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9
10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
11 **COUNTY OF LOS ANGELES**

12 THE PEOPLE
13 OF THE STATE OF CALIFORNIA,

14 Plaintiff

15 v.

16 SIRHAN BASHARA SIRHAN,

17 Defendant

Case No. A233421

**SENTENCING MEMORANDUM
AND STATEMENT IN
MITIGATION; EXHIBITS IN
SUPPORT THEREOF**


DATE: 06-23-2021
TIME: 8:30 a.m.
DEPT.: 56W

18 On *Franklin* Proceedings.

19 TO ALL INTERESTED PARTIES:

20 Defendant Sirhan Bashara Sirhan (hereinafter "Defendant" or "Mr. Sirhan", or simply
21 "Sirhan") presents the following youthful offender information and mitigation evidence
22 pursuant to *People v. Franklin* (2016) 63 Cal.4th 261.

23 Dated: June 11, 2021

24 
25 _____
26 Angela Berry,
27 Attorney for Petitioner
28 Sirhan B. Sirhan

1 INTRODUCTION

2 In 1969, Defendant Sirhan Bashara Sirhan was sentenced to a term of life for first
3 degree murder. He was additionally sentenced to five 6-months-to-14-year-terms for assault
4 with intent to murder when five other people were struck with bullets from the gun Mr. Sirhan
5 possessed at the time of the murder. All sentences were ordered to run concurrently. He was
6 24 years old at the time of the crimes; an age the law now refers to as a “youthful offender”.
7 Defendant was eligible for parole on May 30, 1975. He has served 53 years for his crimes
8 thus far.

9 At the time that Mr. Sirhan was sentenced, courts did not distinguish between younger
10 and older offenders for purposes of sentencing. However, over the last several decades, the
11 American legal system has evolved in its treatment of criminal culpability and punishment as
12 it pertains to youth. Starting in 2005, the U.S. Supreme Court ruled that capital punishment
13 was unconstitutional for anyone under 18-years old. Then, the Supreme Court ruled in
14 *Graham v. Florida* (2010) 560 U.S. 48 that the 8th Amendment prohibits sentences of Life
15 Without the Possibility of Parole (LWOP) for juveniles committing non-homicide offenses.
16 Thereafter, came *Miller v. Alabama* (2012) 567 U.S. 460, where again the Supreme Court
17 declared that juveniles should be treated differently than their adult counterparts. In *Miller*,
18 the Court ruled that any state’s law that automatically imposes a sentence of LWOP for
19 persons whose crimes were committed while under the age of 18 is unconstitutional. Then in
20 *People v. Caballero* (2012) 55 Cal.4th 262, the California Supreme Court ruled that the Eight
21 Amendment’s prohibition of life-without-parole sentences for all juvenile non-homicide
22 offenders as established in *Graham* also applied to sentences that were the functional
23 equivalent of a life-without-parole sentence. *Caballero*, however, failed to define what it
24 meant by a sentence that was the functional equivalent of life without parole.

24 All the aforementioned change was a result of the Highest Court’s conclusion that
25 youth are “constitutionally differentfor purposes of sentencing’ for several reasons based
26 ‘not only on common sense – on what “any parent knows” – but on science and social science
27 as well.’ (*Miller, supra*, 567 U.S. at 479.” (*People v. Franklin* (2016) 63 Cal.4th 261, 274.)

28 With the ground-breaking neuro-science discoveries over the years, including the
finding that the human brain is not fully developed until it is in its mid-twenties, California has

1 further evolved its way of thinking regarding younger offenders. For instance, prosecutors no
2 longer enjoy the discretion to file charges against juveniles directly in courts of adult
3 jurisdiction. Every case involving a juvenile defendant must now be filed in the juvenile
4 court.¹ (Proposition 57; Welf & Insts. Code section 707.) Moreover, in 2018, the California
5 passed legislation that forbids 14 and 15-year-olds from being tried in adult court. (SB 1391)

6 Senate Bill 260 was also passed. It added Penal Code section 3051, section 3046,
7 subsec. (c) and section 4801, subsec. (c). These code sections were created to reflect society's
8 increased knowledge and awareness of how youths' minds think and process information and
9 accordingly how they act differently and are therefore less culpable than their older
10 counterparts. The enactments provide youthful offenders who are serving life sentences that
11 are less than 25-years-to-life, like Defendant, for the possibility of release after 20 years of
12 imprisonment (Section 3051, subd. (b)(2)) and require the Board of Parole Hearings ("The
13 Board") to give "great weight" to the diminished culpability and the hallmark features of
14 youth, and any subsequent growth and increased maturity. (Section 4801, subd. c.)²

15 *Franklin, supra*, 63 Cal.4th 261 then ruled that youthful offenders subjected to life in
16 prison or the functional equivalent of a life sentence who did not have the opportunity to
17 present mitigating evidence pertaining to youth at the time of sentencing be afforded such
18 opportunity now. The California Supreme Court stated:

19 [The youthful offender] may place on the record any documents, evaluations,
20 or testimony (subject to cross-examination) that may be relevant at his
21 eventual your offender parole hearing, and the prosecution likewise may
22 put on the record any evidence that demonstrates the juvenile offenders'
23 culpability or cognitive maturity, or otherwise bears on the influence of
24 youth-related factors The goal of any such proceeding is to provide an
25 opportunity for the parties to make an accurate record of the juvenile
26 offender's characteristics and circumstances at the time of the offense so

24 ¹ The law now provides the prosecution with a mechanism to request that the case be
25 transferred to a court of adult jurisdiction with a judge making the final decision. (Proposition
26 57, WIC § 707.)

27 ² In 2018, Governor Brown took the neuro-science findings further, when he signed the
28 amendments to Penal Code sections 3051 and 4801. (AB 1308). These changes now require
courts and the Board to apply the foregoing youthful offender mitigators to all offenders
whose "life crimes" (crimes committed that have a potential of a life sentence or the functional
equivalent thereof) were committed before they attained the age of 26.

