

FILED
Superior Court of California
County of Los Angeles

FEB 24 2021

Sherri R. Carter, Executive Officer/Clerk
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
CLARA SHORTRIDGE FOLTZ CRIMINAL JUSTICE CENTER
CRIMINAL WRITS CENTER**

In re	}	Habeas Case No.: BH013172
HARRY SASSOUNIAN,		(Underlying Criminal Case No. A375674)
Petitioner,		MEMORANDUM OF DECISION
On Habeas Corpus		(HABEAS CORPUS)

IN CHAMBERS

Petition for Writ of Habeas Corpus (Petition) by Harry Sassounian (Petitioner),
represented by Susan L. Jordan, Esq. Deputy Attorney General Jennifer L. Heinisch for
Respondent, the Governor of the State of California. Granted.

Petitioner was received by the California Department of Corrections and Rehabilitation
(CDCR) on June 29, 1984, after being convicted of first degree murder (Pen. Code, § 187).
Petitioner was initially sentenced to life without possibility of parole but was resentenced to a
term of 25 years to life in 2002 after the Ninth Circuit Court of Appeal vacated the national-

1 origin special circumstance (Pen. Code, § 190.2, subd. (a)(16)).¹ (*Sassounian v. Roe* (2000) 230
2 F.3d 1097, 1110-1111; Abstract of Judgment, Case No. A375674.) His minimum eligible parole
3 date was September 28, 2007. His youth parole eligibility date was April 19, 2009. His elderly
4 parole eligibility date will be January 1, 2023.² He is currently incarcerated at San Quentin State
5 Prison, located in San Quentin, California.

6 On December 27, 2019, the Board of Parole Hearings (Board) convened a seventh
7 subsequent parole suitability hearing where it found Petitioner suitable for release on parole.
8 (Subsequent Parole Consideration Hearing (HT), dated Dec. 27, 2019, attached to Petn. as Exh.
9 1.) On May 25, 2020, the Governor reversed the Board's decision based on Petitioner's
10 commitment offense and the "outsized political import" it will "always carry," and a finding that,
11 while Petitioner has demonstrated insight into impact of some of his prior actions, including a
12 2012 letter written to an Armenian newspaper, *Hay Zinvor*, his insight is "very recent" and
13 "relatively new." (Indeterminate Sentence Parole Release Review (Gov. Reversal), dated May
14 25, 2020, attached to Petn. as Exh. 2.)

15 On August 14, 2020, Petitioner filed the instant Petition challenging the Governor's
16 reversal of the Board's decision. Petitioner claims that the Governor's decision is not supported
17 by "some evidence" that Petitioner currently poses an unreasonable risk of danger to society if
18 released. (Petn. at p. 26.) Petitioner also contends the "Governor imposed an unlawfully
19 heightened standard of parole suitability illegally founded upon the circumstances of
20 Sassounian's life crime." (Petn. at p. 30.) Finally, Petitioner argues there is no evidence that
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24 ¹ As part of Petitioner's resentencing hearing, Petitioner was to admit to his role in the commitment
25 offense, which he had previously failed to do. (HT at p. 56.) Petitioner stated that "confessing [his] crime" made
26 him feel "relieved." (HT at p. 56.) Before that, "it was always, you know, don't talk about your case – and I didn't,
27 and ...I'm ashamed that [...] all those times I didn't man up and take responsibility, but that was the first time that I
28 openly spoke out in court that what I did was – was shameful and inexcusable." (HT at p. 57.)

² The court notes that with amendments to Penal Code section 3055 effective January 1, 2021, through the
passage of Assembly Bill 3234, Petitioner's elder parole eligibility will have changed. New section 3055 calls for
the Elderly Parole Program to provide "parole suitability to any inmate who is 50 years of age or older and has
served a minimum of 20 years of continuous incarceration...." Previously, section 3055 allowed for elder parole
eligibility when an inmate was 60 years of age or older who had served a minimum of 25 years. Because Petitioner
is 58 years old and has been incarcerated for more than 20 years his new EPED has apparently already passed.

