SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CLARA SHORTRIDGE FOLTZ CRIMINAL JUSTICE CENTER

CRIMINAL WRITS CENTER

In re LESLIE VAN HOUTEN, Petitioner, On Habeas Corpus.	Case No.: BH011585 (L.A.S.C. Case No. A253156) MEMORANDUM OF DECISION (HABEAS CORPUS)

IN CHAMBERS

Petition for Writ of Habeas Corpus by Leslie Van Houten, represented by Rich Pfeiffer, Esq. Respondent, the Honorable Edmund G. "Jerry" Brown, Jr., Governor of the State of California, represented by Deputy Attorney General Jill Vander Borght.

BACKGROUND

In 1969, Petitioner was a member of a group known as the Manson Family, led by Charles Manson. In August 1969, two sets of homicides were committed in the Los Angeles area that became known as the "Tate killings" and the "LaBianca killings," and collectively, the "Tate-LaBianca Murders." The killings were extraordinarily gruesome. (*People v. Van Houten* (1980) 113 Cal.App.3d 280, 283–284.) The killings terrorized and horrified the people of Southern California, and captured the imagination of the Nation and beyond.

In 1971, Petitioner, along with Manson, Patricia Krenwinkel and Susan Atkins were charged with, and convicted by jury, of two counts of first degree murder and one count of conspiracy to commit murder.[1] After the penalty phase, the jury returned verdicts of death as to all defendants and the court imposed death sentences on all defendants. The judgment was automatically appealed to the California Supreme Court. While the appeal was pending, the Supreme Court decided *People v. Anderson* (1972) 6 Cal.3d 628, which invalidated the death penalty. The appeals were then transferred to the Second District Court of Appeal. In *People v. Manson* (1976) 61 Cal.App.3d 102, the Court of Appeal reversed Petitioner's convictions, but affirmed the convictions of the other appellants. (*People v. Van Houten*, *supra*, 113 Cal.App.3d at p. 283.) The death sentences for Manson, Krenwinkel and Atkins were reduced to indeterminate life sentences with the possibility of parole.

Petitioner's case was retried. After the jury became hopelessly deadlocked, a mistrial was declared.

Petitioner was retried again for the murders of Rosemary and Leno LaBianca, and in 1978 a jury convicted her of two counts of first degree murder and one count of conspiracy to commit murder,. At trial, Petitioner admitted her full participation in the LaBianca murders. She presented a defense of diminished capacity due to mental illness induced by Manson, prolonged use of hallucinogenic drugs, and the peculiar nature of the Manson Family communal organization. Petitioner was given two indeterminate life sentences with the possibility of parole, to run concurrently, with credit for eight years and 20 days in custody. The Court of Appeal affirmed the convictions in 1981. (*People v. Van Houten*, *supra*, 113 Cal.App.3d at pp.

---

[1] Others implicated in the Tate-LaBianca murders were Charles "Tex" Watson and Linda Kasabian. Watson fled to Texas and fought extradition to California. Watson went on trial separately in August 1971, was convicted, was sentenced to death, had his sentence reduced to life with the possibility of parole, and is still in state custody, having repeatedly been denied parole. Kasabian was eventually taken into custody in New Hampshire and was offered immunity in exchange for testifying for the prosecution, which she did. After the trials, she is believed to have left California but is still alive somewhere in New England. Manson and Atkins have since died in prison. Krenwinkel is also in state custody, has also repeatedly been denied parole, and has the ignominious distinction of being the longest-serving female prisoner in state custody.

283–284, 293.) Petitioner is currently serving out her sentence at the California Institution for Women

BOARD OF PAROLE HEARINGS GRANT OF PAROLE

On September 6, 2017, the Board of Parole Hearings ("Board") convened Petitioner's 21st subsequent parole suitability hearing. The Board found Petitioner suitable for parole based on her advanced age (68 at the time of the hearing), her realistic plans for release, her remorse and insight into her crimes, her extensive programming, her low risk for violence on her most recent comprehensive risk assessment ("CRA"), her status as a youth offender (19 years old at the time of the commitment offense), her educational upgrades while in prison, and her lack of any serious rule violations throughout her confinement. (Hearing Transcript ("HT") dated Sep. 6, 2017, attached to petn. as Exhibit C, at pp. 289–302.)

