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June 23, 2011

Governor Jerry Brown
State Capital
Suite 1173
Sacramento, CA 95814

Re: Gary James Eccher (CDC No. D-36746)

Dear Governor Brown:

The above matter is now before you to reconsider whether or not Gary James Eccher is suitable for parole in light of the Orange County Superior Court's recent decision to grant Eccher's petition for writ of habeas corpus, thereby vacating the previous gubernatorial parole reversal. I write to you to express adamant opposition of the Office of the District Attorney of Orange County regarding the parole of Eccher, because the inmate continues to pose an unreasonable risk of danger to society.

Eccher's Crime

On Aug. 10, 1985, the inmate murdered Lianne Lando, his 38-year-old live-in girlfriend, in an act of brutality because Lando defied the inmate's wishes and refused to give him more cocaine. An argument ensued during which Lando bit Eccher's finger. It was this trivial act by Lando that led the inmate to first beat Lando, hit her in the head with a lamp, and then strangle her with an electrical cord. Not convinced that she was dead, the inmate then submerged her head and arms under bloody water, leaving her nude body draped over the bathtub. The inmate then proceeded to take a shower in a different bathroom. The entire offense was carried out in a manner showing complete and utter disregard for both human suffering and human life.

Leaving her for dead, Eccher continued on his crime spree by stealing Lando's purse, car keys, the remaining half-pound of cocaine, and \$27,000 in cash. He then fled, left Lando's car at the airport, took a cab to San Diego, dumped his bloody clothes in a dumpster, purchased new clothes, and went to Mexico. He remained a fugitive in Mexico for over a month until he was arrested by Mexican authorities for suspicion of drug trafficking. Following a jury trial, the inmate was convicted of first degree murder. At his sentencing hearing, the judge reduced the murder to second degree and the inmate was sentenced to 15 years to life in state prison. The court did not give a reason why he reduced the conviction.

Prior Criminal History and Prison Violations

The inmate also has prior criminal history involving violence, including larceny and aggravated assault for stealing a bike and knocking a campus security guard down when the victim tried to stop him.

He has a DUI conviction from 1980, a significant history of drug usage beginning at the age of

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17, and has admitted to selling drugs. The inmate has also admitted to serving alcohol to minors during the 4-year period he owned Ziggy's Disco.

The inmate has received three CDC 115 violations thus far during his incarceration, two of which were serious and demonstrate an attitude on the part of the inmate that he will do whatever suits him in defiance of the rules. The first violation in 1988 was for calls and passes; the inmate was warned and reprimanded. The second and more serious violation occurred in 1995 as the result of engaging in over-familiarity with a female staff member, resulting in the transfer of the inmate to a different prison. When questioned about this incident, the inmate downplayed the contact and did not appreciate the seriousness of the situation nor the difficult position in which he put the staff member.

Shortly after being transferred, the inmate engaged in the running of an extensive bookmaking operation in late 1996. The inmate was observed with gambling slips, notes including spread sheets and fantasy football documentation, along with 689 packets of cigarettes worth approximately \$1,621. Once again, the inmate downplayed the incident and tried to justify it by claiming he was allowed to bring with him just over 300 cigarettes from the prior prison from which he was transferred. He failed to explain the remaining 300-plus cigarettes that he had in his possession, along with the other items of gambling paraphernalia. He also failed to address or see a connection between this behavior and his history as a compulsive gambler, which caused him to abruptly leave his family and home state without telling anyone, including his family.

Psychological Evaluations of Inmate's Lack of Remorse and Understanding of his Crimes

The inmate's claim that he is remorseful is contrived and glib. In the majority of the inmate's discussions, both with panels and psychologists, he rarely refers to the victim by her name, instead preferring to keep her anonymous so as not to conjure up an image of her or to prevent her from being discussed as a real human being. The inmate continues under the misguided impression and belief that, by following the rules in prison, he is somehow atoning for his behavior and demonstrating remorse. This erroneous belief lends to the insincerity of his remorse.

The inmate's conduct and interaction with the California Department of Corrections of Rehabilitation, Board of Prison Terms (Board) at his 2007 hearing is a striking example of his inability to control his demeanor and behavior. At that hearing, the inmate indicated he wanted to represent himself. The Board proceeded to question him regarding his understanding of his rights and the hearing process to determine if he could represent himself. During the questioning, the inmate became increasingly hostile and instead of answering the Board's questions, began demanding that the Board members answer his questions. After the inmate was told he was being disruptive, the inmate continued to cut off the Board members and demanded answers to his questions. He then proceeded to challenge the Board members and "bet" them that they couldn't list the rights without looking at them. At the subsequent hearing in 2008, the inmate denied he was disrespectful, disruptive or hostile, in spite of all evidence to the contrary in the record.

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In his latest Life Prisoner Evaluation report, Eccher indicated his comments remain the same as last year's report, dated April 30, 2010. In that statement, the inmate submitted only one line, stating he was "sorry and remorseful" for his crime. This pat response, devoid of any depth or analysis, continues to show his lack of reflection and true remorse.