1 Petitioner lacks insight and “the Governor’s conclusion that Sassounian has not demonstrated
2 insight ‘for a sufficiently long period’ is an illegal reason to deny parole.” (Petn. at pp. 33-60.)

3 On October 7, 2020, the court issued an Order to Show Cause. Respondent filed a Return
4 on January 11, 2021, asserting that the Governor’s decision that Petitioner “lacked insight into
5 his commitment offense and his understanding of how his crime continues to carry political
6 import and is subject to manipulation and could be used to foment violence in his name,” is
7 entitled to deference, and is supported by the record. (Return at p. 7.) Petitioner filed a Traverse
8 on January 26, 2021, arguing Respondent did not point to any evidence in the record to support
9 the Governor’s finding as ordered to do by the court; namely, Respondent pointed to no evidence
10 in the record showing that Petitioner a) lacks insight into his commitment offense, b) lacks
11 understanding of how his crime continues to carry political import, or c) lacks understanding of
12 how he could be subject to manipulation by radical groups that wish to use him to foment
13 violence. (Traverse at p. 7.)

14 SUMMARY

15 Having independently reviewed the record, and giving deference to the broad discretion
16 of the Governor in parole matters, the court concludes that the record does not contains “some
17 evidence” to support the determination that Petitioner is not suitable for release on parole.
18 Additionally, the court finds that the Governor used an improper standard upon Petitioner when
19 considering both the “import” of his offense and the notoriety of his victim, as well as the
20 recency of his insight. Accordingly, the Petition challenging the Governor’s reversal must be
21 granted.

22 COMMITMENT OFFENSE

23 On the morning of January 28, 1982, Kemal Arikan, the Consul General of the Republic
24 of Turkey at Los Angeles, was driving to work along his usual route. Arikan stopped at the
25 traffic light at the intersection of Comstock ^{AVE.} Street and Wilshire Boulevard. Petitioner, 19 years
26 old, armed with a .45 caliber handgun, and his crime partner, Krikor Saliba, armed with a 9
27 millimeter handgun, approached opposite sides of Arikan’s car and fired numerous rounds at
28 Arikan from very close range. Arikan died within minutes from multiple gunshot wounds to the

1 head and chest. Petitioner and Saliba ran away, hid their guns under a hedge, and fled in a car.
2 A witness to the murder took note of the license plate of the car, which was registered to
3 Petitioner. Petitioner was arrested later that afternoon. (*People v. Sassounian* (1986) 182
4 Cal.App.3d 361.)

5 APPLICABLE LEGAL PRINCIPLES

6 The Governor is constitutionally authorized to make “an independent decision” as to
7 parole suitability and is not bound to the Board’s finding of suitability. (Cal. Const., art. V, § 8,
8 subd. (b); *In re Rosenkrantz* (2002) 29 Cal.4th 616, 660, 686.) His parole decisions are governed
9 by Penal Code section 3041.2 and section 2402 of Title 15 of the California Code of
10 Regulations³. The Governor must consider “[a]ll relevant, reliable information available” (§
11 2402, subd. (b)), and his decision must not be arbitrary or capricious, (*In re Rosenkrantz, supra*,
12 29 Cal.4th at p. 677).

13 Although the Governor must consider the factors relied upon by the Board, he may weigh
14 them differently. (*In re Prather* (2010) 50 Cal.4th 238, 257, fn. 12.) The paramount
15 consideration in making a parole eligibility decision is the potential threat to public safety upon
16 an inmate’s release. (*Id.* at p. 252.) The Governor’s decision must be based upon some evidence
17 in the record of the inmate’s current dangerousness. (*In re Lawrence* (2008) 44 Cal.4th 1181,
18 1205-1206 (*Lawrence*)). Only a modicum of such evidence is required. (*Id.* at p. 1226.) “This
19 standard is unquestionably deferential, but certainly is not toothless, and ‘due consideration’ of
20 the specified factors requires more than rote recitation of the relevant factors with no reasoning
21 establishing a rational nexus between those factors and the necessary basis for the ultimate
22 decision—the determination of current dangerousness.” (*Id.* at p. 1210.)