GOVERNOR'S REVIEW AND REVERSAL

On January 19, 2018, the Governor reversed the Board's grant of parole based on the heinousness of the commitment offense, as well as a finding that Petitioner attempted to minimize her culpability for the offense. (Governor's Reversal ("Reversal") dated Jan. 19, 2018, attached to petn. as Exhibit A, at pp. 3–4.) The Governor also stated that Petitioner's case is a rare case in which the circumstances of the commitment offense alone can provide a basis for denying parole. (*Id.* at p. 4.)

CHALLENGE TO GOVERNOR'S REVERSAL

On January 25, 2018, Petitioner filed the instant petition for writ of habeas corpus with this court challenging the Governor's reversal of the Board's decision, and alleging that the District Attorney's Office has wrongfully failed to disclose tapes containing statements made by Charles "Tex" Watson, in violation of *Brady v. Maryland* (1963) 373 U.S. 83. On March 1, 2018, this court denied Petitioner's claim regarding the Watson tapes and issued an order to show cause regarding the remainder of the petition. On May 3, 2018, Respondent filed a return

to the order to show cause. Petitioner filed a traverse on May 22, 2018. The court then took the matter under submission.

SUMMARY

Having independently reviewed the documents filed by the parties along with the record, and giving deference to the broad discretion of the Governor in parole matters, the court concludes the record contains "some evidence" to support the Governor's determination that Petitioner currently poses an unreasonable risk of danger to society, and that all of Petitioner's due process rights were met. Thus, the instant petition challenging the Governor's reversal must be denied.

COMMITMENT OFFENSE

In the summer of 1968, Petitioner met Manson and began living with him and the other members of his cult, known collectively as the Manson Family, at the 500 acre Spahn Movie Ranch in the northwest San Fernando Valley in Los Angeles. Manson's followers, including Petitioner, believed him to be Jesus Christ. Manson believed that a civilization-ending war between the races, referred to as "Helter Skelter," was imminent. Petitioner, along with the rest of his followers, embraced his apocalyptic and warped worldview. (Reversal at p. 1; HT at pp. 83–85, 108–110, 119.)

The Family members regularly smoked marijuana and consumed LSD. Manson would give the group commands while they were taking LSD together, such as to "baa" like sheep. If someone did not obey a command, he would beat that person. Petitioner proved her dedication to Manson by burglarizing her father's home, cooking for the Family, having sex with men that Manson wanted to stay at the ranch, and reading to Manson from the biblical book of Revelations. (HT at pp. 86–87, 101–102, 104–105, 115–117.)

Manson would reenact Jesus Christ's crucifixion, and instructed the Family members that they were shells of him. Manson and company came to believe that the race war had to be instigated by him and his followers, and that that White people would attack Black people, ending civilization. The Family members planned to retreat a hole in the Earth in order to wait there for the violence to end, leaving only to take dune buggies into cities and kidnap White

children. Manson believed Black people would win this war, and that the Family would emerge from the hole when the "karma changed." Manson asked Petitioner if she was "crazy enough" to believe in him and she responded that she was. (Reversal at p. 1; HT at pp. 109–113, 121.)

Manson became convinced that the Family needed to commit atrocious, high-profile murders in order to incite the race war. Manson believed that Black people would be blamed for the murders, which would cause retaliatory violence, leading to the race war. On the night of August 9, 1969, Family members Susan Atkins, Patricia Krenwinkel, Linda Kasabian, and Charles "Tex" Watson murdered Abigail Folger, Wojiciech Frykowski, Jay Sebring, Steven Parent, and Sharon Tate. Tate was eight months pregnant at the time. The victims were tied together with rope, stabbed dozens of times, and shot several times. The word "Pig" was written in the victims' blood on the front door of the house where the killings took place.[2] (Reversal at p. 1; *People v. Manson, supra*, 61 Cal.App.3d at pp. 124–125.)