1 that the Board, years later, may properly discharge its obligations to ‘give
2 great weight to’ youth-related factors (citation omitted) in determining
3 whether the offender is ‘fit to rejoin society’ despite having committed a
4 serious crime ‘while he was a child in the eyes of the law.’ (*Graham*,
supra, 560 U.S. at p. 79).”

5 (*Franklin, supra*, 63 Cal.4th at 284.)

6 The new law “requires the Board not just to consider *but to give great weight* to the
7 diminished culpability of [younger counterparts to adults]. . . , the hallmark features of youth,
8 and any subsequent growth and increased maturity of the prisoner in accordance with relevant
9 case law. (§4801, subd. (c).) (emphasis added).” (*Id.*, at 277.) Senate Bill 260 is “designed to
10 ensure [youthful offenders] will have a meaningful opportunity for release no more than 25
11 years³ into their incarceration.” (*Ibid.*)

12 As previously stated, this evolution in jurisprudence has been informed by neuroscience
13 and adolescent development research which makes clear that younger offenders are less
14 culpable and have a distinctive capacity for rehabilitation. In short “youth matters” in
15 sentencing.

16 Mr. Sirhan, now 77 years old, was a mere 24-year-old when he committed his life
17 crime in 1969, and he has been incarcerated for his life crime for over half a century. When he
18 was sentenced he was not afforded an adequate opportunity to present mitigating factors of
19 youth to the sentencing court because the law at the time did not so allow. And even though
20 he presented evidence of his childhood trauma at the time of his trial, his counsel was not
21 clairvoyant to know that 40-plus years later, legislation would make such evidence particularly
22 relevant in the parole process. Nor could defense counsel have predicted how neuro-science
23 findings would inform society of how childhood trauma and experiences mitigate culpability.
24 “Without such notice, any opportunity to introduce evidence of youth-related factors is not
25 adequate... .” *In re Cook* (2019) 7 Cal. 5th 439, 450.) Therefore, the evidence of Sirhan’s

26
27 ³ Pen. Code § 3051 creates a tiered time frame for consideration for release. Those serving
28 determinate sentences receive an opportunity for release after the service of 15 years. Those,
like Sirhan, who are serving indeterminate life sentences of less than 25-years-to-life receive
their opportunity for release after service of 20 years. And those serving 25-years-to-life get
their opportunity for release after service of 25 years. (See P.C. §3051(b).)

1 particularized experiences, combined with the hallmark features of youth, should be viewed
2 through the lens of what we now know about the human brain, not what we thought we knew
3 over 50 years ago. Mr. Sirhan now presents youth-related mitigating evidence in this new
4 light and through this new informed lens; evidence this Board is mandated to consider. (Pen.
5 Code §§ 4801 and 3051.)

6 7 **STATEMENT OF FACTS**

8 **A. SOCIAL HISTORY**

9 Sirhan's social history, as recited herein, is gleaned from his account, the accounts of
10 his family members, including his mother Mary (Trial Transcripts, Vol 16, commencing on p.
11 4663) and brother Adel (Trial Transcripts, Vol 17, commencing at p. 4748), his childhood
12 friend Ziad Hashimeh (Trial Transcripts, Vol. 16, commencing on page 4591), and from the
13 recent extensive interviews of Mr. Sirhan, conducted by his counsel and Dr. Megan
14 Williamson. Dr. Williamson's report is in Declaration form, is incorporated herein, attached
15 as Exhibit A.

16 Sirhan was born on March 19, 1944 in Jerusalem. He was one of six children born into
17 an intact family. Given the length of his incarceration to date (over 53 years), Sirhan's parents
18 and all but one brother are deceased.

19 Sirhan had a close-knit family, but the environment in which he spent his formative
20 years was inundated with violence, as warring ethnicities and cultures fought for the land upon
21 which his family and 280,000 to 325,000 other Palestinians lived. The Israelites captured the
22 territory.⁴ Mary Sirhan, Mr. Sirhan's mother, described the land as that lived on by her family
23 for thousands of years before they were forced to leave. (Mary Sirhan Trial Testimony, Vol.
24 16, commencing on page 4663.)

25 Before the Zionists came through to take the land, forcing his family to move, Sirhan's
26 assessment of his childhood is pleasant. He has fond memories of his early childhood in New
27 Jerusalem. His mother would bring home watermelon from the market and cool it on the tile

28 ⁴ In the end, the Zionist occupation led to the demolition of over 400 Arab villages.
(https://en.wikipedia.org/wiki/1967_Palestinian_exodus)

1 floors of their comfortable and fully furnished 3-bedroom home. The area was quiet and less
2 populated than the Old City where they were forced to go. Sirhan remembers the only noise
3 he could hear on the streets was the “whistle of the railroad.” (Interview of Sirhan by present
4 counsel on 10-26-2020.)

5 Sirhan’s father, who had worked for the British government, lost his job when the
6 British withdrew from the region. His father became less loving and patient, and more
7 stressed and stern. Sirhan relayed that “They say he [his father] was an angry man, but living
8 under those conditions and frustrations—it seems understandable if not acceptable because of
9 what stresses he was under.” (Interview of Sirhan by present counsel on 10-26-2020.)

10 Sirhan became a refugee at 4 when his parents pursued an escape from the violence.
11 They moved to the Old City into a 900-year-old building that they shared with anywhere from
12 9 to 11 other families. The Muslims and Christians lived together; their commonality was that
13 they were Arab. They had no running water or electricity. A piece of sheet metal and dirty
14 clothes acted as a mattress. All the families shared one hole in the ground that functioned as
15 the toilet. The family relied on flour, beans and oil that was provided by the United Nations.
16 (Trial testimony Mary and Ziad.)