23 Factors tending to show unsuitability for parole include the nature of the commitment
24 offense, a previous record of violence, an unstable social history, sadistic sexual offenses,
25 psychological factors, and institutional behavior constituting serious misconduct. (§ 2402, subd.
26 (c).) Factors tending to show suitability include a lack of a juvenile record, a stable social
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28 ³ All further statutory references are to title 15 of the California Code of Regulations unless otherwise
specified.

1 history, signs of remorse, the crime was committed due to significant life stress, the criminal
2 behavior was the result of intimate partner battering syndrome, a lack of a history of violent
3 crime, the inmate's current age reduces the probability of recidivism, the inmate has realistic
4 plans for release or marketable skills that can be utilized upon release, and the inmate's
5 institutional behavior indicates an enhanced ability to be law-abiding upon release. (§ 2402,
6 subd. (d).) The weight and importance of these factors are left to the judgment of the Board and
7 Governor. (§ 2402, subs. (c) & (d).)

8 In reviewing the decision of the Governor, the court is not entitled to reweigh the
9 circumstances indicating suitability or unsuitability for parole. (*In re Reed* (2009) 171
10 Cal.App.4th 1071, 1083.) Instead, "[r]esolution of any conflicts in the evidence and the weight
11 to be given the evidence are within the authority of the [Governor].' [Citation.]" (*Lawrence*,
12 *supra*, 44 Cal.4th at p. 1204.) Thus, unless the inmate can demonstrate that there is no evidence
13 to support the Governor's conclusion that the inmate is a current danger to public safety, the
14 petition fails to state a prima facie case for relief and may be summarily denied. (*People v.*
15 *Duvall* (1995) 9 Cal.4th 464, 475.)

16 DISCUSSION

17 The court finds that there is not some evidence to support the Governor's decision that
18 parole of Petitioner at this time would constitute an unreasonable risk of danger to public safety
19 due to the heinousness of the commitment offense and Petitioner's level of insight into his
20 offense and the significance of his 2012 letter to *Hay Zinvor*, an Armenian military newspaper.

21 The Commitment Offense

22 The Governor partially based his reversal on Petitioner's commitment offense. (Gov.
23 Reversal at p. 2.) The Governor may consider an inmate's commitment offense if it was
24 "committed in an especially heinous, atrocious or cruel manner." (§ 2402, subd. (c)(1).) The
25 commitment offense may be considered especially heinous, atrocious, or cruel when: (A)
26 multiple victims were attacked, injured or killed in the same or separate incidents; (B) the
27 offense was carried out in a dispassionate and calculated manner, such as an execution-style
28 murder; (C) the victim was abused, defiled or mutilated during or after the offense; (D) the

1 offense was carried out in a manner which demonstrates an exceptionally callous disregard for
2 human suffering; or (E) the motive for the crime is inexplicable or very trivial in relation to the
3 offense. (§ 2402, subd. (c)(1)(A)-(E).)

4 Here, the Governor found that “[Petitioner] and crime partner planned and carried out a
5 public assassination of a diplomat, a crime that had national and international repercussions.”
6 (Gov. Reversal at p. 2.) He further found that Petitioner’s reason, “retaliation for action by the
7 country Mr. Arian served, specifically the genocide of 1.5 million Armenians between 1915 and
8 1923, and Turkey’s subsequent ongoing denial of it. [...], does not justify it.” While there is
9 evidence to support the finding that the commitment offense was especially heinous for the
10 reasons cited by the Governor, this offense was certainly not a typical murder committed by a
11 typical offender committing a murder due to jealousy, revenge, or gain. Additionally, for the
12 unique set of circumstances, discussed *ante*, which led to Arian’s death are not likely to present
13 themselves again.