Petitioner was not present for these murders, but when she heard about them the next day stated that she felt "left out" and wanted to be included the next time. (*In re Van Houten* (2004) 116 Cal.App.4th 339, 345.) On the night of August 10, 1969, Petitioner accompanied Manson, Watson, Atkins, Krenwinkel, and Steve Grogan on an outing to commit more murders. The group eventually stopped at the home of Rosemary and Lino LaBianca in the Los Feliz area of Los Angeles. Manson and Watson entered the home first, tied up the couple, and stole Mrs. LaBianca's wallet. He then returned to the group and instructed Petitioner, Watson, and Krenwinkel to enter the home. Manson told Petitioner to do what Watson told her to do. (Reversal at p. 1; HT at pp. 128–130, 150.)

Petitioner and Krenwinkel entered the LaBiancas' house and found Watson holding the LaBiancas at bayonet point. Once inside the home, Krenwinkel retrieved butcher knives from the kitchen, and gave one to Petitioner. Petitioner put a pillowcase over Mrs. LaBianca's head, secured it with a lamp cord, bound her hands, and brought her into the bedroom. They could hear Watson stabbing Mr. LaBianca in the other room with a bayonet, and Mrs. LaBianca

---

[2] The Benedict Canyon house was the home of Sharon Tate, who was the wife of director Roman Polanski. The house has since been demolished.

struggled to escape when she heard the sounds her husband was making while being stabbed. (*In re Van Houten, supra*, at p. 345; Reversal at pp. 1–2; HT at pp. 130–138.) Mrs. LaBianca

Petitioner held Mrs. LaBianca down while Krenwinkel stabbed her in the collarbone with enough force to bend the knife. Watson then joined them and stabbed Mrs. LaBianca. He turned to Petitioner, handed her a knife, and told her to "do something." Petitioner then stabbed Mrs. LaBianca between 14 and 16 times in the torso. After she was finished, Petitioner wiped away fingerprints that the group had left in the house. She also changed into some of Mrs. LaBianca's clothes. Watson took a shower, while Krenwinkel wrote "Death to the Pigs," "Rise," and "Healter (*sic*) Skelter" in blood around the house. The word "War" was carved into Mr. LaBianca's stomach. Petitioner drank chocolate milk from the refrigerator before they left the house. The group hid in bushes until daylight, then threw the murder weapons in a reservoir and hitchhiked back to the ranch. Upon returning to the ranch, Petitioner told another Family member that the murders had been "fun." (HT at pp. 154–155; *People v. Manson, supra*, 61 Cal.App.3d at p. 227.) Petitioner hid in a remote desert location, waiting for Manson's vision to come to fruition, until she was arrested on November 25, 1969. (Reversal at pp. 1–2; HT at pp. 138–155.)

In affirming Petitioner's conviction, the Court of Appeal stated that "[t]he killings were grotesque, gruesome, horrendous affairs, involving in most instances, a great deal of cutting and hacking...." (*People v. Van Houten, supra*, at p. 284.)

APPLICABLE LEGAL PRINCIPLES

The Governor is constitutionally authorized to make "an independent decision" as to parole suitability for persons convicted of murder. (Cal. Const., art. V, § 8, subd. (b); *In re Rosenkrantz* (2002) 29 Cal.4th 616, 660.) His parole decisions are governed by Penal Code section 3041.2 and section 2281 of title 15 of the California Code of Regulations.[3] The Governor must consider "[a]ll relevant, reliable information available" (§ 2281, subd. (b)), and his decision must not be arbitrary or capricious. (*In re Rosenkrantz, supra*, at p. 677.)

---

[3] All further undesignated statutory references are to title 15 of the California Code of Regulations.

