allow me to search mother's I can receive 115, have to pay for it and D.A. Refusal, I told Lt. Crouse I wanted officer who said he searched ~~me~~ call and C/O Sanchez as witnesses. I gave him 2 declarations as my written statement to be added as evidence. Also stating I've created a false document and Deputy Attorney General had guidance. He said he was postponing hearing on 5-19-17 I received the final copy where he said I was taken out for not saying nothing and he had hearing without me which was a lie and it was true it was not reason to remove me. He had denied my witnesses and at no time did I say still left it. I asked I.G. to ask C/O Sanchez why he said we had a beat rap. Damn 2.5 The day we were sent to Ad. SEG. The 2 documents I gave Lt. Crouse and the one I gave I.G. was not with final copy and this is a D.A. Refusal I had sent copies to Governor, Deputy Attorney General, Internal Affairs, Secretary of CDCR, when before hearing.

Inmate/Parolee Signature: William Ronsell C10659 Date Submitted: 5-27-17

B. Continuation of CDCR 602, Section B only (Action requested): Damages, That I am also given a lie detector test whether I win or not I am being a writ on the procedural due process violation, I am getting at the matter to force the D.A. and Governor to investigate and give me a lie detector test for this is a D.A. Refusal and they created false documents in a criminal investigation. Deputy Attorney General Danielle Hample has copy of my questions and statement to I.G. given to her many days before her email Danielle Hample to day can Gov. also copy is sent to Federal judge for the title is there was no person to hold hearing without me and he lied why. Also criminal charges on Andrade for saying he saw Sgt. Ybaera and Rios (criminal conspiracy) NS shows I wanted witnesses

Inmate/Parolee Signature: William Ronsell C10659 Date Submitted: 5-27-17

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IAD USE ONLY		Institution/Parole Region: Log #:		Category:
		14VSP-0-17-01610		1 A1
FOR STAFF USE ONLY				

You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy or regulation that has a material adverse effect upon your welfare and for which there is no other prescribed method of departmental review/remedy available. See California Code of Regulations, Title 15, (CCR) Section 3084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that lead to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First):	CDC Number:	Unit/Cell Number:	Assignment:
ROUSER William	C10659	ASU-6 A109	

State briefly the subject of your appeal (Example: damaged TV, job removal, etc.):

Disciplinary

- A. Explain your issue (If you need more space, use Section A of the CDCR 602-A): I WAS FOUND GUILTY OF ROR 2501426 WITH OUT BEING PRESENT. THE IIS WAS IN VIOLATION OF PROCEDURAL DUE PROCESS. NO OFFICE WHO SEARCHED CELLS AFTER A CELL MOVE TAKE THE MATTERS TO ROR TO X-RAY
- B. Action requested (If you need more space, use Section B of the CDCR 602-A): THAT I AM FOUND NOT GUILTY AND ALL RESTORED. THAT CRIMINAL CHARGES ARE BROUGHT ON Via VASQUEZ, THE OFFICE WHO SAID SEARCH CELL? SGT. YBARRA, JT. CRAWSE. THAT I RECEIVE MONETARY

Supporting Documents: Refer to CCR 3084.3.

☒ Yes, I have attached supporting documents.

List supporting documents attached (e.g., CDC 1083, Inmate Property Inventory; CDC 128-G, Classification Chrono):

IIS, IIS Final COPY, WITNESSES DECLARATIONS, MY WRITTEN DECLARATION, CHRONO FROM OFFICE

☐ No, I have not attached any supporting documents. Reason: _____

Inmate/Parolee Signature: William Rouser C10659 Date Submitted: 5-24-17

☐ By placing my initials in this box, I waive my right to receive an interview. 5-24-17

MAY 31 2017
JUN 9 2017 AM 10:32

RECEIVED
JUN 12 2017

C. First Level - Staff Use Only		Staff - Check One: Is CDCR 602-A Attached? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
This appeal has been:			
<input checked="" type="checkbox"/> Bypassed at the First Level of Review. Go to Section E.			
<input type="checkbox"/> Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____			
<input type="checkbox"/> Cancelled (See attached letter) Date: _____			
<input type="checkbox"/> Accepted at the First Level of Review.			
Assigned to: _____ Date Assigned: _____ Date Due: _____			
First Level Responder: Complete a First Level response. Include interviewer's name, title, interview date, location, and complete the section below.			
Date of Interview: _____ Interview Location: _____			
Your appeal issue is: <input type="checkbox"/> Granted <input type="checkbox"/> Granted in Part <input type="checkbox"/> Denied <input type="checkbox"/> Other _____			
See attached letter. If dissatisfied with First Level response, complete Section D.			
Interviewer: _____ Title: _____ Signature: _____ Date completed: _____			
Reviewer: _____ Title: _____ Signature: _____			
Date received by AC: _____			
AC Use Only Date mailed/delivered to appellant _____/_____/_____			

D. If you are dissatisfied with the First Level response, explain the reason below, attach supporting documents and submit to the Appeals Coordinator for processing within 30 calendar days of receipt of response. If you need more space, use Section D of the CDCR 602-A.

BYPASS

Inmate/Parolee Signature: _____

Date Submitted: _____

E. Second Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached? ☒ Yes ☐ No

This appeal has been:

☐ By-passed at Second Level of Review. Go to Section G.

☒ Rejected (See attached letter for instruction) Date: 6/2/17 Date: _____ Date: _____ Date: _____

☐ Cancelled (See attached letter)

☐ Accepted at the Second Level of Review

Assigned to: AC Title: CD Date Assigned: 06/12/17 Date Due: 07/24/17

Second Level Responder: Complete a Second Level response. If an interview at the Second Level is necessary, include interviewer's name and title, interview date and location, and complete the section below.

Date of Interview: JUNE 28, 2017

Interview Location: KWSP STRH SGT OFFICE VIA SPEAKERPHONE

Your appeal issue is: ☐ Granted ☐ Granted in Part ☒ Denied ☐ Other: _____

See attached letter. If dissatisfied with Second Level response, complete Section F below.

Interviewer: E. Garcia Title: Lieutenant Signature: [Signature] Date completed: 6/28/2017

Reviewer: T. C. Harrison Title: CD Signature: [Signature]

Date received by AC: 07/17/17

AC Use Only
Date mailed/delivered to appellant 07/17/17

F. If you are dissatisfied with the Second Level response, explain reason below; attach supporting documents and submit by mail for Third Level Review. It must be received within 30 calendar days of receipt of prior response. Mail to: Chief, Inmate Appeals Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001. If you need more space, use Section F of the CDCR 602-A.

Inmate/Parolee Signature: _____

Date Submitted: _____

G. Third Level - Staff Use Only

This appeal has been:

☐ Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____

☐ Cancelled (See attached letter) Date: _____

☐ Accepted at the Third Level of Review. Your appeal issue is ☐ Granted ☐ Granted in Part ☐ Denied ☐ Other: _____

See attached Third Level response.

Third Level Use Only
Date mailed/delivered to appellant ____/____/____

H. Request to Withdraw Appeal: I request that this appeal be withdrawn from further review because; State reason. (If withdrawal is conditional, list conditions.)

Inmate/Parolee Signature: _____ Date: _____

Print Staff Name: _____ Title: _____ Signature: _____ Date: _____

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CALIFORNIA CORRECTIONAL INSTITUTION

INMATE ROUSER, C-10659

APPEAL LOG#CCI-O-17-01559

Page 3 of 3

CONCLUSION: All staff personnel matters are confidential in nature and will not be disclosed to other staff, the general public, the inmate population, or the Appellant. If the conduct of staff was determined to not be in compliance with policy, the institution will take the appropriate course of action.

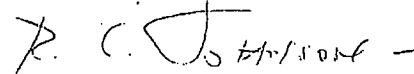
Additionally a request for criminal charges against staff, monetary compensation, lie detector testing, media influence of the Governor and Department of Justice is denied as it is beyond the scope of the appeals process and/or outside the jurisdiction of the Department of Corrections and Rehabilitation, and will not be addressed herein.

Based on the aforementioned, the Appellant's charge, disposition, forfeiture of credits, and loss of privileges, realted to the disciplinary will remain the same as a result of this review. Therefore, this appeal is **DENIED**.

If the Appellant is dissatisfied with the SLR, he may complete Section F of the CDCR Form 602; attach all supporting documents (including this response) and submit by mail for TLR. It must be received within 30 calendar days of this response. It must be mailed to: Chief, Inmate Appeals Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001.



E. GARCIA
Lieutenant, Facility A
California Correctional Institution



RAYBON JOHNSON
Chief Deputy Warden (A)
California Correctional Institution

July 12, 2017

4/6

CALIFORNIA CORRECTIONAL INSTITUTION

INMATE ROUSER, C-10659
APPEAL LOG#CCI-O-17-01559
Page 2 of 3

ACTION REQUESTED: The appellant requests that he be found not guilty and all credits restored; that criminal charges be brought on Officers Vasquez, Andrade, the officer who searched cell, Sergeant Ybarra and Lieutenant Crounse. That the Appellant receive monetary damages; to receive a lie detector test; whether the Appellant wins or not he is filing a writ on the procedural due process violation; to get at the media to force the Department of Justice (DOJ) and Governor to investigate.

BASIS FOR DECISION: California Code of Regulations (CCR), Title 15, Sections 3287(a), 3312(b)(1), 3315(e), 3318(a), 3320, 3327, and Department Operations Manual (DOM), Section 54100.18.2, RVR #000000002501426, CDCR 115-MH-A, Incident Report #CCI-FAB-17-03-0105, written "declarations" by Inmates Richardson (E40439), Kirkland (AM7693) and the Appellant; Interview with SHO, Lieutenant D. Crounse

APPEAL RESPONSE: In reaching a decision on this appeal the following resources were reviewed and considered; the CDCR 602 and submitted documents, applicable sections of CCR, Title 15, DOM, Strategic Offender Management System, and DECS.

The Appellant was provided copies of all the evidence used in the hearing 24 hours in advance of the hearing. The RVR was appropriately classified, and the Appellant entered a plea of Not Guilty to the charge *Possession of a deadly weapon*. The SHO correctly identified that the first copy of the RVR was served within the 15 day time constraint and the hearing was conducted less than 30 days after the issuance of the RVR. During the hearing, the Appellant claimed to the SHO that the Appellant had filed a "complaint" (SHO stated that the Appellant did not identify what the complaint was) against the SHO and the Appellant told the SHO he was not allowed to conduct the hearing. There was no justification why the SHO would be required to recuse himself from adjudicating the Appellant's current RVR. The Appellant was dissatisfied with the SHO's response, and stated he would not talk to the SHO anymore. Since the Appellant refused to participate any further in the hearing, the SHO completed the hearing in the Appellant's absence. The findings of the SHO were reviewed and sustained by the Chief Disciplinary Officer.

The California Department of Corrections and Rehabilitation uses the preponderance of evidence standard in accordance with the penal code, Section 2932(c) (5) and good cause. Preponderance of evidence means that the evidence in support of guilt against innocence must be carefully weighed. If there is more evidence in favor of guilt than innocence, the person is found guilty; this, the more credible evidence is accepted. The Appellant has provided *no credible evidence or testimony* that would justify the action requested whereas, SHO found, listed and utilized the evidence to support the finding of guilt.

The appeals process is not intended to provide a re-hearing of an RVR, but rather to determine whether the Appellant was afforded his due process and administrative protections in the adjudication of the disciplinary. Evidence and/or factors that were reasonably discoverable at the time of the disciplinary hearing can be evaluated but evidence and/or factors not present at the hearing cannot be evaluated.

July 12, 2017

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CALIFORNIA CORRECTIONAL INSTITUTION



C-FILE

Appellant: Rouser, W
CDCR# C-10659
Housing Unit: B-1C-110L
California Correctional Institution
P.O. Box 1031
Tehachapi, CA 93581

SECOND LEVEL RESPONSE APPEAL LOG # CCI-0-17-01559

APPEAL DECISION: DENIED

INMATE INTERVIEWED BY: Pursuant to California Code of Regulations (CCR), Title 15, Section 3084.7(e), an interview was conducted at the Second Level Review (SLR) by Correctional Lieutenant (Lt.) E. Garcia, on Wednesday, June 28, 2017, in the STRH Sergeant Office at KVSP via speakerphone. A second interview is not required.

EFFECTIVE COMMUNICATION: The Disability and Effective Communication System (DECS), revealed no effective communication barriers. The appellant has an indicated Test of Adult Basic Education score of 12.9, has normal cognitive function and is a participant in the MHSDS at the CCCMS level of care.

APPEAL ISSUE: Disciplinary

DESCRIPTION OF PROBLEM: The Appellant alleges he was found guilty of an RVR without being present. The Appellant alleges that the RVR was in violation of procedural due process. The Appellant indicates that no officer searched the cells after a cell move and did not X-Ray the mattress looked brand new. The Appellant cites California Code of Regulations (CCR), Title 15, Section 3011 that the Appellant alleges will not allow him to search the mattress and that he would face disciplinary action, be required to pay for it and face a District Attorney (DA) referral. The Appellant alleges that he informed the SHO, that he requested the officer who searched the cell and Officer Sanchez as witnesses. The Appellant alleges he gave the SHO two declarations as a written statement to be added as evidence. The Appellant alleges that the Investigative Employee (IE) created a false document and that the Deputy Attorney General has evidence. The Appellant alleges that the SHO informed the Appellant that he was postponing the hearing on 5-19-11. The Appellant alleges that he received the final copy where it noted the Appellant was taken out for not saying nothing and then conducted the hearing without the Appellant, which the Appellant contends is a lie. The Appellant further contends that if it was true it was not a reason to remove the Appellant. The Appellant alleges that the SHO denied his witnesses. The Appellant alleges he asked the IE to question Officer Sanchez why Officer Sanchez said, "we (the Appellant and his cellie) had a bum rap, damn 2-5." The Appellant also indicates that two documents that the Appellant gave the SHO and the one the Appellant gave to the IE was not with the final copy and this is a DA referral. The Appellant alleges that he sent copies to the Governor, Deputy Attorney General, Internal Affairs, Secretary of CDCR, and Warden prior to the hearing. The Appellant finally contends that Officer Andrade and Sergeant Ybarra are in a criminal conspiracy as Officer Andrade said he saw Sgt Ybarra read the Miranda Rights.

July 12, 2017

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D. Continuation of CDCR 602, Section D only (Dissatisfied with First Level response):

BYPASS

Inmate/Parolee Signature: _____

Date Submitted: _____

F. Continuation of CDCR 602, Section F only (Dissatisfied with Second Level response):

Inmate/Parolee Signature: _____

Date Submitted: _____

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D. If you are dissatisfied with the First Level response, explain the reason below, attach supporting documents and submit to the Appeals Coordinator for processing within 30 calendar days of receipt of response. If you need more space, use Section D of the CDCR 602-A.

BYPASS

Inmate/Parolee Signature: _____

Date Submitted: _____

E. Second Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached? ☒ Yes ☐ No

This appeal has been:

☐ By-passed at Second Level of Review. Go to Section G.

☒ Rejected (See attached letter for instruction) Date: 6/3/17 Date: _____ Date: _____

☐ Cancelled (See attached letter)

☐ Accepted at the Second Level of Review

Assigned to: AS Title: CDJ Date Assigned: 06/12/17 Date Due: 07/24/17

Second Level Responder: Complete a Second Level response. If an interview at the Second Level is necessary, include interviewer's name and title, interview date and location, and complete the section below.

Date of Interview: JUNE 28, 2017 Interview Location: KUSP STRH SGT OFFICE VIA SPANISH

Your appeal issue is: ☐ Granted ☐ Granted in Part ☒ Denied ☐ Other: _____

See attached letter. If dissatisfied with Second Level response, complete Section F below.

Interviewer: E. Garcia Title: DETENTION Signature: [Signature] Date completed: 6/20/2017

Reviewer: R. C. O'Hara Title: CDJ Signature: [Signature]

Date received by AC: 07/17/17

AC Use Only

Date mailed/delivered to appellant 07/17/17

F. If you are dissatisfied with the Second Level response, explain reason below; attach supporting documents and submit by mail for Third Level Review. It must be received within 30 calendar days of receipt of prior response. Mail to: Chief, Inmate Appeals Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001. If you need more space, use Section F of the CDCR 602-A.

Mr. O'Hara said he removed me because I was belligerent and was removed
and I would not talk and was removed. I gave him two verbal explanations and
he told me what was on my mind. I did not say anything about my I-2
statement. I said he was not listening what was on it. He illegally removed
me from housing and my address was never searched before I moved to
William Moore C10659

Inmate/Parolee Signature: _____ Date Submitted: 8-3-17

G. Third Level - Staff Use Only

This appeal has been:

☐ Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____

☐ Cancelled (See attached letter) Date: _____

☒ Accepted at the Third Level of Review. Your appeal issue is ☐ Granted ☐ Granted in Part ☒ Denied ☐ Other: _____

See attached Third Level response.

Third Level Use Only

Date mailed/delivered to appellant 1/1/17

H. Request to Withdraw Appeal: I request that this appeal be withdrawn from further review because; State reason. (If withdrawal is conditional, list conditions.)

Inmate/Parolee Signature: _____ Date: _____

Print Staff Name: _____ Title: _____ Signature: _____ Date: _____

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IAB USE ONLY	Institution/Parole Region KVP 0-17-01610	Log #	Category 1 A1
1709069		CCI	0-17-01559

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.