14 Petitioner, an Armenian, was born, and raised until the age of 13, in Lebanon. (CRA at p.
15 2.) During this time, they lived in an “active war zone and would routinely see dead bodies,”
16 including those of women and children. (*Id.*) His father was an alcoholic who was often gone
17 for week at a time, though Petitioner had a good, loving relationship with his mother. (*Id.*) He
18 lived with his many siblings and extended family members, including his grandparents who were
19 victims of the “Armenian Genocide.” His grandmother often told Petitioner of how she lost her
20 entire family to the genocide and that she only narrowly escaped death herself. (*Id.*)

21 At 13, his family immigrated to the United States to escape the violence in Lebanon, but
22 the family dynamic remained challenging. (CRA at p. 2.) They moved to Pasadena where there
23 was a large Armenian population. (*Id.*) He joined the Armenian Boy Scouts and the Armenian
24 Youth Federation. (*Id.* at p. 3.) This is where he met his crime partner, Krikor “Koko” Saliba.
25 (*Id.* at p. 12; HT at p. 43.) They became friendly a year or two before the crime and would
26 discuss politics and the history between Armenia and Turkey, including the genocide. (HT at p.
27 43.) They also noted and discussed the that there were “a lot of political assassinations going
28 on” at the time. That is, that “Armenians were assassinating Turkish diplomats in Europe mostly

1 because they were angry that ... after the genocide Turkey would deny the genocide.” (HT at p.
2 43.) “[Y]oung Armenians were upset about this and – and they thought that – that Turkey should
3 step up and acknowledge the genocide...and get into dialogue with the Armenian people or make
4 peace with them.” (*Id.* at p. 44.) Because this was not happening, “young Armenians decided to
5 take, uh, to resort to violence... [they had] given up that...peaceful dialogue with Turkey
6 was...going to happen.” (*Id.*)

7 During this time Petitioner and his crime partner, who was a few years older than
8 Petitioner, discussed going to Europe to carry out an assassination like they had been seeing take
9 place. (HT at pp. 38, 47.) At some point, Arikan, however, made a public address calling all
10 Armenians “liars” and declared there was no Armenian genocide. Saliba showed Petitioner an
11 article regarding Arikan’s statements. “[B]eing the grandson[s] of survivors of [the] Armenian
12 genocide, we took that to be very insulting. And we took very deep offense about that.” (HT at
13 pp. 45.)

14 As a result, the two began talking about resorting to violence in Los Angeles, instead of
15 going to Europe. (HT at p. 47.) A day or two before the murder, the duo scouted the route
16 Arikan took to work and saw him on Wilshire and Comstock. The men decided they would kill
17 Arikan at that intersection, where Arikan would make his right turn. (*Id.* at pp. 48-49.) That day
18 or the next day, Saliba obtained two guns to commit the murder. (HT at p. 50.)

19 On the morning of the crime, Petitioner drove himself and Saliba to the scene and parked
20 his car about 30 to 40 yards from where they planned to attack Arikan. The two men assumed
21 their positions on the street; Petitioner stood on one side of the street corner and his crime partner
22 stood on the other side of the corner to wait for Arikan. (*Id.* at pp. 50-51.) When they saw
23 Arikan’s car, Petitioner stepped into the street, causing Arikan to slow down, at which point
24 Petitioner began shooting. (CRA at p. 12.) Saliba did the same. (*Id.*)

25 Once the crime was complete, they left the scene in Petitioner’s car. Petitioner drove
26 them back to the Pasadena area where he dropped his Saliba off at a restaurant parking lot. They
27 sat in the car and talked for a few minutes about what they were thinking about before and during
28 the killing. (HT at pp. 51-52.) Petitioner said they were both “happy that we did it,” and that

1 they did not feel remorse because they were seeking revenge for the Turkish government's
2 refusal to acknowledge its role in the Armenian genocide. (*Id.* at pp. 52.) Shortly after the
3 murder, the Justice Commandos of the Armenian Genocide (JCAG) took credit for the killing
4 of Arikan. (HT at pp. 73-76.) This led to a question of whether Petitioner or Saliba were
5 members of JCAG. (HT at pp. 40, 73.) Petitioner denied ever having been a member of JCAG.⁴
6 (HT at p. 74.)