Instead of accepting full responsibility for what he did, he continues to blame the entire incident on drugs and fails to address the real source of his anger and brutality. The inmate does not explain the contradiction between his claims that he acted irrationally in killing Lando due to being under the influence of the drugs, yet somehow he was able to "miraculously" recover his faculties in order to grab Lando's purse, all of the money and drugs in the house, along with Lando's car and flee to Mexico.

In his latest psychological assessment interview, the inmate again refused to speak about any relevant aspects of his case. As such, evaluators have been left for the past two years to rely strictly on previous reports from earlier evaluations. As a result, they could not provide any meaningful information regarding the inmate's current insight, current self-assessment, understanding of the life of crime and current insight into the crime, and his current lack of remorse. Due to that lack of information, Dr. Kurt Kuekes' current assessment for risk of violence, like that of his predecessor Dr. Julie Olson's, should carry little weight since it is utilizing scores and information which are not current. Dr. Olson herself cautioned in her report that her risk estimates should be reviewed with the caveat that Eccher refused to be interviewed and thus left her with a void with regard to current information.

Based on his review of the information, Dr. Kuekes repeated Dr. Olson's diagnosis of the inmate, which included four different Axis I diagnoses, three involving drugs and the other being Adult Antisocial Behavior. As a basis for the latter diagnosis, Dr. Olson found the inmate exhibited an inability to accept social norms with respect to lawful behavior, exhibited aggressive and impulsive behavior, deception, manipulation, drug use, and opportunistic behaviors as an adult. The three CDC 115 violations that the inmate has received since being incarcerated in prison factored into that diagnosis.

Notably, Dr. Kuekes indicated he was unable to assess several important areas, which could have a significant impact on the inmate's ability to maintain or decrease his risk of violence, given the inmate's refusal to be evaluated. Given that, Dr. Kuekes' opinion in any of these areas is simply based on speculation and should not be given any weight.

While the inmate continues to assert his right to refuse to speak to anyone regarding these important issues, including the commissioners and psychologists, it leaves unaddressed areas such as his lack of insight or acceptance of responsibility for his actions. It was this that led Governor Arnold Schwarzenegger to reverse the Board's 2010 decision to grant the inmate parole.

It should also be noted that at the 2010 hearing where the inmate was granted a parole date,

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the Board was erroneously constrained by the court and ordered to restrict their review of material pertaining to whether or not the inmate presented a current danger to society to only new or undiscovered evidence since the previous hearing in July 2009. The California Supreme Court subsequently rejected that limitation on the Board's consideration and found it was improper, as it infringed on the Board's discretion to make parole decisions on the basis of all relevant information. (*In re Prather* (2010) 50 Cal.4th 238, 255.) Given that infringement on the Board's discretion, this matter should be sent back to the Board to have a full and complete hearing, wherein they can consider all of the relevant information and not just that involving a one-year time period.

The inmate had the tools to succeed, including a high school diploma and two years of college, before first going to prison. Instead, he made the choice to engage in criminal behavior not just once, but time and time again. The inmate repeated that history during his first decade in prison by not following the rules and engaging in unacceptable behavior while in a confined prison setting. Considering Eccher's history, any gains he has made in the last ten years is long overdue and the inmate needs additional time to maintain those gains over the long haul.

Victim Impact Statements per Marsy's Law

The victim's next of kin are adamantly opposed to the release of the inmate because they share the Office's position that the inmate continues to pose a substantial danger to society. Lando's family described the victim as a beautiful strawberry blonde with an infectious laugh. Due to the savage way in which the inmate took Lando's life by strangulation and drowning, the family couldn't even see her beautiful face one last time at the funeral since her body was in horrible condition. They discussed the pain and heartache they suffer to this day by not being able to see her again. Lando's murder has changed their lives forever. Knowing that the monster who killed their daughter is alive while Lando lays under a tombstone, never being able to talk or laugh again, is beyond painful. The inmate murdered Lando and if the inmate is paroled, Lando will die again.

Conclusion and Prayer

All of the above listed factors contribute to the determination that the inmate continues to present a current and substantial risk of danger to society. The inmate overreacted in the situation with Lando and savagely took the life of another human being. The inmate has a significant drug use history. The inmate has a prior criminal history and has not been able to remain free of serious violations, even in a controlled environment.

The inmate continues to minimize his crime and has not developed the appropriate insight as to why he committed such a brutal and callous murder. Given the trivial reasons for its occurrence and lack of full acceptance of his actions by the inmate, and bouts of anger could result in new violence. It is clear from the inmate's hostile and aggressive reaction to the Board at the 2007 hearing when they questioned him regarding his ability to represent himself that, as recent as four years ago, the inmate couldn't even control his anger in front of the body that would determine whether or not he received a parole date. True to form, at his subsequent parole hearing following that outburst, he minimized his behavior and denied he had been disrespectful

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or that he had argued with the previous panel. This demonstrable inability to control his emotions, as well as his propensity to deny and or minimize such conduct, shows that Eccher continues to present a serious danger to society.

We urge you to take all of this into consideration and find the inmate remains unsuitable for parole.

Yours truly,

A handwritten signature in blue ink that reads "Tony Rackauckas". The signature is written in a cursive style with a prominent horizontal line above the first name.

Tony Rackauckas
District Attorney
County of Orange

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