Although the Governor must consider the same factors as the Board, he may weigh them differently. (*In re Prather* (2010) 50 Cal.4th 238, 257, fn. 12.) The paramount consideration in making a parole eligibility decision is the potential threat to public safety upon an inmate's release. (*Id.* at p. 252.) The Governor's decision must be based upon some evidence in the record of the inmate's current dangerousness. (*In re Lawrence* (2008) 44 Cal.4th 1181, 1205–1206 ("*Lawrence*").) Only a modicum of such evidence is required. (*Id.* at p. 1226.) "This standard is unquestionably deferential, but certainly is not toothless, and 'due consideration' of the specified factors requires more than rote recitation of the relevant factors with no reasoning establishing a rational nexus between those factors and the necessary basis for the ultimate decision—the determination of current dangerousness." (*Id.* at p. 1210.)

Factors tending to show unsuitability for parole include the nature of the commitment offense, a previous record of violence, an unstable social history, sadistic sexual offenses, psychological factors, and institutional behavior constituting serious misconduct. (§ 2281, subd. (c).) Factors tending to show suitability include a lack of a juvenile record, a stable social history, signs of remorse, that the crime was committed due to significant life stress, that the criminal behavior was the result of battered woman syndrome, a lack of a history of violent crime, that the inmate's current age reduces the probability of recidivism, that the inmate has realistic plans for release or marketable skills that can be utilized upon release, and that the inmate's institutional behavior indicates an enhanced ability to be law-abiding upon release. (§ 2281, subd. (d).) The weight and importance of these factors are left to the judgment of the Board and Governor. (§ 2281, subds. (c)–(d).)

In reviewing the decision of the Governor, the court is not entitled to reweigh the circumstances indicating suitability or unsuitability for parole. (*In re Reed* (2009) 171 Cal.App.4th 1071, 1083.) Instead, "'[r]esolution of any conflicts in the evidence and the weight to be given the evidence are within the authority of the [Governor].' [Citation.]" (*Lawrence*, *supra*, 44 Cal.4th at p. 1204, quoting *In re Rosenkrantz*, *supra*, 29 Cal.4th at p. 656.) Thus, unless the inmate can demonstrate that there is no evidence to support the Governor's conclusion

that the inmate is a current danger to public safety, the petition fails to state a prima facie case for relief and may be summarily denied. (*People v. Duvall* (1995) 9 Cal.4th 464, 475.)

DISCUSSION

Whether Some Evidence Supports the Governor's Decision

The court finds that there is some evidence to support the Governor's decision Petitioner poses an unreasonable risk of danger to society, and if released, a threat to public safety, due to the heinousness of Petitioner's commitment offense and her minimization. To the extent Petitioner challenges the Governor's individual evidentiary findings and allocation of weight to available evidence, the court rejects these contentions as matters clearly within the Governor's purview. (*In re Rosenkrantz*, *supra*, 29 Cal.4th at p. 677.)

Commitment Offense

The Governor based his decision on Petitioner's commitment offense, finding that the "crimes stand apart from others by their heinous nature and shocking motive." (Reversal at p. 4.) A commitment offense that is perpetrated in an especially heinous, atrocious or cruel manner is a circumstance tending to show unsuitability for parole. (§ 2281, subd. (c)(1).) The commitment offense may be considered especially heinous, atrocious or cruel when: (A) multiple victims were attacked, injured, or killed in the same or separate incidents; (B) the offense was carried out in a dispassionate and calculated manner, such as an execution-style murder; (C) the victim was abused, defiled, or mutilated during or after the offense; (D) the offense was carried out in a manner which demonstrates an exceptionally callous disregard for human suffering; and (E) the motive for the crime is inexplicable or very trivial in relation to the offense. (§ 2281, subd. (c)(1)(A)–(E).) In this case, all five factors are present.

Multiple victims were killed, as both Mr. and Mrs. LaBianca were stabbed to death by Petitioner and her accomplices. (§ 2281, subd. (c)(1)(A).) Petitioner placed a pillowcase over Mrs. LaBianca's head, securing it with a lamp cord, and bound her hands. Mrs. LaBianca could hear the sounds her husband was making as he was stabbed in an adjacent room, and struggled as Petitioner held her down while Krenwinkel stabbed her. Watson then entered the room and stabbed Mrs. LaBianca with a bayonet before passing a knife to Petitioner. Petitioner then

stabbed her between 14 and 16 times. Petitioner's accomplices carved words onto the bodies of the victims, and painted words on the walls with their blood. The victims were certainly abused, defiled, and mutilated during and after the offense. (§ 2281, subd. (c)(1)(C).) The brutal murders, involving horrific, excessive stabbings, demonstrated an exceptionally callous disregard for human suffering. (§ 2281, subd. (c)(1)(D).)