Appeal is subject to rejection if one row of text per line is exceeded. WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First) Ronsler William	CDC Number CC0659	Unit/Cell Number ASU-1 A109	Assignment
---------------------------------------	----------------------	--------------------------------	------------

A. Continuation of CDCR 602, Section A only (Explain your issue): The MATTHEWS LOOKED GAND
NEW AND SOIL OF THE TITLE IS DO NOT ALLOW ME TO SEARCH MATTHEWS
I CAN RECEIVE 115, HAVE TO PAY FOR IT AND D.A. REFUSE, I TOLD LT.
CHOUSE I WANTED OFFICER WHO SAID HE SEARCHED ~~MATTHEWS~~ COLL
AND C/O SANCHEZ AS WITNESSES, I GAVE HIM 2 DOCUMENTS AS
MY WRITTEN STATEMENT TO BE ADDED AS EVIDENCE, ALSO STATING
THE CREATED A FALSE DOCUMENT AND DEPUTY ATTORNEY GENERAL
HAD EVIDENCE. HE SAID HE WAS POSTPONING HEARING ON
5-19-17 I RECEIVED THE FINAL COPY WHERE HE SAID I
WAS TAKEN OUT FOR NOT SAYING NOTHING AND HE HAD HEARING
WITHOUT ME WHICH WAS A LIE AND HE IT WAS TRUE IT WAS
NOT REASON TO REMOVE ME. HE HAD REMOVED MY WITNESSES AND
AT NO TIME DID I SAY STUFF LEFT ETC I ASKED LIE TO
ASK C/O SANCHEZ WHY HE SAID WE HAD A BURN RAP
NAME 2-5 THE DAY WE WERE SENT TO AD-SEG. THE
2 DOCUMENTS I GAVE LT. CHOUSE AND THE ONE I GAVE
THE WAS NOT WITH FINAL COPY AND THIS IS A D.A. OFFICER
I HAD SENT COPIES TO GOVERNOR, DEPUTY ATTORNEY GENERAL,
INTELLIGENCE SECTION OF CDCR, BEFORE HEARING.

Inmate/Parolee Signature: William Ronsler Date Submitted: 5-27-17
24-07

MAY 31 2017
JUN 9 2017 AM 10:3

USE ONLY
REQ BY OOA
AUG - 8 2017
ST 1 S

B. Continuation of CDCR 602, Section B only (Action requested): DAMAGES, THAT I AM ALSO GIVEN
A LIE DETECTOR TEST WHETHER I WIN OR NOT I AM FILING A WRIT
ON THE PROCEDURAL DUE PROCESS VIOLATION, I AM GETTING AT THE POINT
TO FORCE THE D.A. AND GOVERNOR TO INVESTIGATE AND GIVE ME
A LIE DETECTOR TEST FOR THIS IS A D.A. RITUAL AND THEY
CREATED FALSE DOCUMENTS IN A CRIMINAL INVESTIGATION.
DEPUTY ATTORNEY GENERAL DANIELLE HEMPLE HAS COPY OF MY QUESTIONS
AND STATEMENT TO LIE GIVEN TO HER MANY DAYS BEFORE HER E-MAIL
DANIELLE HEMPLE @ day-ca.gov ALSO COPY IS SENT TO FEDERAL JUDGE
FOR PROTECT 15 THERE WAS NO REASON TO HOLD HEARING WITHOUT ME AND HE
HEARD WHY. ALSO CRIMINAL CHARGES ON ANDRUE POL SAYING HE SAW
SGT. YBAERA READ RIGHTS (CRIMINAL CONSPIRACY) HS SHOWS I WANTED WITNESS

Inmate/Parolee Signature: William Ronsler Date Submitted: 5-27-17
3

STATE OF CALIFORNIA
INMATE/PAROLEE APPEAL
CDCR 602 (REV. 11/10)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 1



C10659

E ONLY

Institution/Parole Region:

Log #:

16-17-01610

Category:

I
A1

FOR STAFF USE ONLY

You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy or regulation that has a material adverse effect upon your welfare and for which there is no other prescribed method of departmental review/remedy available. See California Code of Regulations, Title 15, (CCR) Section 3084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that lead to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First): <u>ROUSER William</u>	CDC Number: <u>C10659</u>	Unit/Cell Number: <u>ASU-1 A109</u>	Assignment:
--	------------------------------	--	-------------

State briefly the subject of your appeal (Example: damaged TV, job removal, etc.):

Disciplinary

A. Explain your issue (If you need more space, use Section A of the CDCR 602-A): I WAS FOUND GUILTY OF ROR 2501426 WITH OUT BEING PRESENT, THE IIS WAS IN VIOLATION OF PROCEDURAL DUE PROCESS NO OFFICE WHO SEARCHED CELLS AFTER A CELL MATE TOOK THE MATRESS TO ROR TO X-RAY

B. Action requested (If you need more space, use Section B of the CDCR 602-A): That I am found not guilty and all restored that criminal charges are brought on via Vasquez, the officer who said search cell? SGT. YBARRA, Lt. CRANSE. That I receive monetary

Supporting Documents: Refer to CCR 3084.3.

☒ Yes, I have attached supporting documents.

List supporting documents attached (e.g., CDO 1083, Inmate Property Inventory; CDC 128-G, Classification Chrono):

IIS, IIS Final copy, my written objection, WITNESSS DECLARATION, CHRONO from officer

☐ No, I have not attached any supporting documents. Reason:

Inmate/Parolee Signature: William Rouser C10659 Date Submitted: 5-24-17

☐ By placing my initials in this box, I waive my right to receive an interview. 5-24-17

MAY 31 2017
JUN 9 2017 AM 10:31

REC BY OOA

AUG 8 2017

STAFF USE ONLY

C. First Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached? ☒ Yes ☐ No

This appeal has been:

☒ Bypassed at the First Level of Review. Go to Section E.

☐ Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____

☐ Cancelled (See attached letter) Date: _____

☐ Accepted at the First Level of Review.

Assigned to: _____ Date assigned: _____ Date Due: _____

First Level Responder: Complete a First Level response. Include interview date, time, location, and complete the section below.

Date of interview: _____

Interview location: _____

Your appeal issue is: ☐ Granted ☐ Granted in Part ☐ Denied ☐ Other: _____

See attached letter. If dissatisfied with First Level response, complete Section D.

Interviewer: _____ Title: _____ Signature: _____ Date completed: _____

Reviewer: _____ Title: _____ Signature: _____

Date received by AC: _____

AC Use Only

Date mailed/delivered to appellant ____/____/____

BYPASS

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denied as those requests are outside the scope of the department's inmate appeals process, and/or are outside the jurisdiction of the Department of Corrections and Rehabilitation. The SLR found the appellant's charge, disposition, forfeiture of credits, and loss of privileges, related to RVR #2501426 will remain the same and the appeal was denied.

III THIRD LEVEL DECISION: Appeal is denied.

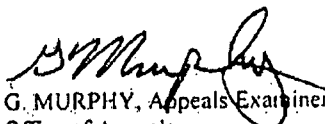
A. FINDINGS: The documentation and arguments presented to the Third Level of Review (TLR) are conclusive that the appellant has failed to support his appeal issue with sufficient evidence or fact to warrant a modification of the Reviewer's decision at the SLR. The Examiner at the TLR has carefully considered all of the documents and information provided; as well as weighing the impact of current laws, policies and procedures; in formulating a decision. The TLR thoroughly reviewed all documents relative to the appellant's RVR and finds the SHO appropriately found the appellant guilty based upon the preponderance of evidence standard. The Examiner notes the SHO thoroughly articulated the evidence considered and the weight that was given said evidence. The TLR finds that the appellant was afforded all the required due process protections and that time constraints were fulfilled. The Examiner notes the appellant's contention the weapon was in that mattress prior to being assigned to the cell; however, the TLR finds preponderance was established demonstrating otherwise. The Examiner notes the appellant's objection to the hearing being concluded in absentia after he became argumentative and uncooperative with the SHO; however, the TLR finds the SHO sufficiently supported the decision to remove the appellant based upon his conduct. The appellant is advised the inmate appeal process is not the arena to rehear the RVR or consider new evidence not presented at the hearing regarding the offense; but rather to review the disciplinary process to ensure all due process protections and regulatory procedures were appropriately adhered to throughout the disciplinary proceedings. As such, the Examiner has not weighed the evidence presented during the hearing or any additional evidence the appellant has attempted to introduce via this appeal. The Examiner assessed whether there was some evidence upon which to base a finding; whether the appellant was informed of, and allowed to review, all of the evidence used against him/her; and whether the SHO considered all the available evidence without prejudice. The appellant is advised a decision at the TLR to uphold the findings and disposition of the SHO shall not be construed as the Examiner's finding of guilt based upon establishment of preponderance of evidence. Nor shall a decision at the TLR to Re-issue and Re-hear the RVR be construed as a not guilty finding by the Examiner or dismissal of the RVR. The TLR finds the appellant had all of the information regarding his appeal issue prior to his hearing and was not able to persuade the SHO of his alleged innocence. The appellant was afforded the necessary administrative protections throughout the hearing process, and the findings and disposition are commensurate with regulations and appropriate based upon the evidence presented. The TLR finds the CDO reviewed and affirmed the findings and disposition of the RVR on April 24, 2017. In view of the above, no relief is warranted at the TLR.

B. BASIS FOR THE DECISION:

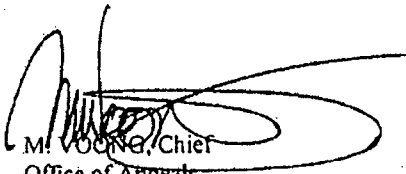
CCR: 3000, 3001, 3005, 3006, 3287, 3310, 3312, 3313, 3315, 3316, 3317, 3318, 3320, 3323

C. ORDER: No changes or modifications are required by the Institution.

This decision exhausts the administrative remedy available to the appellant within CDCR.


G. MURPHY, Appeals Examiner
Office of Appeals

cc: Warden, KVSP
Appeals Coordinator, KVSP
Appeals Coordinator, CCI


M. YOUNG, Chief
Office of Appeals

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STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
OFFICE OF APPEALS
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

THIRD LEVEL APPEAL DECISION

Date: OCT 10 2017

In re: William Rouser, C10659
Kern Valley State Prison
P.O. Box 6000
Delano, CA 93216

C-FILE

TLR Case No.: 1709069

Local Log No.: CCI-17-01559 and KVSP-17-01610

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner G. Murphy, Captain. All submitted documentation and supporting arguments of the parties have been considered.

I APPELLANT'S ARGUMENT: The appellant is submitting this appeal relative to Rules Violation Report (RVR), Log #2501426, dated March 22, 2017, for Possession of a Deadly Weapon. It is the appellant's position he was inappropriately found guilty of the offense. The appellant claims his due process rights were violated because the officer x-rayed the mattress without him present. The appellant asserts the mattress appeared brand-new and he was unable to search it pursuant to California Code of Regulations, Title 15 (CCR), Section 3011. The appellant alleges that he requested two witnesses to be at the hearing that were denied and that he submitted two written declarations to the Senior Hearing Officer (SHO) that were not included in the Final Copy of the RVR. The appellant claims the deputy attorney general had evidence the Investigative Employee (IE) created a false document. The appellant asserts the SHO stated the hearing was being postponed on May 19, 2017, when in fact the hearing was concluded in absentia. The appellant requests that he is found not guilty of the offense; that all of his credit and privileges are restored; that criminal charges are filed against the IE, against the officer who ordered the cell search, and against the Reporting Employee; that the appellant receives monetary damages; and that the appellant is granted an opportunity to take a polygraph exam regarding these allegations.

II SECOND LEVEL'S DECISION: The Second Level of Review (SLR) found the appellant was provided copies of all the evidence used in the hearing 24 hours in advance of the hearing. The RVR was appropriately classified, and the appellant entered a plea of Not Guilty to the charge Possession of a Deadly Weapon. The Reviewer noted the SHO documented the First Copy (a classified copy) of the RVR was served to the appellant within the 15 day time constraint and the hearing was conducted less than 30 days after the issuance of the RVR. The SLR found that during the hearing the appellant claimed to the SHO that the appellant had filed a "complaint" (the SHO stated the appellant did not identify what the complaint was) against the SHO and that the appellant claimed the SHO was not allowed to conduct the hearing because of the prior complaint. The SLR found there was no justification why the SHO would be required to recuse himself from adjudicating the appellant's current RVR. The Reviewer noted the appellant was dissatisfied with the SHO's response, and stated he would not talk to the SHO anymore. The SLR found the appellant refused to participate any further in the hearing; therefore, the SHO completed the hearing in the appellant's absence. The findings of the SHO were reviewed and sustained by the Chief Disciplinary Officer (CDO). The SLR found the appellant provided no credible evidence or testimony that would justify the action(s) requested; however, the SHO found, listed and utilized evidence to support the finding of guilt. The Reviewer advised the appellant the appeals process is not intended to provide a re-hearing of an RVR, but rather to determine whether the appellant was afforded his due process and administrative protections in the adjudication of the disciplinary process. Evidence and/or factors that were reasonably discoverable, but not presented, at the time of the disciplinary hearing will not be evaluated by the appeal reviewer, but evidence and/or factors presented at the hearing will be evaluated. The Reviewer advised the appellant all staff personnel matters are confidential in nature and will not be disclosed to other staff, the general public, the inmate population, or the appellant. If the conduct of staff was determined to not be in compliance with policy, the institution would take the appropriate action. Additionally, the requests for criminal charges against staff, monetary compensation, polygraph testing, and media influence of the Governor and/or the Department of Justice are

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D. Continuation of CDCR 602, Section D only (Dissatisfied with First Level response):

BYPASS

Inmate/Parolee Signature:

Date Submitted:

F. Continuation of CDCR 602, Section F only (Dissatisfied with Second Level response):

Inmate/Parolee Signature:

Date Submitted:

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LAB USE ONLY	Institution/Parole Region KUSP-0-17-01610	Log #	Category: 1 A1
1709069		CC1	0-17-01559

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.

Appeal is subject to rejection if one row of text per line is exceeded. WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First): Ronsel William	CDC Number: CC0659	Unit/Cell Number: Xsu-1 A109	Assignment:
---------------------------------------	-----------------------	---------------------------------	-------------

A. Continuation of CDCR 602, Section A only (Explain your issue):
The witnesses looked bad and 3 of the title 15 do not allow me to search matters I can receive 115, have to pay for it and D.A. Refusal, I told Lt. Crouse I wanted officer who said he searched ~~me~~ cell and C/O Sanchez as witnesses. I then had 2 documents as my written statement to be added as evidence. Also stating I created a false document and Deputy Attorney General had guidance. He said he was postponing hearing on 5-19-17 I received the final copy where he said I was taken out for not saying nothing and he had hearing without me which was a lie and it was true it was not reason to remove me. He had denied my witnesses and at no time did I say stop left etc I asked L.G. to ask C/O Sanchez why he said we had a Beck Rap Name 2-5 The day we were sent to Ad. SEG. The 2 documents I gave Lt. Crouse and the one I gave I.E. was not with final copy and this is a D.A. Refusal I had sent copies to Governor, Deputy Attorney General, In Kevin Atkins, Secretary of CDCR, when before hearing.

Inmate/Parolee Signature: William Ronsel CC0659 Date Submitted: 5-24-17

MAY 31 2017
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REG BY OOA
AUG - 8 2017
S

B. Continuation of CDCR 602, Section B only (Action requested):
Damages, That I have also given a lie detector test whether I win or not I am filing a writ on the procedural due process violation, I am getting to the point to force the DPT and Governor to investigate and give me a lie detector test for this is a D.A. Refusal and they created false documents in a criminal investigation. Deputy Attorney General Danielle Hample has copy of my questions and statement to be given to her many days before the E-mail Danielle Hample to day. C/O Gov. Also copy is sent to Federal Judge for the title 15 there was no reason to hold hearing without me and he lied why. Also criminal charges on Andrade for saying he saw Sgt. Ybarra read rights (criminal conspiracy) NS shows I wanted witnesses

Inmate/Parolee Signature: William Ronsel CC0659 Date Submitted: 5-24-17

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D. If you are dissatisfied with the First Level response, explain the reason below, attach supporting documents and submit to the Appeals Coordinator for processing within 30 calendar days of receipt of response. If you need more space, use Section D of the CDCR 602-A.

BYPASS

Inmate/Parolee Signature: _____

Date Submitted: _____

E. Second Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached? ☒ Yes ☐ No

This appeal has been:

☐ By-passed at Second Level of Review. Go to Section G.

☒ Rejected (See attached letter for instruction) Date: 6/2/17 Date: _____ Date: _____

☐ Cancelled (See attached letter)

☐ Accepted at the Second Level of Review

Assigned to: AS

Title: CD-2

Date Assigned: 06/12/17

Date Due: 07/24/17

Second Level Responder: Complete a Second Level response. If an interview at the Second Level is necessary, include interviewer's name and title, interview date and location, and complete the section below.

Date of Interview: JUNE 28, 2017

Interview Location: KUSP STRH SGT OFFICE VIA SAKOCH PL

Your appeal issue is:

☐ Granted

☐ Granted in Part

☒ Denied

☐ Other: _____

See attached letter. If dissatisfied with Second Level response, complete Section F below.

Interviewer: E. Garcia

Title: LIEUTENANT

Signature: [Signature]

Date completed: 6/28/2017

Reviewer: R. C. O'Hara

Title: CD-2

Signature: [Signature]

Date received by AC: 6/17/17

AC Use Only

Date mailed/delivered to appellant: 07/17/17

F. If you are dissatisfied with the Second Level response, explain reason below; attach supporting documents and submit by mail for Third Level Review. It must be received within 30 calendar days of receipt of prior response. Mail to: Chief, Inmate Appeals Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001. If you need more space, use Section F of the CDCR 602-A.