17 Sirhan’s childhood friend Ziad Heshimah testified that young Sirhan acted as his
18 personal moral compass. For instance, Ziad explained how one day he sought to steal some
19 ice cream from the ice cream man, but Sirhan stopped him. Sirhan lectured him, reminding
20 him that they should all treat each other with kindness. Sirhan pointed out that the man
21 worked hard for what he had and therefore he shouldn’t be cheated. Sirhan also suggested that
22 Ziad accompany him to Sunday church service where Sirhan’s mother taught. Sirhan
23 explained to him that even though Ziad was Muslim and he himself was Christian, his
24 mother’s teachings were about God, not religion, so there was something for everyone, even if
25 they subscribed to different religions. (Ziad Heshimeh Trial Testimony, Vol. 16)

26 Before emigrating to the United States when he was approximately 11 years old, Sirhan
27 witnessed atrocities most of us only see in movies or in our worst nightmares. According to
28 Sirhan, there was constant bombing over Old Jerusalem. Sirhan’s apartment complex was
never bombed, but when the explosions started, his mother would stuff cotton balls in the

1 children's ears to filter the noise and carry them to the basement to hide. Sirhan doesn't
2 remember if he could see damage from his home, but there were often all sorts of wreckage
3 throughout the community, such as fractured stones and curbs. (Mr. Sirhan's Interview of 10-
4 26-2020.) Mary, Sirhan's mother, described the violence, death and destruction to which
5 Sirhan was exposed. One day while fetching water from a nearby well, a severed arm arose
6 from the water's depths. On another occasion, he was walking with his older brother Munir
7 when suddenly Munir was run over by a speeding army truck that swerved to avoid Israeli
8 gunfire. On yet another occasion as a young boy, he walked over to his neighbor, whom he
9 believed to be sleeping by the fence near their home. When he got closer, Sirhan discovered
10 to his horror that the neighbor was not at all resting – he was dead, bloodied, and shot up. His
11 mother described another occasion, where little Sirhan told her that he had seen pieces of the
12 body of the neighborhood grocer whose shop had been bombed. (Mary Sirhan Testimony,
13 Vol. 16, commencing at p. 4663.) When not affected by the violence around him, Sirhan
14 reports that his days were filled with school at a Lutheran Church (7am to 4pm). He played
15 chess and did lots of homework. (Mr. Sirhan Interview of 10-26-2020.)

16 Sirhan's mother described how Sirhan would stay in bed for days after witnessing such
17 death and destruction. Mary and Sirhan's brother Adel both described that during bombings,
18 young Sirhan would stand motionless with his fists clenched and an agonized facial
19 expression. Mary explained that Sirhan developed a genuine fear of the "Zionists" as a result
20 of his experiences.

21 His family was eventually sponsored, and in 1956 they emigrated to the United States.
22 They settled in Pasadena where Sirhan went to school. He graduated from high school in 1963
23 and attended Pasadena City College for a couple of years. But then his sister contracted
24 leukemia and Sirhan opted to act as her caretaker. His attendance at school became sporadic
25 and he was asked to leave the school when Aida succumbed to her illness and died. Sirhan
26 then worked myriad part-time jobs that included working as a stable boy and training to
27 become a horse jockey. A head injury resulting from a fall from a horse ended his pursuit of
28 jockeying.

1968, the year he committed his life crime, Sirhan was just 24 years old and trying to
figure his life out: He had a demoralizing childhood in Palestine during the ethnic strife that

1 turned him into a refugee over night when Israel conquered the land on which his family had
2 lived for dozens of generations. He describes the feeling as a “phenomenon that preoccupied
3 the whole psyche of the whole population. We weren’t in control of our own affairs and our
4 own lives.” (See Dr. Williamson’s Report, Ex. A, page 5.) Additionally, he was grappling
5 with the enormity of moving to another part of the planet to escape the violence and cultural
6 hatred he and his family had experienced in the Middle East. While he currently denies a
7 feeling discrimination as a child in the U.S., Dr. Williamson notes that he had told a previous
8 psychological evaluator that he had felt socially isolated and mainly identified with minority
9 students because of the persecution and discrimination he faced. (See *Ibid.*) Moreover, his
10 sister had survived the atrocities of the Middle East, only to then die of cancer as a young
11 woman. Then, his dreams of becoming a jockey were crushed when he had his accident with a
12 horse. On top of all of that came the very public political support for Israel in the mid- to late-
13 1960’s, a support that youthful Sirhan could not come to terms with, given his, his family’s,
14 and his countrymen’s fate in Palestine at the hands of the Zionists.⁵ According to Dr.
15 Williamson, records revealed that when Sirhan would hear broadcasts about the Arab-Israeli
16 conflict, “he would enter a dissociative state similar to during the bombings in childhood.
17 Sirhan’s fists would clench, his face frozen in a rageful expression, his eyes would tear up, and
18 he would be unresponsive to questions.” (Ex. A, Dr. Williamson’s Report, p. 6.) It was during
19 that time, Sirhan committed the act that led to his life sentence.

20 Mr. Sirhan is now a 77-year-old man. His incarceration over the last 53 years has
21 caused him to not only mature chronologically, but emotionally and spiritually. His is
22 rehabilitated. He has been virtually discipline-free, as his last “115” (rules violation charge)
23 was in 1972! He obtained his AA degree at Hartnell College with a 4.0 GPA, earning him the

24 ⁵ In 1971, a United Nations report stated that: "On the basis of the testimony placed before it
25 or obtained by it in the course of its investigations, the Special Committee had been led to
26 conclude that the Government of Israel is deliberately carrying out policies aimed at prevent-
27 ing the population of the occupied territories from returning to their homes and forcing
28 those who are in their homes in the occupied territories to leave, either by direct means such as
deportation or indirectly by attempts at undermining their morale or through the offer of
special inducements, all with the ultimate object of annexing and settling the occupied
territories. *The Special Committee considers the acts of the Government of Israel in further-
ance of these policies to be the most serious violation of human rights that has come to
its attention.*" (emphasis added.) (https://en.wikipedia.org/wiki/1967_Palestinian_exodus)

1 distinguished recognition of President's Award. Additionally, he has taken many other
2 academic and self-improvement courses. Description of his Institutional Behavior and
3 Education are more fully developed below and in Dr. Williamson's report, attached as Exhibit
4 A.)