7 The evidence shows that the offense was carried out in a dispassionate and calculated
8 manner and the motive was very trivial in relation to the assassination of Arikan. (§ 2402, subds.
9 (c)(1)(B & E).) Immutable factors, such as the commitment offense, however, may no longer be
10 "probative" of current risk of danger to society "when considered in light of the full record"
11 including "the passage of time or the attendant changes in the inmate's psychological or mental
12 attitude." (*Lawrence, supra*, 44 Cal.4th at p. 1221; see also, *In re Scott* (2005) 133 Cal.App.4th
13 573, 595 [past crime's value for predicting future crime diminishes over time].) Though, where
14 other factors continue to indicate a lack of rehabilitation, such as a lack of insight, immutable
15 factors reliably may continue to provide some evidence of current dangerousness. (*Lawrence*, at
16 p. 1228; *In re Ryner* (2011) 196 Cal.App.4th 533, 545.) Here, as discussed *post*, there is no
17 evidence in the record to support the Governor's finding of lack of insight, such the commitment
18 offense of nearly 40 years ago is still probative of Petitioner's current dangerousness.

19 Insight

20 The Governor based his decision on the recency of Petitioner's development of insight, as
21 well as what the Governor found to be Petitioner's "increase[d] burden" to develop insight based
22 on the "historical and political context of his crime." (Gov. Reversal at pp. 2-3.) An inmate's
23 lack of insight is not listed as an unsuitability factor in either Penal Code section 3041 or its
24 corresponding regulations. However, section 2402 allows the Board to consider "[a]ll relevant,
25 reliable information available," including the inmate's "past and present mental state" and his
26

27 ⁴ "If I was a member...I would not deny it." (HT at p. 74.) Petitioner stated that admitting to the murder
28 he committed but failing to admit he was a member of JCAG would be like confessing to the felony but not
admitting to a misdemeanor. (*Id.*) Petitioner is not sure if Saliba was a member of JCAG; if he was, Petitioner was
unaware of it. (HT at p. 40.)

1 “past and present attitude toward the crime” (§ 2402, subd. (b).) As articulated by the
2 California Supreme Court, “the presence or absence of insight is a significant factor in
3 determining whether there is a ‘rational nexus’ between the inmate’s dangerous past behavior
4 and the threat the inmate currently poses to public safety.” (*Shaputis II, supra*, 53 Cal.4th at p.
5 218.) Lack of insight “can reflect an inability to recognize the circumstances that led to the
6 commitment crime; and such an inability can imply that the inmate remains vulnerable to those
7 circumstances and, if confronted by them again, would likely react in a similar way.” (*In re*
8 *Ryner, supra*, 196 Cal.App.4th at p. 547.) “[T]he finding that an inmate lacks insight must be
9 based on a factually identifiable deficiency in perception and understanding, a deficiency that
10 involves an aspect of the criminal conduct or its causes that are significant, and the deficiency by
11 itself or together with the commitment offense has some rational tendency to show that the
12 inmate currently poses an unreasonable risk of danger.” (*Id.* at pp. 548-549.)

13 In reversing the Board’s decision, the Governor found the “historical and political context
14 of his crime” “increases the burden on Mr. Sassounian to develop the insight and tools he will
15 need to manage the unique public safety risks that will result from his release from prison.”
16 (Gov. Reversal at pp. 2-3.) The Governor also found that Petitioner “has not yet demonstrated
17 that he has developed and *sustained* the necessary insight and skills for a *sufficiently long period*.
18 In particular, I am concerned that Mr. Sassounian has continued to underestimate the vigilance
19 that is required of him now and in the future, to consistently conduct himself in a manner that
20 promotes the rule of law and avoids fomenting violence, even inadvertently.” (Gov. Reversal at
21 p. 3 [emphasis added].) Of greatest concern to the Governor, now and in his previous reversal, is
22 a 2012 letter penned by Petitioner and published in an Armenian newspaper, *Hay Zinvor*. In the
23 letter, Petitioner wrote, “I promise that when I return [to Armenia], I will want to go, if allowed,
24 to the border for a few days, to guard it and defend our country’s frontiers. I will do that even
25 when I am at an advanced age.... I am a soldier of my Fatherland until the day I die – this is
26 something my Armenian blood taught me.” (*Id.*)