AT COUNSEL SAID HE REMOVED ME BECAUSE I WAS BELLIGERENT AND WAS REMOVED
AND I WOULD NOT TALK AND WAS REMOVED. I HAVE BEEN TWO TIMES DISCIPLINED AND
HE HAD A HEARD WHAT WAS ON TV. I DID NOT SAY THAT OURS ESTABLISHED MY I-2
STATEMENT I SAID HE HAD A HEARD WHAT WAS ON TV. HE ILLEGALLY REMOVED
ME FROM HEARING MY MATTER WAS NOT SEARCHED BEFORE I MOVED IN

Inmate/Parolee Signature: William Bruce C10659

Date Submitted: 8-3-17

G. Third Level - Staff Use Only

This appeal has been:

☐ Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____

☐ Cancelled (See attached letter) Date: _____

☒ Accepted at the Third Level of Review. Your appeal issue is ☐ Granted ☐ Granted in Part ☒ Denied ☐ Other: _____

See attached Third Level response.

Third Level Use Only

Date mailed/delivered to appellant: 1/1/17

H. Request to Withdraw Appeal: I request that this appeal be withdrawn from further review because; State reason. (If withdrawal is conditional, list conditions.)

Inmate/Parolee Signature: _____

Date: _____

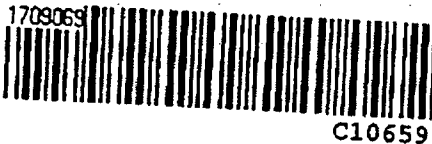
Print Staff Name: _____

Title: _____

Signature: _____

Date: _____

5.3



E ONLY

Institution/Parole Region:

Log #:

ILVSP-0-17-01610

Category:

A1

FOR STAFF USE ONLY

You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy or regulation that has a material adverse effect upon your welfare and for which there is no other prescribed method of departmental review/remedy available. See California Code of Regulations, Title 15, (CCR) Section 3084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that lead to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First): <u>ROUSER William</u>	CDC Number: <u>C10659</u>	Unit/Cell Number: <u>ASU-1 A109</u>	Assignment:
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State briefly the subject of your appeal (Example: damaged TV, job removal, etc.):

Disciplinary

- A. Explain your issue (If you need more space, use Section A of the CDCR 602-A): I WAS Found Guilty OF RVR 2501426 WITH OUT BEING PRESENT, THE IIS WAS IN VIOLATION OF PROCEDURAL DUE PROCESS NO OFFICE WHO SEARCHED CELLS AFTER A CELL MATE TAKE THE MATRESS TO RVR TO X-RAY
- B. Action requested (If you need more space, use Section B of the CDCR 602-A): That I Am Found Not Guilty And All Restored That Criminal Charges ARE Brought ON SA VASQUEZ, The OFFICE WHO SAID SEARCH CELL? SGT. YBARRA, Jt. CLAUSE. That I RECEIVE MORTUARY

Supporting Documents: Refer to CCR 3084.3.

☒ Yes, I have attached supporting documents.

List supporting documents attached (e.g., CDC 1083, Inmate Property Inventory; CDC 128-G, Classification Chrono):

IIS, IIS Final COPY WITNESSES DECLARATIONS
My Written Declaration CHRONO FROM OFFICER

☐ No, I have not attached any supporting documents. Reason: _____

Inmate/Parolee Signature: William Rouser C10659 Date Submitted: 5-24-17

☐ By placing my initials in this box, I waive my right to receive an interview. 5-24-17

MAY 31 2017
JUN 9 2017 AM 10:31

STAFF USE ONLY

REC BY OOA

AUG 8 2017

C. First Level - Staff Use Only		Staff - Check One: Is CDCR 602-A Attached? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
This appeal has been:			
<input checked="" type="checkbox"/> Bypassed at the First Level of Review. Go to Section E.			
<input type="checkbox"/> Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____			
<input type="checkbox"/> Cancelled (See attached letter) Date: _____			
<input type="checkbox"/> Accepted at the First Level of Review.			
Assigned to: _____ Title: _____ Date assigned: _____ Date Due: _____			
First Level Responder: Complete a First Level response. Include interview name, title, interview date, location, and complete the section below.			
Date of interview: _____ Interview location: _____			
Your appeal issue is: <input type="checkbox"/> Granted <input type="checkbox"/> Granted in Part <input type="checkbox"/> Denied <input type="checkbox"/> Other: _____			
See attached letter. If dissatisfied with First Level response, complete Section D.			
Interviewer: _____ (Print Name)		Title: _____ Signature: _____ Date completed: _____	
Reviewer: _____ (Print Name)		Title: _____ Signature: _____	
Date received by AC: _____			
AC Use Only Date mailed/delivered to appellant: ____/____/____			

BYPASS

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denied as those requests are outside the scope of the department's inmate appeals process, and/or are outside the jurisdiction of the Department of Corrections and Rehabilitation. The SLR found the appellant's charge, disposition, forfeiture of credits, and loss of privileges, related to RVR #2501426 will remain the same and the appeal was denied.

III THIRD LEVEL DECISION: Appeal is denied.

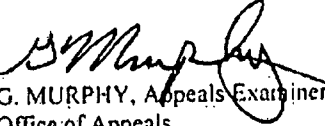
A. FINDINGS: The documentation and arguments presented to the Third Level of Review (TLR) are conclusive that the appellant has failed to support his appeal issue with sufficient evidence or fact to warrant a modification of the Reviewer's decision at the SLR. The Examiner at the TLR has carefully considered all of the documents and information provided; as well as weighing the impact of current laws, policies and procedures in formulating a decision. The TLR thoroughly reviewed all documents relative to the appellant's RVR and finds the SHO appropriately found the appellant guilty based upon the preponderance of evidence standard. The Examiner notes the SHO thoroughly articulated the evidence considered and the weight that was given said evidence. The TLR finds that the appellant was afforded all the required due process protections and that time constraints were fulfilled. The Examiner notes the appellant's contention the weapon was in that mattress prior to being assigned to the cell; however, the TLR finds preponderance was established demonstrating otherwise. The Examiner notes the appellant's objection to the hearing being concluded in absentia after he became argumentative and uncooperative with the SHO; however, the TLR finds the SHO sufficiently supported the decision to remove the appellant based upon his conduct. The appellant is advised the inmate appeal process is not the arena to rehear the RVR or consider new evidence not presented at the hearing regarding the offense; but rather to review the disciplinary process to ensure all due process protections and regulatory procedures were appropriately adhered to throughout the disciplinary proceedings. As such, the Examiner has not weighed the evidence presented during the hearing or any additional evidence the appellant has attempted to introduce via this appeal. The Examiner assessed whether there was some evidence upon which to base a finding; whether the appellant was informed of, and allowed to review, all of the evidence used against him/her; and whether the SHO considered all the available evidence without prejudice. The appellant is advised a decision at the TLR to uphold the findings and disposition of the SHO shall not be construed as the Examiner's finding of guilt based upon establishment of preponderance of evidence. Nor shall a decision at the TLR to Re-issue and Re-hear the RVR be construed as a not guilty finding by the Examiner or dismissal of the RVR. The TLR finds the appellant had all of the information regarding his appeal issue prior to his hearing and was not able to persuade the SHO of his alleged innocence. The appellant was afforded the necessary administrative protections throughout the hearing process, and the findings and disposition are commensurate with regulations and appropriate based upon the evidence presented. The TLR finds the CDO reviewed and affirmed the findings and disposition of the RVR on April 24, 2017. In view of the above, no relief is warranted at the TLR.

B. BASIS FOR THE DECISION:

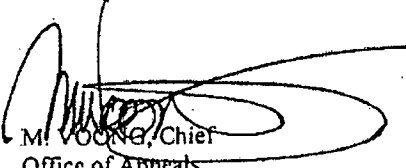
CCR: 3000, 3001, 3005, 3006, 3287, 3310, 3312, 3313, 3315, 3316, 3317, 3318, 3320, 3323

C. ORDER: No changes or modifications are required by the Institution.

This decision exhausts the administrative remedy available to the appellant within CDCR.



G. MURPHY, Appeals Examiner
Office of Appeals

cc: Warden, KVSP
Appeals Coordinator, KVSP
Appeals Coordinator, CCI


M. VOONG, Chief
Office of Appeals

William Rouser, C10659
Kern Valley State Prison
Page 2 of 2

The correct manner to address your grievance should have been conducted through the appeals process. You have failed to submit any appeal on this matter.



G. GARCIA
Associate Warden
Facility B

cc: J. Sullivan, Warden (A)
R. Johnsons, Chief Deputy Warden (A), Facilities A, B, and Health Care Access
R. Mayo, Captain, Facility B
Central File
17-206

6/0

DIVISION OF ADULT INSTITUTIONS
CALIFORNIA CORRECTIONAL INSTITUTION
P.O. Box 1031
Tehachapi, CA 93581
(661) 822-4402



May 9, 2017

William Rouser, C10659
Kern Valley State Prison
Short Term Restricted Housing, A-109L
PO BOX 5106
Delano, California 93216

Inmate Rouser:

FOOD SERVICES

This is in response to your letter dated of April 10, 2017, addressed to Internal Affairs for the California Department of Corrections and Rehabilitations, regarding the following concerns: 1.) not receiving a dessert during the evening meal on April 2, 2017, and April 5, 2017.

In your letter you stated that on April 2, 2017, and April 5, 2017, you were not provided a dessert on your dinner tray while housed within the Administrative Segregation Unit. You stated that you have learned that this is a regular occurrence.

On May 8, 2017, Lieutenant J. Tyree contacted the Appeals Coordinator at the California Correctional Institution (CCI) regarding any appeal that you had possibly submitted on the above mention action. The Appeals Coordinator confirmed that you had not submitted an appeal on this matter.

The Appeals process is intended to provide a remedy for inmate and parolees with identified grievances and to provide an administrative mechanism for review of departmental policies, decisions actions, conditions, or omissions that have a material adverse effect on the welfare of inmates and parolees. Any inmate or parolee under the department's jurisdiction may appeal any policy, decision, action, condition, or omission by the department or its staff that the inmate or parolee can demonstrate as having a material adverse effect upon his or her health, safety, or welfare.

On May 8, 2017, Lieutenant J. Tyree contacted the CCI Food Services Manager in regards to the food menu for the date of April 2, 2017, and April 5, 2017. The food menu for those dates showed that on April 2, 2017, the dessert was "Margarine Readies" and on April 5, 2017, the dessert was "Ice Cream". The CCI Food Service Manager supplied the meal sample report and the meal sample report showed that all items on each day's menu were served from Facility D Kitchen. The meal sample report also shows that two separate inmates commented on the status of the food and had no complaints.

On May 9, 2017, Lieutenant J. Tyree conducted a review of your assigned 114A, *Inmate Segregation Record*, for the dates of April 2, 2017, and April 5, 2017. Both dates showed that you received your dinner meal on each day.

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**DIVISION OF ADULT INSTITUTIONS
CALIFORNIA CORRECTIONAL INSTITUTION**

P.O. Box 1031
Tehachapi, CA 93581
(661) 822-4402



May 8, 2017

W. Rouser, C-10659
Kern Valley State Prison
Z-1A-109L
P.O. Box 6000
Delano, CA 93216

Mr. Rouser:

STAFF COMPLAINT

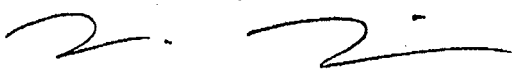
This is in response to your letter dated April 12, 2017, addressed to J. Sullivan, Warden (A), California Correctional Institution (CCI), regarding a complaint against a staff member at CCI. Your letter has been forwarded to my office for review and response.

The California Department of Corrections and Rehabilitation (CDCR) has an established appeal process that is intended to provide an administrative mechanism for review of departmental policies, decisions, actions, conditions, or omissions that have a material adverse effect on the welfare of inmates and parolees.

California Code of Regulations, Title 15, Section 3084.9(i)(1) states in part: *An inmate or parolee alleging staff misconduct by a departmental employee shall forward the appeal to the appeals coordinator. Only after the appeal has been reviewed and categorized as a staff complaint by the hiring authority or designee at a level not below Chief Deputy Warden, Deputy Parole Administrator, or equivalent level shall it be processed as a staff complaint.*

Please complete and submit a CDCR 602, *Inmate/Parolee Appeal*, to the appeals coordinator with copies of all supporting documentation attached. Include CDCR Form 1858, *Rights and Responsibility Statement*, with your appeal.

Should you have any further questions or concerns regarding this matter please submit a CDCR 22, *Inmate/Parolee Request for Interview, Item or Service*, to the Appeals Coordinator.


G. GARCIA
Associate Warden
Facility B

/sb/bc

cc: J. Sullivan, Warden (A)
R. Johnson, Chief Deputy Warden, Facilities A, B, and Health Care Access
R. Mayo, Captain, Facility B
17-176

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William Rouse C10659

P.O. Box 1906 - 9580102

Tehachapi Ca 93581

WARDEN J. SULLIVAN

4-12-17


CCF - Tehachapi State Prison

Dear Sir

I am writing because a ONE officer VASQUEZ HERE AT CCF-106
TEHACHAPI DID FALSIFY EVIDENCE IN A CRIMINAL INVESTIGATION. I
AM IN THE HOLE FOR 3IN PLASTIC WEAPON THAT WAS FOUND IN MY MATTRESS
WHEN SEARCHED DURING A MAJOR SEARCH, WHICH THEY DID NOT DO
BEFORE I MOVED IN.

SAID C/O WAS MY FIC ON THE 115, I WROTE OUT THE QUESTIONS
A HEAD OF TIME AND SENT AN IDENTICAL COPY WHICH MY COLLEC
WITNESSED TO DANIELLE R. HENKLE, Deputy Attorney General (Email DANIELLE.
Henkle@doj.ca.gov) WHEN C/O VASQUEZ CAME TO ME ON THE 10-556 YARD
AND TOLD ME HE WAS MY FIC I HAD HIM AND HIS TWO OFFICERS WITH
HIM GO TO MY CELL AND GET THE WRITTEN QUESTIONS AND STATEMENT FROM
MY COLLEC.

Your complaint is being reviewed through the appeals process.



G. GARCIA
Associate Warden
Facility B

cc: J. Sullivan, Warden (A)
R. Johnsons, Chief Deputy Warden (A), Facilities A, B, and Health Care Access
R. Mayo, Captain, Facility B
Central File
17-203

William Rouser C10659
P.O. Box 1906 - 95810
Tehachas, CA 93581

Internal Affairs

P.O. Box 3009

Sacramento, CA 95812

1112017

AW

Hello,

I am writing concerning the criminal actions of St. D. Crouse who during a 115 hearing confiscated my evidence which was an Internet print out of a medical report. He refused to credit evidence and refused to return it even when I received the final copy 2369525.

(This same evidence was used last appeal granted for Mr. Rushing T72158A 404411 who I am filing litigation and a writ for.)

It is against the law for a violation of my due process for said St. to illegally confiscate and destroy my evidence and it becomes a worst criminal conspiracy if the person to cover up for him though in the comments on page 5 of 9 said it do admit to his actions.

I seek an investigation into his actions

Respectfully Submitted

William Rouser

P.S. I did address one attorney General's office as well.

DIVISION OF ADULT INSTITUTIONS
CALIFORNIA CORRECTIONAL INSTITUTION
P.O. Box 1031
Tehachapi, CA 93581
(661) 822-4402



May 8, 2017

William Rouser, C10659
Kern Valley State Prison
Short Term Restricted Housing, A-109L
PO BOX 5106
Delano, CA 93216

Inmate Rouser:

DISCIPLINARY

This is in response to your letter stamped with a received date of April 11, 2017, addressed to Internal Affairs for the California Department of Corrections and Rehabilitations (CDCR), regarding the following concerns: 1.) a disciplinary hearing conducted by Lieutenant D. Crounse.

In your letter you stated that during a Rules Violation Report (RVR) hearing conducted by Lieutenant D. Crounse, Lieutenant D. Crounse refused to credit evidence that you provided and confiscated the evidence. You are seeking an investigation into Lieutenant D. Crounse's actions during the RVR hearing.

On May 8, 2017, Lieutenant J. Tyree contacted the Appeals Coordinator at the California Correctional Institution (CCI) regarding any appeal that you had possibly submitted on the above mention action. The Appeals Coordinator confirmed that you had submitted an appeal on this matter. The appeal was given an appeal log number of CCI-0-17-01119.

The Appeals process is intended to provide a remedy for inmate and parolees with identified grievances and to provide an administrative mechanism for review of departmental policies, decisions actions, conditions, or omissions that have a material adverse effect on the welfare of inmates and parolees. Any inmate or parolee under the department's jurisdiction may appeal any policy, decision, action, condition, or omission by the department or its staff that the inmate or parolee can demonstrate as having a material adverse effect upon his or her health, safety, or welfare.

On May 8, 2017, a review of the disciplinary report and disciplinary hearing was conducted on the Strategic Offender Management System. The disciplinary hearing was held on March 14, 2017, where you were found guilty of the offense. The Senior Hearing Officer found that all due processes were afforded. On March 20, 2017, the hearing results were reviewed and approved by the Captain. On March 27, 2017, the RVR and hearing results were approved by the Chief Disciplinary Officer.

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William Rouse C10654

P.O. Box 1906-4856102

Tehachapi, Ca 93581

APR 20 2017

Internal Affairs

P.O. Box 3009

Sacramento Ca 95812

Greetings

I am writing about a criminal conspiracy to use food as a form of punishment in violation of our 8th Amendment Rights. On 4-2-17 and 4-5-17 we were served our dinner desserts in AD-516. It has been brought to my attention that this is a regular occurrence. I need the warden, attorney general, state auditor, and will be writing the D.O.J.