The Court of Appeal's opinion in *People v. Manson*, illustrates the depravity of Petitioner's crimes. Mrs. LaBianca's "hands were tied with an electric cord. A pillow case was over her head and an electric cord was wound about her neck. Her body revealed 41 separate stab wounds." (*People v. Manson*, *supra*, 61 Cal.App.3d at p. 125.) Mr. LaBianca was found with "his face covered with a blood-soaked pillow case. His hands were tied behind his back with a leather thong. A carving fork was stuck in his stomach, the two tines inserted down to the place where they divide. On Mr. LaBianca's stomach was scratched the word 'War.' An electric cord was knotted around his neck. The coroner's examination revealed 13 stab wounds . . . and 14 puncture wounds apparently made by the tines of the carving fork. A knife was found protruding from his neck." (*Ibid.*) The Court of Appeal noted in affirming Petitioners murder convictions that the killings involved a "great deal of cutting and hacking . . . ." (*People v. Van Houten*, *supra*, 113 Cal.App.3d at p. 284.) The LaBiancas were abused, defiled, and mutilated by Petitioner and her accomplices during this offense, demonstrating an exceptionally callous disregard for human suffering. (§ 2281, subd. (c)(1)(C)–(D).)

Petitioner's motive for the crime was also inexplicable and monstrous. (§ 2281, subd. (c)(1)(E).) Petitioner and her accomplices, as followers of Manson, committed the murders with the objective of inciting a race war they referred to as "Helter Skelter." They sought to destabilize society and bring about an apocalypse. Petitioner and her accomplices intended to start a chain of events that they anticipated would result in the deaths of millions of people. The group aimed to incite violence on a massive scale. If successful, the Manson Family would have gleefully brought about an end to civilization and ushered in a new dark age. That Petitioner subscribed to this disturbing plan, and actively worked to realize it, speaks to her current dangerousness. Although Petitioner's goal was outlandish, it was both inexplicable and

terrifying. (§ 2281, subd. (c)(1)(E).) Petitioner's motive was far more abhorrent than the type of motive typically present in first degree murder crimes, which are typically either for revenge, retaliation, jealousy, or to further a robbery.

In light of these facts, the court finds that the serious commitment offenses were *especially* heinous, atrocious, and cruel. The manner of and the motive for Petitioner's crimes are some evidence supporting the Governor's decision that if paroled at this time, Petitioner would pose an unreasonable risk of danger to society. (§ 2281, subd. (c)(1).)

Petitioner now argues that the Governor is estopped from basing his reversal on the commitment offense alone because he did not rely on the commitment offense in reversing Petitioner's grant of parole in 2016. Each subsequent parole suitability hearing, however, conducted by the Board is conducted as a *de novo* hearing. (Pen. Code, § 3041.5, subd. (c).) Just as the Board must review the record *de novo*, and is not bound by its prior decisions, neither is the Governor.

Ordinarily, after a long period of time, immutable factors, such as the commitment offense, typically no longer indicate a current risk of danger to society in light of a lengthy period of incarceration. (*Lawrence*, *supra*, 44 Cal.4th at p. 1221.) The Governor normally may base a reversal of parole upon immutable facts only if something in Petitioner's pre- or post-incarceration history, such as her current demeanor or mental state, demonstrates that she remains a continuing threat to public safety. (*Id.* at p. 1214.) However, *Lawrence, supra,* actually holds that "the underlying circumstances of the commitment offense alone *rarely* will provide a valid basis for denying parole when there is strong evidence of rehabilitation and no other evidence of current dangerousness," leaving open the possibility that, in a rare circumstance, the commitment offense alone can provide evidence of current dangerousness and unsuitability for parole. (*Lawrence*, *supra*, 44 Cal.4th at p. 1212, emphasis added.)