5 6 **B. FACTS OF CRIME**

7 The "facts" are recited in the California Supreme Court opinion, cited as *People v.*
8 *Sirhan* (1972) 7 Cal.3d 710. Additionally, those same facts have been recited in each of Mr.
9 Sirhan's 15 prior parole hearings.

10 11 **C. EDUCATION**

12 Sirhan graduated from John Muir High School in Pasadena, California in 1963. He
13 took courses thereafter at Pasadena City College. While in custody, Sirhan has earned his AA
14 degree with a G.P.A. of 4.0, which earned him the distinguished recognition on the President's
15 List at Hartnell College. He has taken many other academic courses and self-help, life-skills,
16 and trade school courses, including courses in accounting, psychology, constitutional rights,
17 communication between the mind and body. (See for example, 1986 Parole Hearing, pp. 32-
18 35 where the Board recognizes his educational achievements up to that point.)

19 Over the years, Sirhan has regularly attended AA meetings. In fact, he acted as the
20 chair of his AA group for over a year and a half. He was commended for his attitude and
21 assistance in facilitating positive group meetings and for attending every single meeting.

22 23 **D. VIABLE PLANS UPON RELEASE**

24 Mr. Sirhan intends on living with his brother Munir in the L.A. area if paroled in Los
25 Angeles County and not deported to Jordan. He is a Jordanian passport holder. And while it
26 is unknown whether any employer would hire a 78-year-old man, like Mr. Sirhan, he need not
27 work because Munir and he can live on Munir's retirement income. Munir owns his home
28 outright with no mortgage payments. (It is believed that Munir wrote a letter directly to the
Parole Board regarding this fact in anticipation of the upcoming parole hearing.) Munir suffers
from vision problems and Sirhan plans on taking care of his brother. He and Munir just want

1 to live out their remaining years obscurely and privately. Munir's neighbors support Munir's
2 dedication to assisting Sirhan in acclimating to civilian society and they have no objection to
3 him living among them. (See letters from neighbors, attached as Exhibit B.) Additionally, Mr.
4 Paul Schrade, a victim of the shooting, has offered his emotional support and friendship to
5 Sirhan and has stated so in a video-recorded statement he has prepared for the Board. Present
6 counsel believes that Mr. Schrade's statement has been forwarded to the Board by his counsel
7 for the upcoming parole hearing.

8 **E. PROOF OF REHABILITATION/MATURATION**

9 It should be noted that CDCR had kept Mr. Sirhan in protective custody on its own
10 accord for the vast majority of Sirhan's incarceration, despite written requests from Mr. Sirhan
11 as early as 1988. (See 1994 Parole Hearing, for reference. Mr. Sirhan requested general
12 population status so that he could engage in more programming.) The decision was
13 purportedly made out of concern for Mr. Sirhan's safety, given the notoriety of the case. This
14 status drastically limited Mr. Sirhan's ability to program and obtain education and marketable
15 skills. Yet, despite (or in spite of) that, Mr. Sirhan has engaged in a significant amount of
16 programming that demonstrates his rehabilitation. He has also engaged in AAs, other
17 substance abuse counseling, and psychological counseling, which also demonstrate his
18 rehabilitation.

19 First of all, it is important to stress that Mr. Sirhan has been discipline-free without a
20 "115 Write-Up" (Serious Rules Violation) in 49 years – since 1972! He has had a
21 classification score of 0. He is continuously commended for his courteous and respectful
22 behavior towards authority figures and other prisoners. (See for example 1986 Parole Hearing,
23 p. 20. There are many others that previous Parole Boards have recognized.)

24 He has worked as a yard attendant, janitor, clerk, and food server. His CDCR records
25 note that he is a reliable, productive, excellent worker. (1986 Parole Hearing, p. 20, for
26 example.)

27 Psychological Counseling and Self-improvement Courses

28 It was recommended by Dr. Drye, one of CDCR's doctors in 1986, that Sirhan should
be considered for release after completing psychiatric counseling program (Category X). He

1 completed it in 1990. Sirhan has previously explained to the Board that the program taught
2 him about his precursors and antecedents that led up to the commission of the crime. He
3 explains that the Arab/Israeli conflict is no longer his focus in life and he has learned to not
4 make things he cannot control his business. (See 1990 Parole Board Hearing, p. 72.)
5 According to Dr. Farr in his 2-21-1990 report, Sirhan is “open to giving causative reasons
6 leading up to the murder.” (See 1990 Parole Hearing, p. 52.) Additionally, Dr. Martin, whose
7 assessment the 1994 Board believed was the most comprehensive report to date, opined:
8 “[Sirhan] seems fairly clear on the causative factors of his crime.” (1994 Parole Hearing, pp.
9 21-22.)

10 Sirhan has actively participated in AA meetings. He has received positive chronos that
11 commend him for acting as the group’s chairman, being an inspiration to others, and for
12 attending every meeting. In his 1990 Parole Hearing, Mr. Sirhan explained to the Board that
13 the meetings have expanded his awareness of the evils of alcohol consumption. (1990 Parole
14 Hearing, p. 16, p. 28)

14 Remorse

15 Sirhan expresses remorse for his actions. For instance in his 1989 Parole Hearing
16 testimony, Sirhan stated: “...[T]he more I think about it now, or in the last few years, the
17 more I realize, not just for myself, But towards the loss and suffering and the pain towards,
18 that Kennedy family had to undergo. . . . I have feelings of shame and inward guilt. ...it is
19 really a haunting experience and I honestly feel the pain that they may have gone through.”
20 (See 1989 Parole Hearing, pp. 130-131.) According to Dr. Farr in his February 21, 1990
21 report, Sirhan expressed extreme remorse. (See 1990 Parole Hearing p. 52.) Moreover, Victim
22 Paul Schrade and next of kin Robert Kennedy Jr. have both met with Sirhan. He has
23 expressed his remorse to them and they have offered him their forgiveness for his actions.
24 Current counsel has been in contact with both Mr. Schrade and Robert Kennedy Jr. and both
25 have confirmed the above. Current counsel believes Mr. Schrade will testify at the upcoming
26 parole hearing and request Mr. Sirhan’s release. It should also be noted that the late victim
27 William Weisel, a journalist who was shot in the abdomen that same night, also supported Mr.
28

1 Sirhan's release.⁶ He told CNN on March 2, 2011:

2 "I'm advised that two reputable psychologists, one representing the state of
3 California and the other from Harvard University, have concluded, after
4 examining him -- Sirhan Sirhan -- that if he is granted parole, he would not
5 be a threat to himself and others and the community at large. If this is a fact
6 and the board is inclined to grant him parole after him being in prison for nearly
7 43 years, I would not be opposed to the decision."