I contacted the state auditor because some one is illegally claiming that this building is receiving a cession amount a food a man R. Now we see what which is being used and that it is a whole building being donated to our dry cooking for use and I brought it to officers attention so therefore it was found and there is a criminal case up.

I must wait until the weekend to 602 it and once exhausted I will be filing in court to prosecute the criminal conspiracy.

Thank you for your time

4-10-17

William Rouse

BT

SECOND LEVEL APPEAL RESPONSE

Inmate ROUSER, C-10659

CCI-0-17-01119

Page 2

Section 3315. The Chief Disciplinary Officer review was completed prior to the final copies being issued to the Appellant.

CCR, Title 15, Section 3016(a), states in part; *Inmates shall not inhale, ingest, inject, or otherwise introduce into their body; use, possess, manufacture, or have under their control any controlled substance, medication, or alcohol, except as specifically authorized by the institution's/facility's health care staff.*

The reporting employee collected a urine sample from the Appellant on February 15, 2017, for the purpose of testing for controlled substances. The Appellant's collected sample was sent to San Diego Reference Laboratory for testing. On March 1, 2017, notification of the results of the testing of the Appellant's sample was received at CCI. The testing results showed positive for amphetamine and methamphetamine.

The disciplinary hearing to adjudicate this RVR was conducted on March 14, 2017. It is noted in the *Disciplinary Hearing Results Form* that the Appellant was initially present during the hearing. However, the Appellant was removed from the hearing by the SHO during the course of the hearing due to continued disruptive behavior. The hearing was completed in absentia and the removal of the Appellant and reason for the removal were documented on the *Disciplinary Hearing Results Form*.

It is noted in the *Disciplinary Hearing Results Form* that the Appellant made a statement and presented several pages of photocopied medical information in his defense to the SHO during the disciplinary hearing. The SHO noted in the *Disciplinary Hearing Results Form* that the reputability and accuracy of the submitted documents could not be verified or substantiated and were not utilized as evidence in determination of a finding regarding this matter.

The Appellant was afforded all due process rights during the adjudication of this RVR. The Appellant was present at the hearing, afforded the opportunity to enter a plea, make a statement, present documentation, and call witnesses in the support of his defense to the charges contained in the RVR. All available evidence was considered. The Appellant was continually disruptive and removed from the hearing by the SHO. The SHO documented the reason for the removal from the hearing on the *Disciplinary Hearing Results Form*.

The Appellant's request for a criminal investigation into this matter is outside of the scope of the appeals process. This request is **DENIED**.

The Appellant's request for the return of documentation submitted to the SHO during the disciplinary hearing is **GRANTED**, in that the Appellant has confirmed that he currently has a copy of the documents in his possession.

Based on the aforementioned, this appeal is **PARTIALLY GRANTED** at the Second Level of Review.

R. C. Johnson

R. C. JOHNSON

Chief Deputy Warden (A)

Facilities A, B, and Health Care Access

5/12/2017
Date:

EE

KVSP

**CALIFORNIA CORRECTIONAL INSTITUTION
SECOND LEVEL APPEAL RESPONSE**

DATE: May 9, 2017

NAME/NUMBER: ROUSER, C-10659

APPEAL LOG NUMBER: CCI-0-17-01119

INTERVIEWED BY: S. Blackburn, Correctional Lieutenant

APPEAL DECISION: PARTIALLY GRANTED

APPEAL ISSUE: DISCIPLINARY

C-FILE

The Appellant alleges that the Senior Hearing Officer (SHO) violated his due process rights when he did not take into consideration documentation he submitted in defense of charges contained in a Rules Violation Report (RVR) during his disciplinary hearing and did not return the documentation to him at the completion of the disciplinary hearing.

The Appellant is requesting a criminal investigation into this matter and the replacement of documentation that was presented during the disciplinary hearing.

APPEAL RESPONSE:

This appeal was sent to the Hiring Authority for Staff Complaint determination on April 18, 2017, and determined to not meet the requirement for assignment as a Staff complaint.

All relevant documents and information submitted in writing have been carefully reviewed and considered. A thorough review/inquiry has been conducted and evaluated in accordance with departmental policies and institutional procedures.

An interview with the Appellant was conducted via telephone by Lieutenant S. Blackburn on May 9, 2017, as the Appellant is currently housed at Kern Valley State Prison. During the interview the Appellant re-iterated the contents of the appeal. The Appellant stated that he has received a copy of the documentation that he had submitted to the SHO in his defense of the charges contained in the RVR.

In accordance with California Code of Regulations (CCR), Title 15, Section 3315, *Serious Rule Violations*, a review was conducted of RVR Log Number 2369525, adjudicated on March 14, 2017, by Correctional Lieutenant, D. Crounse, for the disciplinary charge of *Use of a Controlled Substance based solely on a Positive Test Result*, a division "F" offense. The appellant was served a classified copy of this RVR within 15 days of the date of discovery. Copies of all related documents were issued at least 24 hours prior to the hearing. The hearing was conducted within 30 days of service. Due process was established. Based on the preponderance of evidence in this matter, the appellant was found 'Guilty' of the charge. The appellant was assessed a 30 day forfeiture of credit consistent with the disciplinary credit forfeiture schedule for a division "F" offense, as outlined in CCR, Title 15, Section 3323. The appellant was also assessed a loss of privileges in accordance with CCR, Title 15,

IAB USE ONLY	Institution/Parole Region:	Log #:	Category:
	CCI	0-17 01119	
	CCI-0-17-01119		
	FOR STAFF USE ONLY		

You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy or regulation that has a material adverse effect upon your welfare and for which there is no other prescribed method of departmental review/remedy available. See California Code of Regulations (CCR), Title 15, Section 3084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that led to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First):	CDC Number:	Unit/Cell Number:	Assignment:
Rousier William	C10659	4B8C102	

State briefly the subject of your appeal (Example: damaged TV, job removal, etc.):

Staff Complaint - Destruction of evidence

A. Explain your issue (If you need more space, use Section A of the CDCR 602-A):

ON 4-1-17
Petitioner Did Receive Final Copy of IIS Ltr # 2369525
Wherein Page 3 of 7 Lt. D. Crouse Did State That
He Kept Petitioner Photocopied medical information which

B. Action requested (If you need more space, use Section B of the CDCR 602-A):

A CRIMINAL INVESTIGATION REPLACE EVIDENCE, I
WILL BE GOING TO A WAITING AREA AFTER EXHAUSTION
BE THIS IS A CRIME

Supporting Documents: Refer to CCR 3084.3.

☒ Yes, I have attached supporting documents.

List supporting documents attached (e.g., CDC 1083, Inmate Property Inventory; CDC 128-G, Classification Chrono):

FINAL COPY IIS

☐ No, I have not attached any supporting documents. Reason:

Inmate/Parolee Signature: William Rousier C10659 Date Submitted: 4-13-17

☐ By placing my initials in this box, I waive my right to receive an interview.

STAFF USE ONLY

C. First Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached? ☐ Yes ☐ No

This appeal has been:

☐ Bypassed at the First Level of Review. Go to Section E.

☐ Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____

☐ Cancelled (See attached letter) Date: _____

☐ Accepted at the First Level of Review.

Assigned to: _____ Title: _____ Date Assigned: _____ Date Due: _____

First Level Responder: Complete a First Level response. Include interviewer's name, title, interview date, location, and complete the section below.

Date of Interview: _____ Interview Location: _____

Your appeal issue is: ☐ Granted ☐ Granted in Part ☐ Denied ☐ Other: _____

See attached letter. If dissatisfied with First Level response, complete Section D.

Interviewer: _____ Title: _____ Signature: _____ Date completed: _____

Reviewer: _____ Title: _____ Signature: _____

Date received by AC: _____

AC Use Only

Date mailed/delivered to appellant ____/____/____

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D. If you are dissatisfied with the First Level response, explain the reason below, attach supporting documents and submit to the Appeals Coordinator for processing within 30 calendar days of receipt of response. If you need more space, use Section D of the CDCR 602-A.

BYPASS

Inmate/Parolee Signature: _____

Date Submitted: _____

E. Second Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached? ☒ Yes ☐ No

This appeal has been:

- ☐ By-passed at Second Level of Review. Go to Section G.
☐ Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____
☐ Cancelled (See attached letter)
☒ Accepted at the Second Level of Review

Assigned to: B Title: CPW Date Assigned: 4/20/17 Date Due: 5/9/17

Second Level Responder: Complete a Second Level response. If an interview at the Second Level is necessary, include interviewer's name and title, interview date and location, and complete the section below.

Date of Interview: 5/9/17

Interview Location: 1KUSP VIA TELEPHONE

Your appeal issue is: ☐ Granted ☒ Granted in Part ☐ Denied ☐ Other: _____

See attached letter. If dissatisfied with Second Level response, complete Section F below.

Interviewer: S. BLACKBURN Title: LT Signature: [Signature] Date completed: 5/9/17

Reviewer: R. C. [Signature] Title: CPW(A) Signature: R. C. [Signature]

Date received by AC: 05-17-17

AC Use Only
Date mailed/delivered to appellant 05.17.17

F. If you are dissatisfied with the Second Level response, explain reason below; attach supporting documents and submit by mail for Third Level Review. It must be received within 30 calendar days of receipt of prior response. Mail to: Chief, Inmate Appeals Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001. If you need more space, use Section F of the CDCR 602-A.

Inmate/Parolee Signature: _____

Date Submitted: _____

G. Third Level - Staff Use Only

This appeal has been:

- ☐ Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____
☐ Cancelled (See attached letter) Date: _____
☐ Accepted at the Third Level of Review. Your appeal issue is ☐ Granted ☐ Granted in Part ☐ Denied ☐ Other: _____

See attached Third Level response.

Third Level Use Only
Date mailed/delivered to appellant ____/____/____

H. Request to Withdraw Appeal: I request that this appeal be withdrawn from further review because; State reason. (If withdrawal is conditional, list conditions.)

Print Staff Name: _____ Inmate/Parolee Signature: _____ Date: _____
Title: _____ Signature: _____ Date: _____

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IAB USE ONLY	Institution/Parole Region CCI 0-17	Log #: 01119	Category:
	CCI-0 17-01119 1 FOR STAFF USE ONLY		

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.

Appeal is subject to rejection if one row of text per line is exceeded. WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First): ROUSE, William	CDC Number: C10651	Unit/Cell Number: 4B5C102	Assignment:
--	------------------------------	-------------------------------------	-------------

A. Continuation of CDCR 602, Section A only (Explain your issue): Shipped that JCN61 Fax
Shows False Positive for amphetamines and us 12 amphetamines
HE REFUSED TO USE THEM AS EVIDENCE OR RETURN THEM
SUBSEQUENTLY DESTROYING IT. YET THIS IS THE SAME
EVIDENCE THAT WAS USED TO REVOKE MATIAS RUSHING
272158 - 4B41A111 115 AT THE 3RD LEVEL FOR T. AM
Doing his litigation for him.
IT IS A CRIME TO DESTROY EVIDENCE AND IT WAS
OBSERVED THIS WAS DONE TO DEPRIVE PETITIONER DUE
PROCESS AND EQUAL PROTECTION. I HAVE CONTACTED
INTERNAL AFFAIRS.

STAFF USE ONLY

Inmate/Parolee Signature: William Rouse C10651 Date Submitted: 4-13-17

B. Continuation of CDCR 602, Section B only (Action requested):

Inmate/Parolee Signature: _____ Date Submitted: _____

712

007
0-17 01119

RIGHTS AND RESPONSIBILITY STATEMENT

The California Department of Corrections and Rehabilitation has added departmental language (shown inside brackets, in non-boldface type) for clarification purposes.

Pursuant to Penal Code 148.6, anyone wishing to file an allegation of misconduct by a departmental peace officer must read, sign and submit the following statement:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER [this includes a departmental peace officer] **FOR ANY IMPROPER POLICE** [or peace] **OFFICER CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS'** [or inmates'/parolees'] **COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN** [or inmate/parolee] **COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.**

COMPLAINANT'S PRINTED NAME <u>William Rouser</u>	COMPLAINANT'S SIGNATURE <u>William Rouser</u>	DATE SIGNED <u>4-13-17</u>
INMATE/PAROLEE PRINTED NAME <u>William Rouser</u>	INMATE/PAROLEE'S SIGNATURE <u>William Rouser</u>	CDC NUMBER <u>C10654</u>
RECEIVING STAFF'S PRINTED NAME	RECEIVING STAFF'S SIGNATURE	DATE SIGNED <u>4-13-17</u>

DISTRIBUTION:

ORIGINAL -

Public - Institution Head/Parole Administrator

Inmate/Parolee - Attach to CDC form 602

Employee - Institution Head/Parole Administrator

COPY - Complainant

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CALIFORNIA DEPARTMENT of
Corrections and Rehabilitation

CCI 0-17 00991

CCI 0-17 01119

8C 102

DISCIPLINARY HEARING RESULTS

Institution Name: California Correctional Institution	Facility: CCI-Facility B	Log Number: 000000002369525
Inmate Name: ROUSER, WILLIAM E. JR	CDC #: C10659	Bed Number: CCI-B - B 007A1 - 103001L
TABE Score: 12.9	Mental Health LOC: CCCMS	DDP Designation: NCF

DUE PROCESS

Rule Violation #: 3016(a)-[20]-(a)	Specific Act: Use of a Controlled Substance based solely on a positive test result
Level: Serious	Offense Division: Division F
Offense Occurrence: [3rd (or more) Occurrence]	
Violation Date: 03/01/2017	Violation Time: 07:55:00
Hearing Date: 03/14/2017	Hearing Time: 12:45:00

Actions Taken

Date	Time	Type/Reason	Staff	Elapsed Days
03/05/2017	17:00:49	RVR Ready for Review by Supv.	S. Speth	4
03/05/2017	17:36:15	RVR Approved by Supervisor	T. Healey	4
03/06/2017	07:42:43	RVR Classified	R. Mayo	5
03/08/2017	09:43:28	Inmate Copy Served Initial Rules Violation Report	H. Hoffman	7
03/08/2017	09:44:12	Lab Test Results Received	H. Hoffman	7
03/08/2017	09:44:51	Inmate Copy Served Lab Test Results	H. Hoffman	7

All Time Constraints Met?: Yes

SHO/HO DDP Certified?: N/A

Due Process Additional Information:

HEARING

- ☐ Subject elected not to participate in the adjudication process by refusing to attend the hearing. An Informational Chrono was generated documenting the refusal to attend the hearing.
- ☒ Subject was Present, in good health and ready to proceed.

CCI 0-17 01119
CCI 0-17 00991

Hearing Additional Information

Inmate ROUSER was present at the beginning of the hearing but due to his continued disruption during the hearing, the SHO had ROUSER removed from the hearing and completed the hearing in ROUSER's absence.

DISABILITY

☐ Hearing ☐ Vision ☐ Mobility ☐ Learning ☐ Developmental/Cognitive
☐ Other ☒ None

Requires Accommodation? ☐ No

DDP Specific Information

128-C2 Reviewed? ☐ Yes

DDP Designation Date:
04/22/2011

Did the Reporting Employee document the use of Adaptation Support(s)? ☐ N/A

Adaptive Support	Contribute	How
<input type="text"/>		<input type="text"/>
Victimization	Contribute	How
<input type="text"/>		<input type="text"/>

Disability Additional Information:

MENTAL HEALTH ASSESSMENT

Mental Health Assessment Requested: No

Reason for Mental Health Assessment Request:

Clinician Recommended Staff Assistance Assignment:

Clinician determined Mental Health Symptoms/Developmental Disability strongly influenced behavior:

Clinician Rational:

Clinician Staff recommended alternate manner of documentation:

Clinician Rational:

Clinician determined Mental Health Symptoms/Developmental Disability contributed to behavior:

Clinician Rational:

Clinician provided information when assessing the penalties:

Clinician Rational:

STAFF ASSISTANT

Staff Assistant Assigned: No

Reason for assignment of Staff Assistant:

SA Name	Date Assigned	Certified?	Meet 24 hours prior to hearing?	Present?	

Staff Assistant Additional Information:

Does not meet criteria

INVESTIGATIVE EMPLOYEE

Investigative Employee Assigned: No

Reason for assignment of Investigative Employee:

Investigative Employee Additional Information:

Does not meet criteria

CONFIDENTIAL INFORMATION

Confidential Information Used: ☐ No

Confidential Document Number	Author of Confidential Document	Date of Confidential Document	Reviewed by SHO/HO	Deemed Confidential!	Reason(s) Information was Deemed Confidential
					<input type="checkbox"/> Information which, if known to inmates, would endanger the safety of person(s). <input type="checkbox"/> Information which, if known to inmates, would jeopardize the security of the institution. <input type="checkbox"/> Specific medical or Psychological information which, if known to inmates, would be medically or psychologically detrimental to the inmate. <input type="checkbox"/> Information provided and classified confidential by another governmental agency. <input type="checkbox"/> A Security Threat Group debrief report, reviewed and approved by the debriefing subject, for placement in the confidential section of the central

CC/

0-17 01119 CC/ 0-17 00991

				file.
Confidential Document Number	Confidential Source Number	Confidential Disclosure Form Issued	Sufficient Information Disclosed	Reason(s) Deemed Reliable
				<input type="checkbox"/> The confidential source has previously provided information which has proved to be true. <input type="checkbox"/> Other confidential sources have independently provided the same information. <input type="checkbox"/> The information provided by the confidential source is self-incriminating. <input type="checkbox"/> Part of the information provided by the confidential source is corroborated through investigation or by information provided by non-confidential sources. <input type="checkbox"/> The confidential source is the victim. <input type="checkbox"/> This source successfully completed a polygraph examination.
Confidential Additional Information:				

WITNESSES

Witnesses requested at Hearing

☐ Reporting Employee ☐ Staff Assistant ☐ Investigative Employee
☐ Other ☐ Inmate ☒ None

Non-Inmate Witness(es)			
Name	Rank	Type	Granted?
Questions Asked			

Inmate Witness(es)			
CDC#	Name	Bed	Granted?
Questions Asked			

Witness Additional Information:

PLEA AND STATEMENT

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PLEA/STATEMENT: The above circumstances were read aloud to subject and elected to plea: Not Guilty

☐ Subject declined to make a statement

☒ Subject made a statement

Comments:

ROUSER claimed he is prescribed Effexor and that medication causes false positive results for amphetamine and methamphetamine.