The Governor relies upon *In re Van Houten*, *supra*, 116 Cal.App.4th at p. 353, and *In re Rozzo* (2009) 172 Cal.App.4th 40, 58–59 ("*Rozzo*") for additional support for the proposition that he may reverse the Board's decision based solely upon the commitment offense.

In *In re Van Houten*, *supra*, 116 Cal.App.4th 339, a Fourth District Court of Appeal decision reversing a grant by the San Bernardino County Superior Court of one of Petitioner's previous petitions for writ of habeas corpus contesting a Board denial[4], the Court of Appeal stated that "the Board would have been justified in relying solely on the character of the offense in denying parole . . . ." (*In re Van Houten*, *supra*, 116 Cal.App.4th at p. 353.) The Court of Appeal noted that the "offense involved multiple murders, the commission of robbery during the murders, and racial hatred." (*Id.* at pp. 352–353.) The Court of Appeal also noted that these aspects of the offense would qualify as "special circumstances under current law justifying a higher degree of punishment." (*Id.* at p. 353.) While that case was decided prior to *Lawrence*, it nevertheless adds support to the Governor's reversal based on the commitment offense in the instant case, specifically because it comments on the exact facts before the court in the instant case.

In *Rozzo*, the Court of Appeal found that the circumstances of the commitment offense were such that the Court could not conclude that the offense's remoteness had resulted in a loss of reliability as a predictor of current dangerousness, although the denial of parole in that case was also supported by other facts in the record. (*Rozzo*, *supra*, 172 Cal.App.4th at p. 59.)

Petitioner's crimes terrified a generation, and remain imprinted on the public consciousness to this day. If any crimes could be considered heinous enough to support a denial of parole based on their circumstances alone years after occurrence, they must certainly be the crimes perpetrated by the Manson Family, including the LaBianca murders for which Petitioner was convicted. Indeed, if not Petitioner's case, then it is hard to envision what sort of case would support parole denial on the facts of the offense alone. This was one of a series of sickening, "grotesque," brutal, and literally senseless murders, which were at the time the most horrific in California at least since World War II, and are among the most horrific since their commission. Even considering that Petitioner was the youngest and likely slightly less culpable

[4] Apparently decided before the Supreme Court held that parole denials should be challenged in the court that entered the judgment resulting from the commitment offense, rather than in the county of confinement.

than the other Manson Family members involved[5], her participation in these abominable murders was so heinous, gruesome, shocking, atrocious, and cruel, that in this court's view the facts of her commitment offense *alone* provide some evidence supporting the Governor's decision to reverse the Board's grant of parole. If ever a murder case continued to be predictive of current dangerousness, even many years after the offense, it must surely be the instant case.

Minimization

The Governor's decision was also based on Petitioner's minimization of her role in the commitment offense. (Reversal at pp. 3–4.) An inmate's lack of insight, minimization, or lack of remorse are not listed as unsuitability factors in either Penal Code section 3041 or its corresponding regulations. However, section 2281 allows the Board to consider "[a]ll relevant, reliable information available," including the inmate's "past and present mental state" and her "past and present attitude toward the crime . . . ." (§ 2281, subd. (b).) As articulated by the California Supreme Court, "the presence or absence of insight is a significant factor in determining whether there is a 'rational nexus' between the inmate's dangerous past behavior and the threat the inmate currently poses to public safety." (*Shaputis II*, *supra*, 53 Cal.4th at p. 218.) Lack of insight "can reflect an inability to recognize the circumstances that led to the commitment crime; and such an inability can imply that the inmate remains vulnerable to those circumstances and, if confronted by them again, would likely react in a similar way." (*In re Ryner*, *supra*, 196 Cal.App.4th at p. 547.) "[T]he finding that an inmate lacks insight must be based on a factually identifiable deficiency in perception and understanding, a deficiency that involves an aspect of the criminal conduct or its causes that are significant, and the deficiency by itself or together with the commitment offense has some rational tendency to show that the inmate currently poses an unreasonable risk of danger." (*Id.* at pp. 548–549.) An inmate's minimization of her responsibility for her conduct provides some evidence of a lack of insight and current dangerousness. (*In re Shaputis* (2008) 44 Cal.4th 1241, 1260, fn. 18.)