8 <http://edition.cnn.com/2011/CRIME/03/01/california.sirhan.p parole.hearing/index.html>

9 Prior Risk Assessments

10 Mr. Sirhan consistently receives favorable risk assessment reports. In 1985, Dr. C.
11 Thompson wrote that there was "little evidence [Sirhan] would ever again attempt to take a
12 life in anger." (1985 Parole Hearing, p. 135.) Dr. Pollack wrote at about the same time that
13 since the crime was politically motivated, the risk of choosing another victim is very remote.
14 (*Id.*, at p. 140.) Dr. Hicks wrote contemporaneously that there was "no demonstrable
15 predilection toward violence at this time." (*Id.*, at p. 145.) Dr. Drye, in his December 23, 1986
16 report, writes:

17 "I believe that this man has made a considerable personal change as well as getting
18 out of the matrix of the Palestinian liberation type thinking; if he can arrange some
19 life of his own, including marriage, he would like to do this. Since he has no other
20 reason for killing, except political, and this no longer interests him, I believe he is
21 accurate in his assessment, his violence potential is very low."

22 "I would also comment that many of his outbursts -particularly when he was at San
23 Quentin, would seem much more normal if seen in the context of an ordinary Arab
24 behavior. There are very few Arabs in our prison system, and what I think would
25 be seen in an Arab community is only one more form of excitement. It looks more
26 bizarre to us."

27 (See 1987 Parole Hearing, pp. 95-96.) Dr. Martin opined that Sirhan's potential for violence
28 out in society is less than that of the average inmate. (See 1994 Parole Hearing, p. 22.) In his
29 psychological evaluation of February 18, 1986, Dr. Hicks stated:

30 "[Sirhan] appears to be genuinely rehabilitated, since incarceration and
31 demonstrates no evidence of current fanaticism or proness [sic] towards
32 violence. He appears to be an excellent candidate for parole, and there is
33 no psychiatric contraindication to it."

34 ⁶ Mr. Weisel died on April 29, 2019.

1 (See 1986 Parole Hearing, p. 24.) His most recent 2010 Risk Assessments from 2010 (Dr.
2 Carrera), 2015 (Dr. Sahni) and 2021 (Drs. Cirimele and Kozel) all found Mr. Sirhan to be at
3 low risk for future violence. (See Comprehensive Risk Assessment of 1/25/21, p. 4 and 10.)

4 ARGUMENT

5 THE MILLER/GUTIERREZ FACTORS, WHICH MUST BE CONSIDERED, 6 SUPPORT SIRHAN'S RELEASE

7 As previously stated, this Board is mandated "to give great weight to the diminished
8 culpability of [youthful offenders]. . . , the hallmark features of youth, and any subsequent
9 growth and increased maturity of the prisoner in accordance with relevant case law. (§4801,
10 subd. (c).)" (*Franklin, supra*, 63 Cal.4th at 277.) Per California statutory law, Mr. Sirhan is a
11 youthful offender. (Pen. Code sections 3051 and 4801; AB 1308).

12 In *People v. Gutierrez* (2014) 58 Cal.4th 1354, the California Supreme Court outlined
13 mitigating factors a judge must consider in sentencing a youth offender. The same principles
14 should guide the Board's parole consideration. Among the considerations are 1) the offender's
15 youth and its hallmark features, i.e., immaturity, impetuosity and failure to appreciate risks and
16 consequences; 2) his family and home life from which he cannot usually extricate himself – no
17 matter how brutal or dysfunctional; 3) the possibility of rehabilitation. (*Id.*, at 1388-1389;
18 *Miller, supra*, 567 U.S. at 479.)

19 1. Sirhan was a mere 24-year-old at the Time of his Crime. His Brain was not 20 Fully Developed. His Youth and its Hallmark Features Make Him Less 21 Culpable than others who Commit these Crimes.

22 a) Sirhan Failed to Make Mature, Reasoned Decisions Because of his Age

23 A court and/or the Parole Board must consider the offender's youth and its hallmark
24 features, i.e., immaturity, impetuosity, and failure to appreciate risks and consequences.

25 (*Gutierrez, supra*, 58 Cal.4th at 1388-1389; see also *Miller, supra*, 132 S. Ct. at 2468.)

26 Neuro-science findings are irrefutable that young human brains are dramatically
27 different than adult brains. The scientific findings tell us that the human brain does not stop
28 developing and maturing until the subject reaches the age of 25 or 26. (See Dr. Williamson's
Report, p. 15.) Youth are also particularly vulnerable to negative peer pressure. (See e.g.

1 *Graham, supra*, 130 S. Ct. at 2026.) This is true not only for the child who seemingly gets in
2 trouble a lot, but for every young person. Based on the undisputed findings on the developing
3 mind, the U.S. Supreme Court has recognized:

4 [C]hildren have a “lack of maturity and an underdeveloped sense of
responsibility,” leading to recklessness, impulsivity and heedless risk-taking. .
5 . . [C]hildren “are more vulnerable . . . to negative influences and outside
6 pressures”, including from their family and peers; they have little “contro[I]
over their own environment” and lack the ability to extricate themselves
7 from horrific, crime-producing settings. . . . [A] child’s character is not as
“well formed” as an adult’s; his traits are “less fixed” and his actions less
8 likely to be “evidence of irretrievabl[e] deprav[ity].”