ROUSER submitted several pages of photocopied medical information however, the SHO was unable to verify the veracity of the photocopies and therefore could not sue them as evidence.

ROUSER began to argue with the SHO, demanding the SHO consider the photocopies as truth then demanded the SHO return the photocopies to him.

FINDINGS

Subject was found: Guilty as Charged based on a preponderance of evidence.

Lesser Included Charge:

Level:

Offense Division:

Offense Occurrence:

Comments:

EVIDENCE

The following evidence was used to support the findings:

Comments:

1. The written testimony offered by the reporting employee, S. Speth, Correctional Officer, wherein he states that on February 15, 2017, he collected a urine sample from ROUSER for the purpose of testing for unauthorized controlled substances. On March 1, 2017, the results of the test was received from the San Diego Reference Laboratory.

2. The Results of the test of ROUSER's urine received from the San Diego Reference Laboratory. The results show positive for amphetamine and methamphetamine.

3. ROUSER has a significant history of drug possession and drug use stemming back to 1993.

4. There is no available evidence to support ROUSER's claim that the medication Effexor would cause a positive test for amphetamine or methamphetamine.

DISPOSITION

Sanction Type	Quantity	Mitigated	Interest of Justice	DDP	MH LOC	MH-A	Start Date	End Date
Credit Loss	30 Days	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Confined to Quarters Days	10 Days	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	03/15/2017	03/25/2017
Confined to Quarters Weekends			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Disciplinary Detention			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

Privilege Group C	90 Days	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	03/14/2017	06/12/2017
Loss of Pay								
Canteen Privileges	0	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Phone Privileges	90 Days	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	03/14/2017	06/12/2017
Extra Duty			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Yard Recreation Privileges	0	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Day Room Privileges	90 Days	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	03/14/2017	06/12/2017
Packages Privileges	90 Days	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	03/14/2017	06/12/2017
Property Restrictions	0	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Visiting Privileges	180 Days	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	03/14/2017	09/10/2017
Contact Visiting Privileges	180 Days	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	09/10/2017	03/09/2018
Contact Visiting (Permanent Loss)								
Trust Account Hold								
Mandatory Drug Testing	4 Month						03/14/2017	03/14/2018
IEX Control Suit								

☐ Impose Suspended Sanctions

☐ Reinstate Suspended Sanctions

Comments:

Referred to Classification Committee | ICC

For ☐ SHU Term Assessment ☐ Program Review ☒ Un-Assignment ☒ Substance Abuse Treatment

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001 017 01118 02 017 11118

Disposition Additional Information:

ENEMY CONCERNS

- ☒ Not Applicable
☐ Subject states he/she does not have Enemy or Safety Concerns.
☐ One or more of the inmates involved has stated there is lingering animosity towards one another. Therefore, the SHO has entered non-confidential separation alerts for the following inmates:

SECURITY THREAT GROUP

Security Threat Group Nexus?: No

Security Threat Group Nexus Additional Information:

FINAL SECTION

Additional Information:

Because ROUSER was removed from the hearing prior to its completion, the SHO was unable to inform ROUSER of his rights.
When ROUSER is issued his copies of the completed RVR he will read that any RVR related to the use or possession of unauthorized controlled substances prohibits restoration of forfeited credits. CCR 3327, 3328 & 3329 are the sections related to restoration of forfeited credits.
ROUSER is also informed in the final copies that he has the right to appeal this RVR and is referred to CCR 3084.1 for instructions.

CREDIT RESTORATION

- ☐ Subject was advised of his/her right to restoration of credits under CCR 3327, 3328, and 3329.
☐ Subject was advised Credit Forfeiture for a Division 'A', 'B' or 'C' offense will not be restored.
☐ Subject was advised he/she would not be able to file for restoration of credits under CCR 3327(a)(4).
☐ At the conclusion of the hearing Subject was advised of the findings, disposition, and his/her right to appeal per CCR 3084.1.

Hearing Official

D. Crouse

TITLE:
Lt

DATE:
03/15/2017

FINDINGS (BY CDO)

Subject was found: Guilty as Charged based on a preponderance of evidence.

Lesser Included Charge:

Level:

Offense Division:

Offense Occurrence:

CDO Summary: Affirming The Hearing Results

Comments:

CCI

0-17 01119

CCI

0-17 00991

DISPOSITION (BY CDO)

Sanction Type	Quantity	Mitigated	Interest of Justice	DDP	MH LOC	MH-A	Start Date	End Date
Credit Loss	30 Days	<input type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Confined to Quarters Days	<input type="checkbox"/> 10 Days	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	03/15/2017	03/25/2017
Confined to Quarters Weekends			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Disciplinary Detention			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Privilege Group C	<input type="checkbox"/> 90 Days	<input type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	03/14/2017	06/12/2017
Loss of Pay								
Canteen Privileges	<input type="checkbox"/> 0	<input type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Phone Privileges	<input type="checkbox"/> 90 Days	<input type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	03/14/2017	06/12/2017
Extra Duty			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Yard Recreation Privileges	<input type="checkbox"/> 0	<input type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Day Room Privileges	<input type="checkbox"/> 90 Days	<input type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	03/14/2017	06/12/2017
Packages Privileges	<input type="checkbox"/> 90 Days	<input type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	03/14/2017	06/12/2017
Property Restrictions	<input type="checkbox"/> 0	<input type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Visiting Privileges	<input type="checkbox"/> 180 Days	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	03/14/2017	09/10/2017
Contact Visiting Privileges	<input type="checkbox"/> 180 Days	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	09/10/2017	03/09/2018
Contact Visiting (Permanent)								

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CCI

0-17 01119

CCI

0-17 00991

Loss)								
Trust Account Hold								
Mandatory Drug Testing	4 Month						03/14/2017	03/14/2018
IEX Control Suit								

☐ Impose Suspended Sanctions
 ☒ Reinstate Suspended Sanctions

Comments:

Chief Disciplinary Officer

Comments:

P. Matzen

TITLE: DATE:
AW 03/27/2017

CDCR SOMS ISST126 - DISCIPLINARY HEARING RESULTS

**CALIFORNIA CORRECTIONAL INSTITUTION
SECOND LEVEL APPEAL RESPONSE**

DATE: February 28, 2017
NAME / NUMBER: Rouser, C10659
APPEAL LOG NUMBER: CCI-0-17-00489
INTERVIEWED BY: J. Gutierrez, Associate Warden
APPEAL DECISION: Denied
APPEAL ISSUE: Living conditions

Appellant states that inmates are placed in Housing Unit 7 at Facility B as a form of punishment because this is the only building which does not have telephones in each section. Appellant further states that A1-A status inmates are only allowed to use the phone every third or six day based on only one phone being in the building, and staff at the California Correctional Institution (CCI) fraudulently told them other telephones would be installed.

Appellant requests the following; 1). Telephones be immediately installed in A and C section of Housing Unit 7. 2). That inmates in Housing Unit 7 receive monetary damages. 3). An investigation be conducted as a Writ of Habeas and suit will be filed.

APPEAL RESPONSE:

All relevant documents and information submitted in writing have been carefully reviewed and considered. A thorough review has been conducted and evaluated in accordance with departmental policies and institutional procedures.

A review of the TABE 4.0 or lower list and the Learning Disabilities List disclosed the appellant has no issue requiring equally effective communication as he has a reading level of 12.9. Effective communication was achieved by speaking slowly, using simple words and terms, and the appellant displayed understanding of the issues related to this appeal by discussing the merits of his appeal, using his own words to restate those issues that were submitted on the CDCR 602, *Inmate/Parolee Appeal*, form.

On February 23, 2017, the appellant was interviewed by J. Gutierrez, Associate Warden, regarding his complaint. The appellant did not have anything further to add to his appeal and he was informed that there were not enough telecommunication switch available to add additional telephone line to Housing Unit 7.

As this is a Group Appeal; in accordance with the CCR, Title 15, Section 3084.2(h)(2), the inmate submitting the appeal shall be responsible for sharing the appeal response with the inmates who signed the appeal attachment.

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CALIFORNIA DEPARTMENT of
Corrections and Rehabilitation

CCI 0-17 01559

RULES VIOLATION REPORT

CDC NUMBER C10659	INMATE'S NAME ROUSER, WILLIAM E. JR	MEPD 03/05/2031	FACILITY CCI-Facility B	HOUSING LOCATION CCI-B - B 001C1 - 110001L
VIOLATION DATE 03/22/2017	VIOLATION TIME 11:30:00	VIOLATION LOCATION CCI-Facility B - RVR - HOUSING UNIT		WITH STG NEXUS No

Did the reporting employee ensure the inmate understands (to the best of his/her ability) the consequences of the continued misconduct? N/A

Did the reporting employee take into consideration the severity of the inmate's disability and the need for adaptive support services when determining the method of discipline? N/A

CIRCUMSTANCES OF VIOLATION

On 03/22/2017 at approximately 1130 hours while working post 251809, Facility B Gym Obs Officer, I was conducting a cell search in C section. I proceeded to cell 110, which is occupied by Inmates ROUSER (C-10659) Facility B 1C-110L and WHITESIDE G-41295 Facility B 1C-110U, and began to search the cell. I took both mattresses to R&R to scan them with the rapid scan. I noticed an object come up on the screen secreted within the mattress belonging to inmate ROUSER. I retrieved the object and discovered it to be a melted piece of plastic made into a point with a cardboard handle. I immediately notified Sergeant Ybarra via the telephone of what I had found. Sergeant Ybarra instructed me to get a ruler and to take measurements and photographs of the inmate manufactured weapon and then have it secured into evidence. The weapon measured approximately 3 inches in length and approximately 1/2 inch in width. Once completed with the photographs and the measurements, I secured the weapon in a sharps container and secured it into evidence locker #2 along with the photograph in the Security Administration Building (SAB).

REPORTING EMPLOYEE J. Andrade	TITLE C/O	ASSIGNMENT	RDO	DATE: 03/23/2017
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RVR LOG NUMBER: 000000002501426

VIOLATED RULE NUMBER: 3006(a)

SPECIFIC ACT: Possession of a deadly weapon

CLASSIFICATION

LEVEL: Serious

OFFENSE DIVISION: Division A1

REFERRED TO: Senior Hearing Officer

FELONY PROSECUTION LIKELY: Yes

REVIEWING SUPERVISOR R. Cole	TITLE Sergeant	DATE 03/27/2017
---------------------------------	-------------------	--------------------

CC/

0-17 01559

JUN 9 2017 AM 10.3

CLASSIFIED BY
R. Mayo

TITLE
Captain

DATE
03/27/2017

CDCR SOMS ISST120 - RULES VIOLATION REPORT

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CALIFORNIA DEPARTMENT of
Corrections and Rehabilitation

CCY

0-17 01559

RULES VIOLATION REPORT

CDC NUMBER C10659	INMATE'S NAME ROUSER, WILLIAM E. JR	MEPD 03/05/2031	FACILITY CCI-Facility B	HOUSING LOCATION CCI-B - B 001C1 - 110001L
VIOLATION DATE 03/22/2017	VIOLATION TIME 11:30:00	VIOLATION LOCATION CCI-Facility, B - RVR - HOUSING UNIT		

INMATE NOTIFICATION			
POSTPONEMENT OF DISCIPLINARY HEARING			
<input type="checkbox"/> I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE SIGNATURE		DATE
<input type="checkbox"/> I REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE SIGNATURE		DATE
<input type="checkbox"/> I REVOKE my request for postponement.	INMATE SIGNATURE		DATE
STAFF ASSISTANT			
<input checked="" type="checkbox"/> REQUESTED	<input type="checkbox"/> WAIVED BY INMATE	INMATE SIGNATURE	DATE 3/22/17
INVESTIGATIVE EMPLOYEE			
<input checked="" type="checkbox"/> REQUESTED	<input type="checkbox"/> WAIVED BY INMATE	INMATE SIGNATURE <i>[Signature]</i>	DATE 3/22/17

6.17.17

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SUMMARY OF DISCIPLINARY PROCEDURES AND INMATE RIGHTS

See California Code of Regulations, Title 15 (CCR) for details

A. TIME CONSTRAINTS -

1. A classified copy of the Rules Violation Report and any additional/supplemental information containing any elements of the violation charged shall normally be provided to the inmate within 15 days from the date the information leading to the charges is discovered by staff.
2. The charges shall be heard within 30 days from the date the inmate is provided a classified copy of the Rules Violation Report unless the charges were referred for possible prosecution and the inmate has been granted a request for postponement of the disciplinary proceedings pending the outcome of the referral; if exceptional circumstances exist pursuant to CCR Section 3000, or the inmate is transferred out of the custody of the department. Postponement shall not bar any credit forfeiture.
3. **REFERRAL FOR PROSECUTION - (Serious Rules Violations Only)** - Referrals for prosecution will not delay a disciplinary hearing unless you submit a request in writing for postponement of the hearing pending the outcome of such referral. You may revoke such request in writing at any time prior to the filing of accusatory pleadings by the prosecuting authority. A disciplinary hearing will be held within 30 days of staff receiving your written revocation of your request to postpone the hearing or within 30 days of receiving a response from the prosecuting authority. (CCR Section 3316-3320)
4. Failure to meet the time constraints outlined in CCR Section 3320 shall preclude forfeiture of credits.

B. INVESTIGATIVE EMPLOYEE/STAFF ASSISTANCE -

1. **General Information** - You may request to have an Investigative Employee to assist in the investigation and/or a Staff Assistant assigned, to assist in the preparation, or presentation of your defense at the disciplinary hearing. Staff shall evaluate your request along with the criteria outlined in CCR Section 3315 (d)(1) and CCR Section 3315(d)(2) and determine if an Investigative Employee and/or Staff Assistant shall be assigned.
2. **Staff Assistant** - If assigned, the Staff Assistant will inform inmates of their rights and of the disciplinary hearing procedures, advise and assist in the inmate's preparation for a disciplinary hearing, represent the inmate's position at the hearing, ensure that the inmate's position is understood, and that the inmate understands the decisions reached. (CCR Section 3318)
3. **Investigative Employee - (Serious Rules Violations Only)** - If assigned, will gather information, question staff and inmates, screen witnesses, and complete and submit a written, non-confidential report to the disciplinary hearing officer. You have the right to receive a copy of the investigative employee's report 24 hours before a hearing is held. (CCR Section 3318)
4. **Witnesses - (Serious Rules Violations Only)** - You may request the presence of witnesses at the hearing who can present facts related to the charges against you. You may also request the presence of the reporting employee and the investigative employee. You may, under the direction of the hearing officer, questions any witness present at the hearing. The hearing officer may deny the presence of witnesses when specific reasons exist. (CCR Section 3315)
5. **Personal Appearance** - A hearing of the charges will not normally be held without your presence, unless you refuse to attend. (CCR Section 3320)

C. DISPOSITION - At the end of the hearing, you will be advised of the findings and disposition of the charge. Within five working days, following review of the Rules Violation Report by the Chief Disciplinary Officer, you will be given a copy of the completed rule violation report, which will contain a statement of the findings and disposition and the evidence relied upon to support the conclusions reached. (CCR Section 3320)**D. APPEAL** - If you are dissatisfied with the process, findings or disposition, you may submit an inmate appeal within 30 days following receipt of the finalized copy of the Rules Violation Report and any other pertinent documentation (CCR Section 3084)

CRIME / INCIDENT REPORT

PART B2 - STAFF

CDCR 837-B2 (Rev. 10/15)

CCI : 0-17-01559

PAGE 7 OF 7

INSTITUTION CCI		FACILITY FAB - FACILITY B		INCIDENT LOG NUMBER CCI-FAB-17-03-0105			
STAFF (ENTIRE SHEET)							
NAME: LAST PRESSON		FIRST		MI	TITLE REGISTERED NURSE	GEN	ETHNICITY
PARTICIPANT TYPE RESPONDER		USED FORCE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		FORCE USED		PROCESSED EVIDENCE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
RDO'S	POST #	POSITION DESCRIPTION TTA RN		ID #	RADGE #		
<input checked="" type="checkbox"/> N/A DESCRIPTION OF INJURIES:							
IS THERE SERIOUS BODILY INJURY <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No							
<input checked="" type="checkbox"/> N/A NAME / LOCATION OF HOSPITAL / TREATMENT FACILITY							
<input type="checkbox"/> REFUSED TREATMENT <input type="checkbox"/> TREATED AND RELEASE <input type="checkbox"/> HOSPITALIZED				<input checked="" type="checkbox"/> N/A DEATH			
				CAUSE OF DEATH		DECEASED DATE	