---

[5] Petitioner was found by the jury and court to be sufficiently culpable to be sentenced to die for her crimes in the gas chamber and likely would have, but for a fortuitous decision of the California Supreme Court in an unrelated case. Petitioner was not the least culpable. That would likely be Kasabian. Although Kasabian drove the others to the murders, she did not go inside and did not physically participate in the killings. She also expressed remorse immediately and denounced Manson and others. That was the apparent reason she was offered immunity.

The Governor cited Petitioner's statements at the parole suitability hearing and at the 2016 CRA evaluation as evidence that she continued to minimize her role in the commitment offense. (Reversal at p. 3.) The following are some of the statements the Governor found provided evidence of Petitioner's minimization: "I take responsibility for the entire crime. I take responsibility going back to Manson being able to do what he did to all of us. I allowed it." (Reversal at p. 3; HT at p. 172.) The Governor also cited Petitioner's statement to the psychologist that, when asked to join Manson's "utopia" at the ranch, she "bit into it, hook, line and sinker." (Reversal at p. 3; CRA, dated Feb. 10, 2016, attached to traverse, at p. 4.) The Governor further cited Petitioner's statements that she wanted to commit to the cause, that she wanted to prove her dedication to the revolution, and that she wanted to prove herself to Manson. (Reversal at pp. 3–4.)

The Governor also quoted with approval from this court's 2016 decision denying Petitioner's petition for writ of habeas corpus contesting the Governor's previous reversal. In his decision, the Governor wrote:

> "As the Los Angeles Superior Court found last year [2016], Van Houten's recent statements, 'specifically her inability to discuss her role in the Manson Family and LaBianca murders without imputing some responsibility to her drug use and her danger of falling prey to the influence of other people because of her dependent personality' have demonstrated a lack of insight to her crimes. '[She] was not violent before she met Manson, but upon meeting such a manipulative individual she chose to participate in the cold-blooded murder of multiple innocent victims.' The court continued 'While it is unlikely [Van Houten] could ever find another Manson-like figure if released, her susceptibility to dependence and her inability to fully recognize why she willingly participated in her life crime provides a nexus between the

commitment offense and her current mental state, demonstrating she poses a danger to society if released on parole.'"

(Reversal at p. 4, quoting *In re Leslie Van Houten on Habeas Corpus*, Los Angeles Superior Court case no. BH010813, Minute Order dated Oct. 6, 2016, denying the petition.)

While as discussed *ante*, each subsequent parole suitability hearing conducted by the Board is conducted as a *de novo* hearing, (Pen. Code, § 3041.5, subd. (c).), and the court is not bound by prior decisions in such cases, the Governor may consider the court's prior decisions as part of the record. (*Ibid.*)

The Governor stated that Petitioner downplayed her role in the murders by shifting blame for her own actions to Manson. (Reversal at p. 3.) Petitioner does appear unable to discuss the commitment offense without imputing some responsibility on Manson, although it is unclear to what degree Petitioner is minimizing her role in the commitment offense and to what degree she is simply recounting the events as she perceives them. Nonetheless, the evidence relied upon by the Governor, although less persuasive than the facts of the commitment offense, would constitute a bare minimum of evidence to support the Governor's reversal.