9 (*Miller, supra*, 567 U.S. at p. 471. *Franklin*, quoting *Miller* stated:

10
11 These “distinctive attributes of youth diminish the penological justifi-
cations for imposing the harshest sentences on juvenile offenders, even
12 when they commit terrible crimes. Because ‘[t]he heart of the retribution
rationale’ relates to an offender’s blameworthiness, ‘the case for retribution
13 is not as strong with a minor as with an adult. . . . Nor can deterrence do the
work in this context, because ‘the same characteristics that render juveniles
14 less culpable than adults’ –their immaturity, recklessness, and impetuosity –
15 make them less likely to consider potential punishment. . . .”

16 (*Franklin, supra*, at 274.) Such strong and definitive language from the U.S. Supreme Court
17 and the California Supreme, combined with conclusive neuro-science findings that the mind is
18 still developing until the age of 25 or 26, caused California to now mandate that the same
19 attributes the Courts in *Miller* and *Franklin* considered for juveniles now apply to everyone
20 committing their crimes before their 26th birthdays.

21 Dr. Williamson in her Evaluation Report and Declaration, attached hereto and
22 incorporated herein as Exhibit “A”, states that the pre-frontal lobe of the brain is the “last area
23 to mature”; it is still developing up until the age of 25 or 26 years old. (Ex. A, page 15.) Dr.
24 Williamson explains that the pre-frontal lobe is “responsible for impulse control and
25 organization of emotional reactions, long- term and complex planning, focusing and
26 organizing attention, and reward response.” (Dr. Williams Report, Ex. A, p. 15.) Sirhan was
27 24 years old when he committed his life crimes. Therefore, he operated with less than a fully
28 developed pre-frontal lobe and with the deficits in human behavior such under-development
causes.

1 It is interesting to note that around 13 years after his crime, Mr. Sirhan provided insight
2 into his state of mind at the time of the crimes that completely aligns with what we now call
3 “youth mitigation”. For instance, in both his 1985 and 1986 parole hearings Mr. Sirhan
4 articulated that he was young and wild at the time of the crime, but that he has subsequently
5 matured. He explained that whatever motivated him to react the way he did on that fateful
6 night in 1968 would never happen again. (Parole Hearing 1985 pp. 59-65; Parole Hearing
7 1986, p. 54.) In other words, Mr. Sirhan explained that he reacted to his surroundings with
8 violence partly because of his youth – an explanation articulated decades before the law or
9 science recognized a distinction between the youth and the more mature brain.

10 b) Sirhan’s Traumatic Childhood, Comprised of Home Displacement; Witnessing
11 Bloodied, Shot and Blown-up Bodies and the Death of his Brother Right in Front of
12 Him; Fetching Well-Water and Unwittingly Pulling Up a Severed Arm; and Other
13 Shocking Events, Rendered Sirhan Particularly Immature, which Led to Impulsive
14 and Risky Behavior

15 In past parole hearings where parole was denied, the Board based the decision in part
16 on Sirhan’s unstable childhood. (See for instance the 1985 Hearing p. 234; the 1986 Hearing
17 p. 98; the 1987 Hearing p. 219; the 1989 Hearing p. 179; the 1990 Hearing p. 121-122.) The
18 law however now requires that youth and the individual’s childhood along with his subsequent
19 growth and maturity be considered mitigating evidence, not a reason to deny parole. (Pen.
20 Code §3051, 4801.) This is, again, because of what we now know about the human brain.

21 Research suggests that brain development is significantly impacted by early childhood
22 trauma. In her report, Dr. Williamson opines that Mr. Sirhan suffers from Complex PTSD as a
23 result of his particular childhood experiences. Dr. Williamson explains that symptoms of
24 Complex PTSD include “emotional regulation deficits, relationship difficulties, somatic
25 symptoms, negative self-opinion, attention difficulty, and/or dissociative states, and
26 hopelessness.” (See Ex. A, Dr. Williamson’s Report, p. 14.) She explains that while Sirhan
27 was not living in the war-torn conditions previously described at the time of the offenses, “his
28 trauma symptoms appeared to be triggered by viewing newscasts on the Arab-Israeli war. His
mother and brother recalled him clenching his fists and staring off into space with an
anguished facial expression in the same manner he did in childhood during bombings.” (*Ibid.*)

1 Dr. Williamson explains that dissociative states are commonly associated with Complex PTSD
2 and it disrupts memory, awareness, identity and perception. She also notes that in severe
3 chronic environments, “the dissociation is adaptive because it reduces the unbearable
4 distress.”⁷ (*Ibid.*) She further explains how constant stress can change the brain structurally;
5 specifically, it can reduce the volume of the hippocampus. The hippocampus assists “in
6 distinguishing between past and present memories. Therefore, people with PTSD often lose
7 the ability to discriminate between past and present experiences or correctly interpret
8 environmental contexts.” (*Id.*, at p. 15.) Dr. Williamson further explains that people with
9 PTSD have been found to have a hyperactive amygdala and a less activated prefrontal cortex.
10 “This means that people with PTSD have less control, over-reactive anger, and impulsive
11 behaviors when emotionally triggered.

12 **2. Sirhan’s Inability to Extricate Himself from his Family and Home Life** 13 **Contributed to his Poor Decisions**

14 A court and/or the Board must consider this *Miller/Gutierrez* factor – evidence of the
15 young offender’s family and home environment from which he could not extricate himself,
16 “no matter how brutal or dysfunctional.” (See *Gutierrez*, 58 Cal.4th at 1388.) *Gutierrez* directs
17 a sentencing body to consider relevant “evidence of childhood abuse or neglect, familial drug
18 or alcohol abuse, lack of adequate parenting or education, prior exposure to violence and
19 susceptibility to psychological damage or emotional disturbance.” (*Id.*)

20 In Sirhan’s case, the relevant consideration here is his prior exposure to violence and
21 susceptibility to psychological damage or emotional disturbance”. The law now mandates
22 that instead of using his childhood trauma against him, as was done at Mr. Sirhan’s previous
23 parole hearings (See e.g. 1985 Parole Hearing p. 234; 1986 Parole Hearing p. 98, 1987 Parole
24 Hearing p. 219, 1989 Parole Hearing p. 179; 1990 Parole Hearing pp. 121-122) this evidence
25 *must* be viewed as mitigation and given “great weight” in conjunction with evidence of
26 rehabilitation. (*Gutierrez, supra*; Pen. Code § 3051 and 4801.)