JUN 9 2017 AM 10:3

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

MEDICAL REPORT OF INJURY
OR UNUSUAL OCCURRENCE

CCI 0-17 01559

NAME OF INSTITUTION CCI	FACILITY/UNIT FAC B	REASON FOR REPORT (check) USE OF FORCE <input type="checkbox"/> INJURY <input checked="" type="checkbox"/> UNUSUAL OCCURRENCE <input checked="" type="checkbox"/>	ON THE JOB INJURY <input type="checkbox"/> PRE AD/SEC ADMISSION <input checked="" type="checkbox"/>	DATE 3/23/17
THIS SECTION FOR INMATE ONLY NAME LAST ROUSER FIRST WILLIAM CDC NUMBER C10659	HOUSING LOC. 1C-110C	NEW HOUSING LOC. Ad-Seg		
THIS SECTION FOR STAFF ONLY NAME LAST N/A FIRST N/A BADGE # N/A	RANK/CLASS N/A	ASSIGNMENT/ROOM N/A		
THIS SECTION FOR VISITOR ONLY NAME LAST N/A FIRST N/A MIDDLE N/A	DOB N/A	OCCUPATION N/A		
HOME ADDRESS N/A	CITY N/A STATE N/A ZIP N/A	HOME PHONE N/A		
PLACE OF OCCURRENCE FAC-B Dining hall 2	DATE/TIME OF OCCURRENCE 3/23/17 @ 14:10	NAME OF WITNESS(ES) N/A		
TIME NOTIFIED 14:10	WITNESSES 14:56	RESCUED BY Custody	MODE OF ARRIVAL (check) <input checked="" type="checkbox"/> AMBULATORY <input type="checkbox"/> LITTER <input type="checkbox"/> WHEELCHAIR <input type="checkbox"/>	AGE 57
BRIEF STATEMENT IN SUBJECT'S WORDS OF THE CIRCUMSTANCES OF THE INJURY OR UNUSUAL OCCURRENCE "I don't have any injuries."			ON SITE <input type="checkbox"/>	RACE B/K
				SEX M

INJURIES FOUND?	YES/NO
Abrasion/Scratch	1
Active Bleeding	2
Broken Bone	3
Bruise/Discolored Area	4
Burn	5
Dislocation	6
Dried Blood	7
Fresh Tattoo	8
Cut/Laceration/Slash	9
O.C. Spray Area	10
Pain	11
Protrusion	12
Puncture	13
Reddened Area	14
Skin Flap	15
Swollen Area	16
Other	17
	18
	19

O.C. SPRAY EXPOSURE?	YES (NO)
DECONTAMINATED?	YES (NO)
Self-decontamination instructions given?	YES (NO)
Refused decontamination?	YES (NO)
Q 15 min. checks	N/A
Staff issued exposure packet?	YES (NO)

RN NOTIFIED/TIME J. Presson RN 6:14:10	PHYSICIAN NOTIFIED/TIME N/A
--	---------------------------------------

TIME/DISPOSITION 15:00	RELEASED TO Custody
----------------------------------	-------------------------------

REPORT COMPLETED BY/TITLE (PRINT AND SIGN) J. Presson RN / J. Presson RN	BADGE #	RDOs
--	---------	------

(Medical data is to be included in progress note or emergency care record filed in UHR)

CDCR 7219 (Rev. 11/05)

DISTRIBUTION:

ORIGINAL - Custody

CANARY - Inmate/Employee

PINK - Health and Safety / R/W Coordinator
(only work related injury)

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CRIME / INCIDENT REPORT

PART B2 - STAFF

CDCR 037-B2 (Rev. 10/15)

CCI

0-17 01559

PAGE 6 of 7

INSTITUTION CCI		FACILITY FAB - FACILITY B		INCIDENT LOG NUMBER CCI-FAB-17-03-0105	
STAFF (ENTIRE SHEET)					
NAME: LAST YBARRA		FIRST		MI	
TITLE CORRECTIONAL SERGEANT		GEN		ETHNICITY	
PARTICIPANT TYPE RESPONDER		USED FORCE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		FORCE USED	
RDO'S		POST #		POSITION DESCRIPTION B PRGRM 2 SGT	
ID #		BADGE #		PROCESSED EVIDENCE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<input checked="" type="checkbox"/> N/A DESCRIPTION OF INJURIES: IS THERE SERIOUS BODILY INJURY <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
<input checked="" type="checkbox"/> N/A NAME / LOCATION OF HOSPITAL / TREATMENT FACILITY: <input type="checkbox"/> REFUSED TREATMENT <input type="checkbox"/> TREATED AND RELEASE <input type="checkbox"/> HOSPITALIZED					
<input checked="" type="checkbox"/> N/A DEATH CAUSE OF DEATH DECEASED DATE					
NAME: LAST ANDRADE					
FIRST		MI		TITLE CORRECTIONAL OFFICER	
GEN		ETHNICITY		PARTICIPANT TYPE PRIMARY	
USED FORCE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		FORCE USED		PROCESSED EVIDENCE <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
RDO'S		POST #		POSITION DESCRIPTION B GYM OBS	
ID #		BADGE #			
<input checked="" type="checkbox"/> N/A DESCRIPTION OF INJURIES: IS THERE SERIOUS BODILY INJURY <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
<input checked="" type="checkbox"/> N/A NAME / LOCATION OF HOSPITAL / TREATMENT FACILITY: <input type="checkbox"/> REFUSED TREATMENT <input type="checkbox"/> TREATED AND RELEASE <input type="checkbox"/> HOSPITALIZED					
<input checked="" type="checkbox"/> N/A DEATH CAUSE OF DEATH DECEASED DATE					
NAME: LAST MEDINA					
FIRST		MI		TITLE CORRECTIONAL OFFICER	
GEN		ETHNICITY		PARTICIPANT TYPE PRIMARY	
USED FORCE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		FORCE USED		PROCESSED EVIDENCE <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
RDO'S		POST #		POSITION DESCRIPTION B 5 FLR 1	
ID #		BADGE #			
<input checked="" type="checkbox"/> N/A DESCRIPTION OF INJURIES: IS THERE SERIOUS BODILY INJURY <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
<input checked="" type="checkbox"/> N/A NAME / LOCATION OF HOSPITAL / TREATMENT FACILITY: <input type="checkbox"/> REFUSED TREATMENT <input type="checkbox"/> TREATED AND RELEASE <input type="checkbox"/> HOSPITALIZED					
<input checked="" type="checkbox"/> N/A DEATH CAUSE OF DEATH DECEASED DATE					

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STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

CRIME / INCIDENT REPORT

PART B1 - INMATE

CDCR 837-B1 (Rev. 10/15)

CCI 0-17 01559

PAGE 5 OF 7

INSTITUTION CCI		FACILITY FAB - FACILITY B		INCIDENT LOG NUMBER CCI-FAB-17-03-0105			
INMATE (ENTIRE SHEET)							
NAME: LAST WHITESIDE		FIRST RICARDO		MI NMI	CDCR # G-41295	GEN M	ETHNICITY BLA
DOB 07/06/1977							
SECURITY LEVEL IV	CLASSIFICATION SCORE 112	CONTROL DATE TYPE EPRD	CONTROL DATE 02/24/2023	DATE REC'D BY CDCR 12/08/2008		DATE REC'D BY INST 12/20/2016	
HOUSING 1C-110U	PARTICIPANT TYPE SUSPECT			MHSOS LEVEL OF CARE CCCMS			
<input checked="" type="checkbox"/> N/A DESCRIPTION OF INJURIES: IS THERE SERIOUS BODILY INJURY <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No							
<input checked="" type="checkbox"/> N/A NAME/ LOCATION OF HOSP/ TREATMENT FACILITY <input type="checkbox"/> REFUSED TREATMENT <input type="checkbox"/> TREATED AND RELEASED <input type="checkbox"/> HOSPITALIZED				<input checked="" type="checkbox"/> N/A DEATH CAUSE OF DEATH DECEASED DATE			

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CRIME / INCIDENT REPORT

PART B1 - INMATE

CDCR 837-B1 (Rev. 10/15)

CCI

0-17 01559

PAGE 4 OF 7

INSTITUTION CCI		FACILITY FAB - FACILITY B			INCIDENT LOG NUMBER CCI-FAB-17-03-0105			
INMATE (ENTIRE SHEET)								
NAME: LAST GARDEA		FIRST NORBERTO		MI NMI	CDCR # T-59930	GEN M	ETHNICITY HIS	DOB 02/15/1971
SECURITY LEVEL IV	CLASSIFICATION SCORE 79	CONTROL DATE TYPE EPRD	CONTROL DATE 03/09/2022		DATE REC'D BY CDCR 07/18/2002		DATE REC'D BY INST 08/09/2016	
HOUSING 1C-204U	PARTICIPANT TYPE SUSPECT			MHSOS LEVEL OF CARE N/A				
<input checked="" type="checkbox"/> N/A DESCRIPTION OF INJURIES:								
IS THERE SERIOUS BODILY INJURY <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No								
<input checked="" type="checkbox"/> N/A NAME/ LOCATION OF HOSP/ TREATMENT FACILITY					<input checked="" type="checkbox"/> N/A DEATH			
<input type="checkbox"/> REFUSED TREATMENT <input type="checkbox"/> TREATED AND RELEASED <input type="checkbox"/> HOSPITALIZED					CAUSE OF DEATH		DECEASED DATE	
NAME: LAST MEDINA		FIRST CHRISTOPHER		MI W	CDCR # G-11774	GEN M	ETHNICITY WHI	DOB 04/15/1986
SECURITY LEVEL IV	CLASSIFICATION SCORE 180	CONTROL DATE TYPE EPRD	CONTROL DATE 07/15/2020		DATE REC'D BY CDCR 12/10/2012		DATE REC'D BY INST 08/09/2016	
HOUSING 1C-204L	PARTICIPANT TYPE SUSPECT			MHSOS LEVEL OF CARE N/A				
<input checked="" type="checkbox"/> N/A DESCRIPTION OF INJURIES:								
IS THERE SERIOUS BODILY INJURY <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No								
<input checked="" type="checkbox"/> N/A NAME/ LOCATION OF HOSP/ TREATMENT FACILITY					<input checked="" type="checkbox"/> N/A DEATH			
<input type="checkbox"/> REFUSED TREATMENT <input type="checkbox"/> TREATED AND RELEASED <input type="checkbox"/> HOSPITALIZED					CAUSE OF DEATH		DECEASED DATE	
NAME: LAST ROUSER		FIRST WILLIAM		MI E	CDCR # C-10659	GEN M	ETHNICITY BLA	DOB 09/04/1959
SECURITY LEVEL IV	CLASSIFICATION SCORE 143	CONTROL DATE TYPE MEPD	CONTROL DATE 03/05/2031		DATE REC'D BY CDCR 07/08/1988		DATE REC'D BY INST 10/20/2016	
HOUSING 1C-110L	PARTICIPANT TYPE SUSPECT			MHSOS LEVEL OF CARE CCCMS				
<input checked="" type="checkbox"/> N/A DESCRIPTION OF INJURIES:								
IS THERE SERIOUS BODILY INJURY <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No								
<input checked="" type="checkbox"/> N/A NAME/ LOCATION OF HOSP/ TREATMENT FACILITY					<input checked="" type="checkbox"/> N/A DEATH			
<input type="checkbox"/> REFUSED TREATMENT <input type="checkbox"/> TREATED AND RELEASED <input type="checkbox"/> HOSPITALIZED					CAUSE OF DEATH		DECEASED DATE	

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CRIME / INCIDENT REPORT

PART A1 - SUPPLEMENT

CDCR 837-A1 (Rev. 10/15)

PAGE 3 OF 7

INCIDENT LOG NUMBER

CCI-FAB-17-03-0105

INSTITUTION CCI	FACILITY FAB - FACILITY B	INCIDENT DATE 03/22/2017	INCIDENT TIME 11:30
TYPE OF INFORMATION: <input checked="" type="checkbox"/> SYNOPSIS OF INCIDENT <input type="checkbox"/> SUPPLEMENTAL INFORMATION <input type="checkbox"/> AMENDED INFORMATION <input type="checkbox"/> CLOSURE REPORT			

On March 22, 2017 at approximately 1410 hours Inmate Rouser was read his Miranda Rights pursuant to the Miranda decision by Sergeant G. Ybarra witnessed by Officer Andrade. Inmate Rouser refused to sign the form and refused to make a statement.

On March 22, 2017 at approximately 1405 hours Inmate Gardea was read his Miranda Rights pursuant to the Miranda decision by Sergeant G. Ybarra witnessed by Officer Andrade. Inmate Gardea refused to sign the form and refused to make a statement.

On March 22, 2017 at approximately 1400 hours Inmate Medina was read his Miranda Rights pursuant to the Miranda decision by Sergeant Ybarra witnessed by Officer Andrade. Inmate Medina refused to sign the form and refused to make a statement.

Evidence:

Officer Andrade secured one Inmate Manufactured Weapon in the Security Administration Building evidence room locker #2 per Institutional procedure. Officer Medina secured one Inmate Manufactured Weapon in the Security Administration Building evidence room locker #1 per Institutional procedure.

Conclusion:

Inmate Whiteside was informed he would be issued a CDC-115, charging him with the specific act of Possession of an Inmate Manufactured weapon.
 Inmate Rouser was informed he would be issued a CDC-115, charging him with the specific act of Possession of an Inmate Manufactured weapon.
 Inmate Gardea was informed he would be issued a CDC-115, charging him with the specific act of Possession of an Inmate Manufactured weapon.
 Inmate Medina was informed he would be issued a CDC-115, charging him with the specific act of Possession of an Inmate Manufactured weapon.

This case will be reviewed by the Kern County District Attorney for possible prosecution.

There was no injury to staff or property damage as a result of this incident.

You will be apprised of any further developments regarding this matter in supplemental reports.

☐ CHECK IF NARRATIVE IS CONTINUED ON ADDITIONAL CDCR 837-A1

NAME OF REPORTING STAFF (PRINT / TYPE) NOUWELS	TITLE CORRECTIONAL LIEUTENANT	ID #	BADGE #
SIGNATURE OF REPORTING STAFF <i>K. Nouwels</i>	PHONE EXT. INCIDENT SITE	DATE 3/22/2017	
NAME OF WARDEN / AOD (PRINT / SIGN) MAYO <i>[Signature]</i>	TITLE CORRECTIONAL CAPTAIN	DATE 4-6-17	

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STATE OF CALIFORNIA
CRIME / INCIDENT REPORT
PART A1 - SUPPLEMENT
CDCR 837-A1 (Rev. 10/15)

CCI 0-17 01559

DEPARTMENT OF CORRECTIONS AND REHABILITATION 10.3

INSTITUTION CCI		FACILITY FAB - FACILITY B		PAGE 2 Of 7	INCIDENT LOG NUMBER CCI-FAB-17-03-0105
INCIDENT DATE 03/22/2017		INCIDENT TIME 11:30			
TYPE OF INFORMATION: <input checked="" type="checkbox"/> SYNOPSIS OF INCIDENT <input type="checkbox"/> SUPPLEMENTAL INFORMATION <input type="checkbox"/> AMENDED INFORMATION <input type="checkbox"/> CLOSURE REPORT					

Precipitating Events:

On March 22, 2017 at approximately 1130 hours staff was searching cells in Housing Unit One. While searching cell 1B-1C-110 occupied by Inmate Whiteside (G41295) and Inmate Rouser (C10659) Officer Andrade discovered an Inmate Manufactured Weapon inside the mattress that is assigned to Inmate Rouser's bed area. The weapon was approximately 3" inches made of plastic sharpened to a point with a cardboard handle with string wrapped around the handle. At approximately 1135 hours while staff was still searching staff searched cell 1B-1C-204 occupied by Inmate Gardea (T59930) and Inmate Medina (G11774) Officer Medina discovered an Inmate Manufactured Weapon under the sink in the cell. The weapon was approximately 4" and 1/2 inches long appeared to be made from plastic and rolled to a point. Both Officers secured the weapons on their person and notified supervisory staff. Inmates Whiteside, Rouser, Gardea, and Medina were all read their Miranda Rights. Inmates Whiteside, Rouser, Gardea, and Medina were subsequently given a 7219 report of Injury or unusual occurrence and rehoused into ASU.

Alarm:

There was not an alarm activated during this incident as none was needed.

Suspect:

Inmate Whiteside G41295
Inmate Rouser C10659
Inmate Gardea T59930
Inmate Medina G11774

Use of force:

There was no force used during this incident.

Escort(s):

N/A

Holding Cell:

The inmates were placed into a holding cell prior to there being a reportable incident. Upon notification of this being a reportable incident a holding cell log was started. The four hour time limit was exceeded due to searches and administrative paperwork.

Decontamination:

N/A

Medical:

Registered Nurse Presson performed a CDC-7219 on Inmate Whiteside and noted the following injuries: None
Registered Nurse Presson performed a CDC-7219 on Inmate Rouser and noted the following injuries: None
Registered Nurse Presson performed a CDC-7219 on Inmate Gardea and noted the following injuries: None
Registered Nurse Presson performed a CDC-7219 on Inmate Medina and noted the following injuries: None

Notification:

Watch Commander M. Reyes, was notified at 1200 hours whereupon all Administrative contacts were made. Captain R. Mayo was notified at 1145 hours.

Miranda:

On March 22, 2017 at approximately 1415 hours Inmate Whiteside was read his Miranda Rights pursuant to the Miranda decision by Sergeant G. Ybarra witnessed by Officer Andrade. Inmate Whiteside refused to sign the form and refused to make a statement.