Weighing of the Evidence

Petitioner also contends that the Governor's failure to allocate greater weight to the statutory and regulatory factors supporting suitability for parole was in violation of her right to due process. She emphasized her positive psychological reports, extensive programming, and youth at the time of the offense. The Governor noted that Petitioner was 19 years old at the time of the offense, and gave "great weight"—as he is required to do—to the youth factors described in Penal Code section 4801 as applied to Petitioner. (Reversal at p. 3.) He specifically stated that he gave great weight to the factors relevant to her diminished culpability as a juvenile, including "her immaturity and impetuosity, her failure to appreciate risks and consequences, her dysfunctional home environment, the peer pressures that affected her, and her other hallmark features of youth." (*Ibid.*) The Governor also stated that in consideration of the youth factors, he gave great weight to Petitioner's subsequent growth and maturity in prison. (*Ibid.*) The

Governor also noted that Petitioner had been incarcerated for 48 years and is currently 68 years old. (*Ibid.*)

The Governor commended Petitioner for remaining free of serious misconduct in prison, earning her bachelor's and master's degrees, receiving exceptional work ratings as a tutor, and receiving positive commendations from prison staff. (Reversal at p. 3.) The Governor noted Petitioner's extensive participation in beneficial programming, specifically noting that she served as Parliamentarian of the Women's Advisory Council. (*Ibid.*) The Governor also noted that Petitioner's most recent CRA was favorable. (*Ibid.*) Lastly, the Governor stated that he gave great weight to evidence that Petitioner had been the victim of intimate partner battering at the hands of Manson. (*Id.* at pp. 3–4.)

The Governor ultimately concluded, however, that these factors were outweighed by the facts of the commitment offense and Petitioner's minimization, and that Petitioner therefore still poses an unreasonable risk of danger to society if released from prison. The Governor met all due process requirements, and considered all relevant statutory factors tending to show suitability, including positive psychological reports. (*In re Young* (2012) 204 Cal.App.4th 288, 304; accord *In re Stoneroad* (2013) 215 Cal.App.4th 596, 616.)

This court is not entitled to reweigh the evidence before the Governor; rather it is tasked with determining whether the record contains some evidence in support of the Governor's decision. (*In re Rosenkrantz*, *supra*, 29 Cal.4th at pp. 656, 665–677.) This court finds that it does, and that there is a rational nexus between the evidence in the record and the Governor's determination of Petitioner's current dangerousness.

DISPOSITION

Petitioner's crimes were among the most abominable committed in California in the second half of the 20th century. If this case is not one in which the commitment offenses alone provide a valid basis for denying parole, then the Supreme Court's comment in *Lawrence* must be illusory. (*Lawrence*, *supra*, 44 Cal.4th at p. 1211.) While Petitioner may someday be suitable

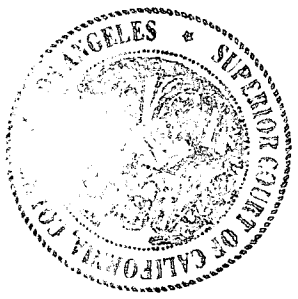
for parole, when her commitment offense is no longer predictive of current dangerousness, it is not yet that day.[6]

For all the foregoing reasons, the petition for writ of habeas corpus is DENIED.

The Clerk is ordered to serve a copy of this order upon Rich Pfeiffer, Esq., as counsel for Petitioner, and upon Deputy Attorney General Jill Vander Borght, as counsel for Respondent, the Governor of the State of California.

Dated: 6-29-18

WILLIAM C. RYAN
Judge of the Superior Court



[6] Petitioner's attorney has in the past publically stated, in reference to Petitioner, "that if the word 'Manson' was not involved in her crimes, she would have been paroled 20 years ago." (Gerber, *Judge deals blow to former Manson family member's latest bid to win freedom*, Los Angeles Times (Oct. 6, 2016) <http://www.latimes.com/local/ lanow/la-me-ln-van-houten-no-parole-20161006-snap-story.html> [as of Jun. 27, 2018].) While the court does not normally take notice of comments by counsel outside of the record, the court will simply say that its decision is based on Petitioner's personal conduct, the facts of the commitment offense and the behavior at the parole hearing, and not on the involvement of Charles Manson or anyone else in her crimes.

Send a copy of this order to:

Respondent's Counsel
Department of Justice, State of California
Office of the Attorney General
300 South Spring St., Suite 1702
Los Angeles, CA 90013
Attn: Jill Vander Borght, Deputy Attorney General

Petitioner's Counsel
Rich Pfeiffer, Attorney at Law
P.O. Box 721
Silverado, CA 92676