27 ⁷ In other words, the mind goes there reflexively for self-preservation. In Sirhan’s 1987 Parole
28 Hearing, he told the Board that his various doctors over the years had even told him this. He
explained that “subconscious, for its own preservation, that it would block it out – just for the
good health of the organism.” (1987 Parole Hearing, p. 29.)

1
2 **3. Sirhan’s Dramatically Improved Behavior as Demonstrated Over the Last 52**
3 **Years of Imprisonment in State Prison Illustrates that He has Matured and is**
4 **Rehabilitated.**

5 Another factor the sentencing authority must consider is the possibility of re-
6 habilitation. (*Gutierrez, supra*, 58 Cal. 4th at 1388-1389.) Mr. Sirhan has been incarcerated
7 for over ½ a century for his life crime that was committed when he was a youthful offender.
8 Therefore, in the instant matter, the Board need not speculate on the *possibility* of
9 rehabilitation, Mr. Sirhan’s prison files contain over 52 years of demonstrable records that
10 prove his rehabilitation. During his time of imprisonment, he has taken advantage of
11 “programming” for positive growth and maturity. He has obtained his AA degree with a 4.0
12 G.P.A.. He has engaged in additional business development, psychology, constitutional law
13 and other courses. He has completed the Category X program. He has held a myriad of jobs
14 during his prison stay and has received positive chronos from staff regarding his attitude,
15 behavior and work ethic. The aforementioned has been addressed at his previous parole
16 hearings.

17 Since his last parole hearing, he has completed the following programs, to name a few:
18 Cognitive Behavioral Treatment-Substance Use Disorder Program, and Amity Foundation’s
19 Long Term Offender Substance Use Disorder Treatment Program. He completed the following
20 self-study programs: Resilience Toolkit, Think CBT Workbook, My Action Plan for Relapse,
21 Self Help Stop Worry, and the Bouncing Back Workbook. (See Exhibit C.) Additionally, he
22 received the following “Laudatory” written by O. Mack, Correctional Officer:

23 “I met Mr. Sirhan in the culinary kitchen on Facility B where this inmate was
24 assigned. I was able to observe his willingness to help me and the cooking staff
25 in order to complete specific tasks in the timely matter [sic] that was required.
26 I view this individual as genuine in his conduct and in his attempt to rehabilitate
27 himself. In my opinion I believe this inmate has demonstrated remorse and has
28 dealt with his incarceration in a positive manner. Mr. Sirhan has been a model
inmate and I believe he would continue this if he should be released from prison.
I commend Sirhan Sirhan for his positive programming.”

(See Exhibit D.) Moreover, Mr. Sirhan has not had a serious rules violation in **49 years**. It
should be abundantly clear when giving “great weight” to Mr. Sirhan’s youth and
individualized childhood trauma and his demonstrative rehabilitation that he is an appropriate


1 candidate for release.

2
3 **CONCLUSION**

4 Sirhan Sirhan is one of those individuals the courts were considering when rendering
5 their decisions in cases such as *Miller, Graham and Cabellero and Franklin*. He is also the
6 type of person the California legislature was considering in enacting Penal Code section 3051
7 and 4801(c). Thus, he is entitled to the benefit of this case law and legislation, for he
8 committed his crimes with a youthful state of mind, and he has used his time wisely while
9 incarcerated to rehabilitate himself. He has served over 53 years (between his time in the
10 county jail and state prison); he was eligible for parole more than 45 years ago. Under the
11 Youthful Offender law, he is currently eligible for release. The foregoing, in addition to the
12 evidence that he will present at his Parole Hearing, warrant a decision granting Mr. Sirhan
13 parole.

14 Dated: 06/11/21

Respectfully Submitted:



Angela Berry
Attorney for Petitioner
Sirhan Bashara Sirhan

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I, Angela Berry, declare:

4 I am employed in the City and County of Los Angeles, California. I am over the age of 18
5 years and not a party to the within action. My business address is 16133 Ventura Blvd., Suite 700
6 Encino, CA 91436.

7 On _____ 2021, I served the foregoing document described as Franklin
8 Sentencing Brief upon the persons shown below:

9 Los Angeles County District Attorney's Office
10 210 W. Temple Street
11 Los Angeles, CA 90012
12 MHanisee@da.lacounty.gov

13 _____ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing of
14 correspondence for mailing with United States Postal Service, and that the correspondence
15 shall be deposited with the United States Postal Service this same day in the ordinary
16 course of business pursuant to Code of Civil Procedure Sec. 1013(e).

17 _____ **(BY FACSIMILE)** In addition to service by mail as set forth above, a copy of said
18 document(s) also was/were delivered by facsimile transmission to the addressee pursuant to
19 Code of Civil Procedure Sec. 1013(e).

20 _____ **(BY PERSONAL SERVICE)** I hand-delivered said document(s) to the addressee pursuant to
21 Code of Civil Procedure Sec. 1011.

22 _____ **(BY EXPRESS MAIL)** I caused said document(s) to be deposited in a box or other facility
23 regularly maintained by the express service carrier providing overnight delivery pursuant to
24 Code of Civil Procedure Sec. 1013(c).

25 _____ **(BY E-MAIL)** Sent to the recipients' e-mail address[es] provided by them and to which they
26 agreed to accept service.

27 I declare under penalty of perjury under the laws of California that the foregoing is true and
28 correct.

Executed at Encino, California, on this ___ day of _____, 2021.