☒ CHECK IF NARRATIVE IS CONTINUED ON ADDITIONAL CDCR 837-A1

NAME OF REPORTING STAFF (PRINT / TYPE) NOUWELS	TITLE CORRECTIONAL LIEUTENANT	ID #	BADGE #
SIGNATURE OF REPORTING STAFF <i>K. Nouwels</i>	PHONE EXT. INCIDENT SITE	DATE 3/22/2017	
NAME OF WARDEN / AOD (PRINT / SIGN) MAYO	TITLE CORRECTIONAL CAPTAIN	DATE 4-10-17	

CCI 0-17 01559

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DEPARTMENT OF CORRECTIONS AND REHABILITATION
JUN 9 2017 AM 10:31

STATE OF CALIFORNIA

CRIME / INCIDENT REPORT

PART A - COVER SHEET

CDCR 837-A (Rev. 10/15)

PAGE 1 OF 7

INCIDENT LOG NUMBER

CCI-FAB-17-03-0105

INCIDENT DATE

03/22/2017

INCIDENT TIME

11:30

INSTITUTION CCI	FACILITY FAB - FACILITY B	FACILITY LEVEL LEVEL IV	INCIDENT SITE HOUSING UNIT ONE	LOCATION C-SECTION	PROGRAM SNY	AD SEG N/A	USE OF FORCE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
SPECIFIC CRIME / INCIDENT Possession of Dangerous Property or Contraband - Inmate Manufactured Weapon				<input checked="" type="checkbox"/> CCR <input type="checkbox"/> PC <input type="checkbox"/> N/A NUMBER / SUBSECTION 3006-a Contraband - Dangerous Property			
D.A. REFERRAL ELIGIBLE <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		CRISIS RESPONSE TEAM ACTIVATED <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		MUTUAL AID <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		PIO / AA NOTIFIED <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
DEATH AND CAUSE OF DEATH <input checked="" type="checkbox"/> N/A			ASSAULT / BATTERY <input checked="" type="checkbox"/> N/A		TYPE OF ASSAULT / BATTERY <input checked="" type="checkbox"/> N/A		
SERIOUS BODILY INJURY <input checked="" type="checkbox"/> N/A		INMATE WEAPONS <input type="checkbox"/> N/A 1. Weapon Type: Inmate Manufactured Slabbing Instrument, Weapon Description: Unknown Plastic Sharpened To A Point 2. Weapon Type: Inmate Manufactured Slabbing Instrument, Weapon Description: Unknown Plastic Sharpened To A Point		FORCE USED <input checked="" type="checkbox"/> N/A			
ESCAPES <input checked="" type="checkbox"/> N/A							
CONTROLLED SUBSTANCE <input checked="" type="checkbox"/> N/A		WEIGHT/ In Grams		EXTRACTION <input checked="" type="checkbox"/> N/A		EXCEPTIONAL ACTIVITY <input checked="" type="checkbox"/> N/A	

BRIEF DESCRIPTION OF INCIDENT (ONE OR TWO SENTENCES)

On 3/22/17 at approximately 1130 during searches in Housing Unit 1 C-section one Inmate Manufactured Weapon was found in 1B-1C-110 occupied by Inmate Whiteside G41295 and Inmate Rouser C10659. One Inmate manufactured weapon was found in 1B-1C-204 occupied by Inmates Gardea T59930 and Medina G11774. All inmates were rehoused in ASU.

COMPLETE SYNOPSIS / SUMMARY ON CDCR 837-A1

NAME OF REPORTING STAFF (PRINT / TYPE) NOUWELS	TITLE CORRECTIONAL LIEUTENANT	ID #	BADGE #
SIGNATURE OF REPORTING STAFF <i>K. Nouwels</i>	PHONE EXT. INCIDENT SITE	DATE 3/22/2017	
NAME OF WARDEN / AOD (PRINT / SIGN) MAYO	TITLE CORRECTIONAL CAPTAIN	DATE 4-6-17	

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STATE OF CALIFORNIA
CRIME / INCIDENT REPORT
PART C1 - SUPPLEMENT
CDCR 837-C1 (Rev. 10/15)

CCI

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DEPARTMENT OF CORRECTIONS AND REHABILITATION

PAGE 2 OF 2

INCIDENT LOG NUMBER

CCI-FAB-17-03-0105

NAME: LAST
ANDRADE

FIRST

MI

TYPE OF INFORMATION:

☒ CONTINUATION OF REPORT

☐ CLARIFICATION OF REPORT

☐ ADDITIONAL INFORMATION

NARRATIVE:

On 3-22-2017, at approximately 1400 hours I witnessed Sergeant Ybarra read Inmate Medina his Constitutional Miranda Rights pursuant to the Miranda Decision. Inmate Medina verbally acknowledged that he understood his Miranda Rights, but refused to sign the Miranda advisement form and elected to remain silent.

On 3-22-2017, at approximately 1405 hours I witnessed Sergeant Ybarra read Inmate Gardea his Constitutional Miranda Rights pursuant to the Miranda Decision. Inmate Gardea verbally acknowledged that he understood his Miranda Rights, but refused to sign the Miranda advisement form and elected to remain silent.

On 3-22-2017, at approximately 1410 hours I witnessed Sergeant Ybarra read Inmate Rouser his Constitutional Miranda Rights pursuant to the Miranda Decision. Inmate Rouser verbally acknowledged that he understood his Miranda Rights, but refused to sign the Miranda advisement form and elected to remain silent.

On 3-22-2017, at approximately 1415 hours I witnessed Sergeant Ybarra read Inmate Whiteside his Constitutional Miranda Rights pursuant to the Miranda Decision. Inmate Whiteside verbally acknowledged that he understood his Miranda Rights, but refused to sign the Miranda advisement form and elected to remain silent.

☐ CHECK IF NARRATIVE IS CONTINUED ON ADDITIONAL CDCR 837-C1.

SIGNATURE OF REPORTING STAFF	TITLE CORRECTIONAL OFFICER	BADGE # / ID #	DATE 3/22/2017
NAME AND TITLE OF REVIEWER (PRINT/SIGNATURE) G. YBARRA SGT	DATE RECEIVED 3/22/2017	CLARIFICATION NEEDED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	APPROVED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
		DATE 3/22/2017	

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STATE OF CALIFORNIA
CRIME / INCIDENT REPORT
PART C - STAFF REPORT
CDCR 837-C (Rev. 10/15)

CCI 0-17-01559

JUN 9 2017 AM 10:35

DEPARTMENT OF CORRECTIONS AND REHABILITATION

PAGE 1 of 2

INCIDENT LOG NUMBER
CCI-FAB-17-03-0105

NAME: LAST ANDRADE		FIRST		MI C	DATE OF INCIDENT 3/22/2017	TIME OF INCIDENT 1130
POST #	POSITION GYM OBS	YEARS OF SERVICE RS. 40.	DATE OF REPORT 3/22/2017		LOCATION OF INCIDENT FACILITY B HU 1 CELL C 110	
RDO'S	DUTY HOURS	DESCRIPTION OF CRIME / INCIDENT Possession of Inmate Manufactured Weapon				CCR SECTION / RULE 3006 (a) <input type="checkbox"/> N/A

YOUR ROLE	WITNESSES (PREFACE S-STAFF, V-VISITOR, O-OTHER)	INMATES (PREFACE S-SUSPECT, V-VICTIM, W-WITNESSES)	
<input checked="" type="checkbox"/> Primary	(S) SGT. G. YBARRA	(S) ROUSER C-10659	
<input type="checkbox"/> Responder		(S) WHITESIDE G-41295	
<input type="checkbox"/> Witness			
<input type="checkbox"/> Camera			
<input type="checkbox"/> Victim			
<input type="checkbox"/> Other:			

<input checked="" type="checkbox"/> N/A								
FORCE USED BY YOU - TYPE OF WEAPON / SHOTS FIRED / NON-CONVENTIONAL FORCE								
<input type="checkbox"/> Physical:	Lethal Weapons:	Warning:	Effect:	Less Lethal Weapons:	# Effect:	Chemical Agent:	Projector:	#Deployed
<input type="checkbox"/> Hand-Held Baton	<input type="checkbox"/> Mini 14			<input type="checkbox"/> 37 mm		<input type="checkbox"/> OC		
<input type="checkbox"/> X-10 BRD w/o OC	<input type="checkbox"/> .38 Cal			<input type="checkbox"/> 40 mm		<input type="checkbox"/> CN		
<input type="checkbox"/> X-10 BRD w/ OC	<input type="checkbox"/> .40 Cal			<input type="checkbox"/> L8		<input type="checkbox"/> CS		
	<input type="checkbox"/> 9 mm			<input type="checkbox"/> 40 mm Multi				
	<input type="checkbox"/> Shotgun			<input type="checkbox"/> HFWSR				

☐ Non-Conventional or Force Not Listed Above:

FORCE OBSERVED BY YOU	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Physical <input type="checkbox"/> Hand-Held Baton <input type="checkbox"/> Chemical Agent <input type="checkbox"/> X-10 <input type="checkbox"/> Less Lethal <input type="checkbox"/> Lethal <input type="checkbox"/> Non-Conventional							
EVIDENCE COLLECTED BY YOU	EVIDENCE DESCRIPTION		EVIDENCE DISPOSITION			BIO HAZARD	PPE	
<input checked="" type="checkbox"/> YES	3 inch plastic melted to a point with cardboard as a handle		SAB Evidence Locker #2			<input type="checkbox"/> YES	<input type="checkbox"/> YES	
<input type="checkbox"/> NO	<input type="checkbox"/> N/A		<input type="checkbox"/> N/A			<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> NO	
REPORTING STAFF INJURED	DESCRIPTION OF INJURY		LOCATION TREATED (HOSPITAL/CLINIC)		FLUID EXPOSURE		SCIF 3301/306 COMPLETED	
<input type="checkbox"/> YES					<input type="checkbox"/> BODILY <input checked="" type="checkbox"/> N/A		<input type="checkbox"/> YES	
<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A		<input checked="" type="checkbox"/> N/A		<input type="checkbox"/> UNKNOWN		<input checked="" type="checkbox"/> NO	
					<input type="checkbox"/> Other:			

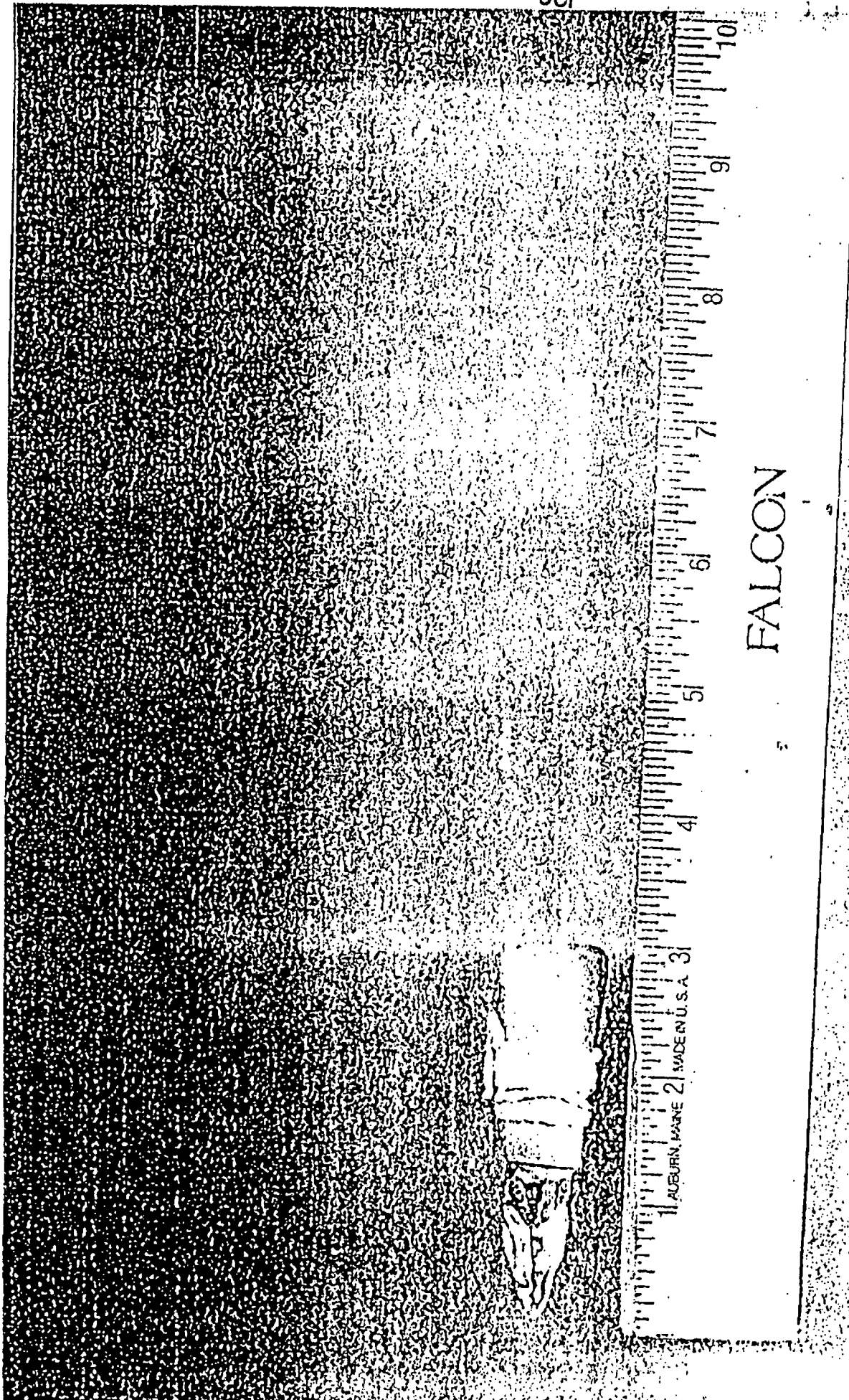
NARRATIVE: On 03/22/2017 at approximately 1130 hours while working post 251809, Facility B Gym Obs Officer, I was conducting a cell search in C section. I proceeded to cell 110, which is occupied by Inmates ROUSER (C-10659) Facility B IC-110L and WHITESIDE G-41295 Facility B IC-110U, and began to search the cell. I took both mattresses to R&R to scan them with the rapid scan. I noticed an object come up on the screen secreted within the mattress belonging to inmate ROUSER. I retrieved the object and discovered it to be a melted piece of plastic made into a point with a cardboard handle. I immediately notified Sergeant Ybarra via the telephone of what I had found. Sergeant Ybarra instructed me to get a ruler and to take measurements and photographs of the inmate manufactured weapon and then have it secured into evidence. The weapon measured approximately 3 inches in length and approximately 1/2 inch in width. Once completed with the photographs and the measurements, I secured the weapon in a sharps container and secured it into evidence locker #2 along with the photograph in the Security Administration Building (SAB)

☒ CHECK IF NARRATIVE IS CONTINUED ON CDCR 837-C1.

SIGNATURE OF REPORTING STAFF	TITLE CORRECTIONAL OFFICER	BADGE # / ID #	DATE 3/22/2017
NAME AND TITLE OF REVIEWER (PRINT/SIGNATURE) G. YBARRA SGT	DATE RECEIVED 3/22/2017	CLARIFICATION NEEDED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	APPROVED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
		DATE 3/22/2017	

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STATE OF CALIFORNIA
CRIME / INCIDENT REPORT
PART C1 - SUPPLEMENT
CDCR 837-C1 (Rev. 10/15)

CC 0-17 01559

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DEPARTMENT OF CORRECTIONS AND REHABILITATION

PAGE 2 OF 2

INCIDENT LOG NUMBER
CCI-FAB-17-03-0105

NAME: LAST
ANDRADE

FIRST

MI

TYPE OF INFORMATION:

☒ CONTINUATION OF REPORT

☐ CLARIFICATION OF REPORT

☐ ADDITIONAL INFORMATION

NARRATIVE:

On 3-22-2017, at approximately 1400 hours I witnessed Sergeant Ybarra read Inmate Medina his Constitutional Miranda Rights pursuant to the Miranda Decision. Inmate Medina verbally acknowledged that he understood his Miranda Rights, but refused to sign the Miranda advisement form and elected to remain silent.

On 3-22-2017, at approximately 1405 hours I witnessed Sergeant Ybarra read Inmate Gardea his Constitutional Miranda Rights pursuant to the Miranda Decision. Inmate Gardea verbally acknowledged that he understood his Miranda Rights, but refused to sign the Miranda advisement form and elected to remain silent.

On 3-22-2017, at approximately 1410 hours I witnessed Sergeant Ybarra read Inmate Rouser his Constitutional Miranda Rights pursuant to the Miranda Decision. Inmate Rouser verbally acknowledged that he understood his Miranda Rights, but refused to sign the Miranda advisement form and elected to remain silent.

On 3-22-2017, at approximately 1415 hours I witnessed Sergeant Ybarra read Inmate Whiteside his Constitutional Miranda Rights pursuant to the Miranda Decision. Inmate Whiteside verbally acknowledged that he understood his Miranda Rights, but refused to sign the Miranda advisement form and elected to remain silent.

☐ CHECK IF NARRATIVE IS CONTINUED ON ADDITIONAL CDCR 837-C1.