Angela Berry

EXHIBIT A

EXHIBIT B

EXHIBIT C



MILESTONE COMPLETION

CDC NUMBER: B21014

NAME: SIRHAN, SIRHAN B.

HOUSING: A 004 2 - 212001L

ASSIGNMENT TITLE: ~~Sub. Abuse Pgm (LTOP) - RJD-Facility A [RJD-A] - 09/25/2019~~

FACILITY: RJD-Facility A

This inmate has actively been participating in the above-named assignment. As a result, the above-named inmate has successfully completed the below-listed MILESTONE. Pursuant to Title 15, Section 3043.3, if eligible, this inmate shall be awarded the number of Milestone Completion WEEKS of credit listed below.

COMPLETED: 12/26/2019


MILESTONE: LT10100-LTOP Cognitive Behavioral Treatment-Substance Use Disorder

CLASS VALUE: 04

REASON: SUDT/CBT Program

(A maximum of 12 weeks credit may be applied in a 12-month period.)

No credits will be awarded which advance the release date to a date less than 60 calendar days from the date of approval.

P. Vinfrido 

Dated: 12/30/2019

K. Cortes

Date Approved: 12/30/2019

MCC Rejected

Reason Rejected:

CDCR SOHS IJPT170 - MILESTONE COMPLETION

Amity Foundation and R. J. D.

Substance Use Disorder Treatment
Long Term Offender Program (LTOP)

Presented This Certificate of Completion
To

Sirhan Sirhan

For Successful Program Completion
Dates: June 4, 2019 to December 26, 2019



SOBER # B21014

For your hard work in taking personal risk and developing character at the Amity R.J. D. Substance Use Disorder Treatment Your choices have affected your journey to date, keep making the right choices. May this certificate represent a new beginning for you, one that helps you on new positive adventures, where it takes you is completely up to you. You alone can do it but you can't do it alone. Remember to keep the friendships you made in this process and now is the time to make them real..... "friendship is always a sweet responsibility, never an opportunity" -Khalil Gibran-

S. Young
S. Young, NHA
NHA Demonstrator

Stella Moreno
Stella Moreno, Program Director (D)

K.R. Coors
K.R. Coors, DRP C.111



CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
Office of Offender Services

Presents

Certificate of Successful Completion

To


Sirhan Sirhan

CDCR# B21014

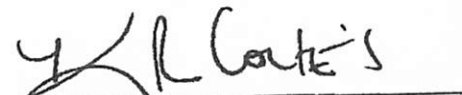
*For completing the Long Term Offender Program (LTOP) SUDT Curriculum
At Richard J. Donovan, CF*

June 4, 2019 to December 26, 2019


S. F. Young, MHA Counselor


Stella Moreno, Program Director (A)





K. R. Cortes, DRP CBT CCIII

CDC-128B Informational Chrono

Name **SIRHAN** CDC# **B21014** Housing **4-212**

On 07-08-2020 this inmate-patient successfully completed the self-directed course on **RESILIENCE TOOLKIT** offered by Richard J. Donovan Correctional Facility in conjunction with the American Community Corrections Institute.

A. Waller, CTRS 
Recreation Therapist

Richard J. Donovan Correctional Facility

Original/cc: C-File and Inmate

CDC-128B Informational Chrono

Name **SIRHAN** CDC# **B21014** Housing **4-212**

On 07-08-2020 this inmate-patient successfully completed the self-directed course on **THE THINK CBT WORKBOOK** offered by Richard J. Donovan Correctional Facility in conjunction with the American Community Corrections Institute.

A. Waller, CTRS

Recreation Therapist

Richard J. Donovan Correctional Facility

Original/cc: C-File and Inmate

CDC-128B Informational Chrono

Name SIRHAN CDC# B21014 Housing 4-212

On 06-10-2020 this inmate-patient successfully completed the self-directed course on MY ACTION PLAN FOR RELAPSE PREVENTION offered by Richard J. Donovan Correctional Facility in conjunction with the American Community Corrections Institute.

A. Waller, CTRS 
Recreation Therapist


Richard J. Donovan Correctional Facility

Original/cc: C-File and Inmate

CDC-128B Informational Chrono

Name **SIRHAN** CDC# **B21014** Housing **4-212**

On 08-05-2020 this inmate-patient successfully completed the self-directed course on Self Help Stop Worry offered by Richard J. Donovan Correctional Facility in conjunction with the American Community Corrections Institute.


A. Waller, CTRS 
Recreation Therapist
Richard J. Donovan Correctional Facility

Original/cc: C-File and Inmate

CDC-128B Informational Chrono

Name Sirhan CDC# B21014 Housing 4-212

On 07-17-2020 this inmate-patient successfully completed the self-directed course on The Bouncing Back Workbook offered by Richard J. Donovan Correctional Facility in conjunction with the American Community Corrections Institute.

A. Waller, CTRS 
Recreation Therapist

Richard J. Donovan Correctional Facility

Original/cc: C-File and Inmate

EXHIBIT D

NAME and NUMBER

Sirhan, Sirhan (B21014)

CDCR 128-B

I Correctional Officer Mack, write this laudatory chrono on behalf of inmate Sirhan Sirhan. I Met Mr. Sirhan in the culinary kitchen on Facility B where this inmate was assigned. I was able to observe his willingness to help me and the cooking staff in order to complete specific tasks in the timely matter that was required. I view this individual as genuine in his conduct and in his attempts to rehabilitate himself. In my opinion I believe this inmate has demonstrated remorse and has dealt with his incarceration in a positive manner, Mr. Sirhan has been a model inmate and I believe he would continue this if he should be released from prison. I commend Sirhan Sirhan for his positive programming.

C/O O. Mack 1-4-21

O. Mack,
Facility 'C' E.O.P Complex
Richard J. Donovan Correctional Facility

Orig: C-File

cc: Inmate

DATE: 01/04/2021

LAUDATORY

GENERAL CHRONO