SIGNATURE OF REPORTING STAFF

TITLE
CORRECTIONAL OFFICER

BADGE # / ID #

DATE
3/22/2017

NAME AND TITLE OF REVIEWER (PRINT/SIGNATURE)
G. YBARRA SGT

DATE RECEIVED
3/22/2017

CLARIFICATION NEEDED
☐ YES ☒ NO

APPROVED
☒ YES ☐ NO

DATE
3/22/2017

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STATE OF CALIFORNIA

**Rules Violation Report:
Mental Health Assessment
CDCR 115-MH-A (Rev. 12/15)**

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Form: Page 1 of 6
Instructions: Page 7 - 12

A CDC 115, Rules Violation Report (RVR), has been written on the following inmate, who requires a mental health assessment.

Section 1

Inmate Name: ROUSER CDCR #: C10659 Housing: 8C 102L

Specific Act: 3006(a)(11) POSSESSION OF A DEADLY WEAPON *B-8C-102L*

Could this offense result in a SHU term? ☒ Yes ☐ No RVR Log #: CCI-2501426 Date of Violation: 03-22-2017

The inmate's mental health level of care at the time of the offense (check one):

☐ Not in MHSDS Program ☒ CCCMS 1,2 ☐ EOP ☐ MHCB ☐ ICF/Acute/PIP

The inmate's current mental health level of care (check one):

☐ Not in MHSDS Program ☒ CCCMS 1,2 ☐ EOP ☐ MHCB ☐ ICF/Acute/PIP

1 Non-MHSDS and CCCMS program participants will be referred for a mental health assessment for behavior that is bizarre or unusual for any inmate, or is uncharacteristic for this inmate.

2 CCCMS program participants will be referred for a mental health assessment for Division A, B, or C offenses or any offense that may result in a Security Housing Unit (SHU) term.

Developmental Disability Program Designation (check one):

☒ NCF ☐ NDD ☐ DD1 ☐ DD2 ☐ DD3

The inmate was referred for a mental health assessment for the following reason(s) (check all that apply):

☐ MHSDS participant at the EOP or higher level of care (MHCB, ICF/Acute/PIP).

☐ DDP participant at the DD1, DD2, or DD3 level of care.

☐ Alleged behavior involved indecent exposure or sexual disorderly conduct.

☐ Alleged behavior was bizarre or unusual for any inmate.

☐ Alleged behavior was uncharacteristic for this inmate.

☒ Alleged behavior represents a Division A, B, or C offense or any offense that may result in a SHU term (CCCMS inmates only).

Date sent to mental health: 04/01/2017

By (print name/signature): H. HOFFMAN

Date received by mental health: *4/6/17*

By (print name/signature): *SD Hallett*

Return this form by (date): ASAP PLEASE

Timelines: Custody has two (2) calendar days from the date information leading to the charges is discovered by staff to submit this CDCR 115-MH-A to mental health; mental health has eight (8) calendar days to return this completed CDCR 115-MH-A to custody.

**Rules Violation Report:
Mental Health Assessment
CDCR 115-MH-A (Rev. 12/15)**

DISTRIBUTION - Original: Case Records with Adjudicated RVR Copy: Inmate
SCANNING LOCATION - Outpatient; MHNT/TxPIn - Evaluations/Reports

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STATE OF CALIFORNIA
 Rules Violation Report:
 Mental Health Assessment
 CDCR 115-MH-A (Rev. 12/15)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

CCI 0-17 01559

Form: Page 2 of 6
 Instructions: Page 7 - 12

Section II

The interview was conducted in a private location: ☐ Yes ☒ No Date: 4/7/17
 If No, explain:

Interview was conducted in a cell-front setting because inmate refused a 1:1 private session.

The inmate was informed of the purpose of the assessment and the information shared during the interview is not confidential and will be used in adjudicating the RVR. ☒ Yes ☐ No

If No, explain:

I/P was informed this interview is non-confidential and that information gathered would be used in adjudicating the RVR; term and limitations of confidentiality were also reviewed.

Data source(s) for this evaluation:

☒ Health Care Record ☒ Adaptive Supports form ☒ PC Consultation ☒ SOMS ☒ ERMS

☒ Other: DECS, MHTS, PORTAL ☒ Staff Consultation: Housing Unit Officer Anderson

1. CCCMS/NON-MHSDS ONLY. Are there any mental health factors that would cause the inmate to experience difficulty in understanding the disciplinary process and representing his/her interests in the hearing that would indicate the need for assignment of a staff assistant (do not rely on TABE score alone)?

☐ Yes ☒ No

Provide rationale:

There appear to be no mental health factors that would cause the inmate to experience difficulty in understanding the disciplinary process and representing his interests in the hearing as evidenced by indicating understating of the RVR process and his right to appeal.

TABE SCORE: 12.9.

1. Disability Code:
☐ TABE score \leq 4.0
☐ DPH ☐ DPV ☐ LD
☐ DPS ☐ DNH
☐ DNS ☐ DDP
☒ Not Applicable
 4. Comments: TABE: 12.9, DDP: NCF per DECS.

2. Accommodations:
☐ Additional Time
☐ Equipment ☐ SLI
☐ Louder ☐ Slower
☐ Basic ☐ Transcribe
☐ Other*

3. Effective Communication:
☒ P/I asked questions
☒ P/I summed information
 Please check one:
☐ Not Reached* ☒ Reached
 *See chrono/notes

CDCR #: C10659

Last Name: ROUSER

MI:

First Name: WILLIAM

DOB: 9/4/1959

DISTRIBUTION - Original: Case Records with Adjudicated RVR Copy: Inmate
 SCANNING LOCATION - Outpatient; MHN/TxPIn - Evaluations/Reports

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**Rules Violation Report:
Mental Health Assessment
CDCR 115-MH-A (Rev 12/15)**

CC/ 0-17 01559

Form: Page 3 of 6
Instructions: Page 7 - 12**Section II (continued)**

2. In your opinion, was the inmate's behavior so *strongly influenced* by symptoms of a (a) *mental illness* and/or (b) *developmental disability/cognitive or adaptive functioning deficits* that the inmate would be better served by documenting this behavior in an alternate manner? If Yes: (1) provide a rationale that establishes a nexus between mental health symptoms or developmental disability/cognitive or adaptive functioning deficits and the behavior; (2) consult with the Program Supervisor; and (3) consult with the Chief of Mental Health (or designee), when applicable. If No, go to Question 3.

a) Mental illness:☐ Yes ☒ No

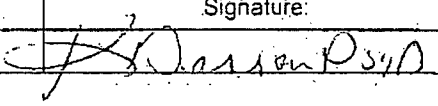
Assessing clinician's rationale:

It unlikely that the inmate's behavior was strongly influenced by symptoms of a mental illness and/or developmental/cognitive or adaptive functioning deficits at the time of the RVR.

I agree with the assessing clinician's recommendation: ☒ Yes ☐ No

Consulting Program Supervisor's rationale:

After reviewing the circumstances leading to the RVR, as well as Inmate Rouser's mental health record, I am in agreement with Dr. Dhahbi's assessment that mental health factors are unlikely to have influenced the behavior in question.

Title:	Print Name:	Date:	Signature:
Consulting Program Supervisor	Dr. K. Nesson, Sr. Psychologist Supervisor	4/10/2017	

I recommend documenting this behavior in an alternate manner: ☐ Yes ☒ No

Chief of Mental Health's (or designee) rationale:

Title:	Print Name:	Date:	Signature:
Chief of Mental Health (or designee)			

Final determination: ☐ Yes ☐ No**Rules Violation Report:
Mental Health Assessment
CDCR 115-MH-A (Rev. 12/15)**

Confidential Inmate Information

CDCR #: C10659

Last Name: ROUSER

MI:

First Name: WILLIAM

DOB: 9/4/1959

DISTRIBUTION - Original: Case Records with Adjudicated RVR Copy: Inmate
SCANNING LOCATION - Outpatient; MHN/TxPln - Evaluations/Reports

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STATE OF CALIFORNIA
Rules Violation Report:
Mental Health Assessment
 CDCR 115-MH-A (Rev. 12/15)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

CCI 0-17 01559

Form: Page 4 of 6
Instructions: Page 7-12

Section II (continued)

b) Developmental disability/cognitive or adaptive functioning deficits:

☐ Yes ☒ No

Assessing clinician's rationale:

There are no current victimization concerns at this time as I/P demonstrated the ability to self-advocate by knowing when and who to ask questions to when called upon. I/P is also designated NCF per DECS.

I agree with the assessing clinician's recommendation: ☒ Yes ☐ No

Consulting Program Supervisor's rationale:

After reviewing the circumstances leading to the RVR, as well as Inmate Rouser's mental health record, I am in agreement with Dr. Dhahbi's assessment that the behavior in question is not likely to be related to any developmental disability/cognitive or adaptive functioning deficits.

Title:	Print Name:	Date:	Signature:
Consulting Program Supervisor	Dr. K. Nesson, Sr. Psychologist Supervisor	4/10/2017	<i>[Signature]</i>

I recommend documenting this behavior in an alternate manner: ☐ Yes ☐ No

Chief of Mental Health's (or designee) rationale:

Title:	Print Name:	Date:	Signature:
Chief of Mental Health (or designee)			

Final determination: ☐ Yes ☐ No

Rules Violation Report:
Mental Health Assessment
 CDCR 115-MH-A (Rev. 12/15)

Confidential Inmate Information

CDCR #: C10659

Last Name: ROUSER

MI:

First Name: WILLIAM

DOB: 9/4/1959

DISTRIBUTION - Original: Case Records with Adjudicated RVR Copy: Inmate
 SCANNING LOCATION - Outpatient; MHN/TxPln - Evaluations/Reports

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STATE OF CALIFORNIA
Rules Violation Report:
Mental Health Assessment
CDCR 115-MH-A (Rev. 12/15)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

CCI

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Form: Page 5 of 6
Instructions: Page 7 - 12

Section II (continued)

3. In your opinion, is there evidence to suggest that (a) *mental illness* and/or (b) *developmental disability/cognitive or adaptive functioning deficits* contributed to the behavior that led to the RVR? If Yes, establish a nexus between mental health symptoms or developmental disability/cognitive or adaptive functioning deficits and the behavior.

a) Mental illness:

☐ Yes ☒ No

Provide rationale:

There is no nexus to suggest that a mental illness and/or developmental disability/cognitive or adaptive functioning deficits contributed to the behavior that led to the RVR.

b) Developmental disability/cognitive or adaptive functioning deficits:

☐ Yes ☒ No

Provide rationale:

Records review indicate no history of developmental/cognitive or adaptive functioning deficits, which corroborates with observation, reporting of I/P, and collateral information from housing unit officers. I/P is also designated NCF, per DECS.

4. If the inmate is found guilty of the offense, what mental health factors and/or developmental disability/cognitive or adaptive functioning deficits should the hearing officer or senior hearing officer consider when assessing the penalty, such as penalties that may have an adverse impact on the inmate's stability?

Examples of penalties include, but are not limited to, changes and reduction in, phone calls, visits (when permissible), day room, confined to quarters, loss of packages; loss of yard time, loss of appliances, etc.

Provide your recommendation and rationale:

None at this time.

Rules Violation Report:
Mental Health Assessment
CDCR 115-MH-A (Rev 12/15)

Confidential Inmate Information

CDCR #: C10659

Last Name: ROUSER

MI:

First Name: WILLIAM

DOB: 9/4/1959

DISTRIBUTION - Original: Case Records with Adjudicated RVR Copy: Inmate
SCANNING LOCATION - Outpatient; MHN/TxPin - Evaluations/Reports

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STATE OF CALIFORNIA
Rules Violation Report:
Mental Health Assessment
 CDCR 115-MH-A (Rev. 12/15)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

CC/ 0-17 01559

Form: Page 6 of 6
Instructions: Page 7 - 12**Section II (continued)**

5. SHU OFFENSE ONLY (see box on pg. 1 to determine if applicable). If the inmate is found guilty of the offense, are there any mental health factors and/or developmental disability/cognitive or adaptive functioning deficits that Institutional Classification Committee should consider when assessing a SHU term?

Provide your recommendation and rationale:

ICC should consider the following: It is likely that confinement to quarters may increase the risk for mental health symptoms worsen.

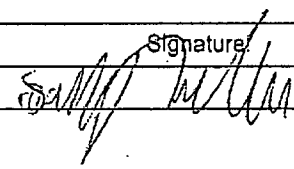
6. DDP PARTICIPANTS ONLY. Does the inmate exhibit on-going behavior leading to disciplinary infractions that appears related to developmental disability/cognitive or adaptive functioning deficits? If Yes, refer inmate to the DDP Clinician for assistance in assessing the causes of the behavior and creating an intensive behavior modification plan.

☐ Yes ☒ No If Yes, complete a CDCR Form 128 MH-5, Mental Health Referral Chrono.

Did you consult with the DDP Clinician? ☐ Yes ☐ No Document consultation on a Developmental Disabilities Progress Note.

Provide rationale:

Not Applicable.

Title:	Phone Ext.:	Print Name:	Date:	Signature:
Clinician	x3775	S. Dhahbi Ph.D.	4/7/2017	
Received by (Custody staff)				

Rules Violation Report:
Mental Health Assessment
CDCR 115-MH-A (Rev. 12/15)

Confidential Inmate Information

CDCR #: C10559

Last Name: ROUSER

MI:

First Name: WILLIAM

DOB: 9/4/1959

DISTRIBUTION - Original: Case Records with Adjudicated RVR Copy: Inmate
 SCANNING LOCATION - Outpatient; MHN/TxPln - Evaluations/Reports

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM ROUSER,

Petitioner,

v.

UNKNOWN,

Respondent.

No. 2:18-cv-1358-JAM-EFB P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On October 18, 2018, the magistrate judge filed findings and recommendations herein which were served on petitioner and which contained notice to petitioner that any objections to the findings and recommendations were to be filed within fourteen days. Petitioner has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

////

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed October 18, 2018, are adopted in full;
2. Petitioner's application for writ of habeas corpus is summarily dismissed without prejudice to filing a new action pursuant to 42 U.S.C. § 1983;
3. The Clerk is directed to close the case; and
4. The court declines to issue a certificate of appealability.

DATED: December 18, 2018

/s/ John A. Mendez

UNITED STATES DISTRICT COURT JUDGE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM ROUSER,
Petitioner,
v.
UNKNOWN,
Respondent.

No. 2:18-cv-1358-JAM-EFB P

ORDER

On December 19, 2018, this habeas action was dismissed without prejudice to the filing of a civil rights action pursuant to 42 U.S.C. § 1983. ECF No. 14. Judgment was duly entered. ECF No. 15. On April 15, 2020, petitioner filed a motion for relief from judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. ECF No. 16.

Rule 60(b) provides for reconsideration of a final judgment where one of more of the following is shown: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which, with reasonable diligence, could not have been discovered within twenty-eight days of entry of judgment; (3) fraud, misrepresentation, or misconduct of an opposing party; (4) voiding of the judgment; (5) satisfaction of the judgment; and (6) any other reason justifying relief. Fed. R. Civ. P. 60(b). A motion under Rule 60(b) must be made within a “reasonable time—and for reasons (1), (2), and (3) no more than a year after the entry of the judgment of order or the date of the proceedings.” Fed. R. Civ. P 60(c)(1).

1 Because petitioner filed his Rule 60(b) motion more than a year after the entry of
2 judgment, he must demonstrate he is entitled to relief for reasons (4), (5), and/or (6). Petitioner,
3 however, has not shown he is entitled to relief from judgment for any of the reasons enumerated
4 in Rule 60(b). Petitioner argues that the court erred in dismissing his petition, which challenged
5 the results of a prison rules violation report, because on April 2, 2020, the Board of Parole
6 Hearings relied upon that disciplinary report to deny him parole for ten years. ECF No. 16.
7 Even so, petitioner's challenge to the disciplinary action does not fall within the "core of habeas
8 corpus." Nettles v. Grounds, 830 F.3d 922 (9th Cir. 2016). As stated in the findings and
9 recommendations underlying the order of dismissal (ECF No. 12), the petition does not present a
10 basis for habeas jurisdiction because even if the disciplinary report were expunged from
11 petitioner's record, it would not *necessarily* result in petitioner's speedier release. See id.
12 (observing that a rules violation is just one of many factors a parole board may consider in
13 determining a prisoner's suitability for parole).

14 Accordingly, IT IS ORDERED that petitioner's Rule 60(b) motion seeking relief from
15 judgment (ECF No. 16) is DENIED.

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17 DATED: May 11, 2020

18 /s/ John A. Mendez

19 UNITED STATES DISTRICT COURT JUDGE
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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

SEP 18 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

WILLIAM ROUSER,

Petitioner-Appellant,

v.

UNKNOWN,

Respondent-Appellee.

No. 20-16234

D.C. No.

2:18-cv-01358-JAM-EFB

Eastern District of California,
Sacramento

ORDER

Before: O'SCANNLAIN, RAWLINSON, and CHRISTEN, Circuit Judges.

A review of the record and appellant's response to this court's July 16, 2020 order to show cause demonstrates that this court lacks jurisdiction over this appeal because the notice of appeal, served on June 15, 2020 and filed on June 22, 2020, was not filed or delivered to prison officials within 30 days after the district court's post-judgment order entered on May 12, 2020. *See* 28 U.S.C. § 2107(a); *United States v. Sadler*, 480 F.3d 932, 937 (9th Cir. 2007) (requirement of timely notice of appeal is jurisdictional); *see also Bowles v. Russell*, 551 U.S. 205 (2007) (court lacks authority to create equitable exceptions to jurisdictional requirement of timely notice of appeal). Consequently, this appeal is dismissed for lack of jurisdiction.

All pending motions are denied as moot.

DISMISSED.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

SEP 18 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

WILLIAM ROUSER,

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v.

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ORDER

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DISMISSED.