27 The Governor noted that Petitioner “acknowledged to the Board that sending this letter
28 [in 2012] to *Hay Zinvor* was a ‘bad decision’ but said that ‘in [his] mind [he] wasn’t advocating

1 violence' and he did not think there was anything violent about the letter. [Petitioner] has also
2 previously claimed that he is 'done with politics.'⁵' (Gov. Reversal at p. 3.) The Governor
3 found that, though "Mr. Sassounian may feel 'done with politics,' [] because he chose to commit
4 a political crime and targeted a high profile victim, Mr. Sassounian's actions will *always carry*
5 outsized political import." As a result, the Governor found, "[b]efore he can be safely released
6 from prison, he must demonstrate that he fully understands the nexus between nationalism and
7 violence, as well as the public safety risks that attend his notoriety." (*Id.* [emphasis added].)

8 To be sure, the Governor noted, however, that Petitioner did discuss with the Board his
9 previous failure to "fully consider the impact that his nationalism could have," and Petitioner's
10 acknowledgment that "because of the nature of his crime, it was inappropriate for him to write
11 anything politically charged that could be taken out of context," and he also noted Petitioner's
12 discussion regarding his "commitment to nonviolence and his hope for peace between the Turks
13 and Armenians." (Gov. Reversal at pp. 3-4.) In the end, though, the Governor found that while
14 Petitioner's insight developments are "positive," they "are very *recent*." The Governor found
15 that Petitioner "must *continue to develop* his insight into his risk factors, and demonstrate a
16 *sustained commitment* to avoiding conduct that could be used to incite violence or radicalize
17 others as he himself was radicalized when he was young." (*Id.* at p. 4 [emphasis added].)

18 As discussed *ante*, a reviewing court must uphold the decision of the Board or the
19 Governor "unless it is arbitrary or procedurally flawed," and it "reviews the entire record to
20 determine whether a modicum of evidence supports the parole suitability decision." (*Shaputis II*,
21 *supra* at p. 221.) The insight standard the Governor used to guide his decision was incorrect in
22 two important respects. He used the both the "nature of his crime" and its "notoriety" to
23 "increase the burden on Mr. Sassounian to develop the insight and tools he will need to manage
24 the unique public safety risks that will result from his release." (Gov. Reversal at pp. 2-3.) Also,
25 under this heightened standard, Petitioner was required to have his insight "for a sufficiently long
26 period." (Gov. Reversal at p. 3.)

28 ⁵ During his hearing, Petitioner told the Board that he realized that he needed to stay away from politics in
2015, four years before the 2019 hearing. (HT at p. 65.)

1 The law in this regard is quite the contrary. When determining suitability, “an
2 individualized consideration of the specified criteria” in the regulations must occur and the
3 evaluation cannot be “arbitrary or capricious.” (*Stoneroad, supra*, 215 Cal.App.4th at p. 616;
4 *Shaputis II, supra*, 53 Cal.4th at p 210.) By finding that “the historical and political context of
5 [his] crime...increases the burden on [him] to development the insight and the tools he will need
6 to manage the unique public safety risks,” the Governor was placing an increased burden on
7 Petitioner because of the “unique” “context of his crime.” (Gov. Reversal at p. 2.) The
8 Governor took what was clear evidence of Petitioner’s insight, which the Governor
9 “acknowledged” throughout his Reversal, and held Petitioner’s to a different, “arbitrary”
10 standard. The Governor held that, “because he chose to commit a political crime and targeted a
11 high profile victim, Mr. Sassounian’s actions will always carry *outsized political import*.” (Gov.
12 Reversal at p. 3 [emphasis added].) Both of these statements are examples of how the Governor
13 has failed to apply the law with consistency to Petitioner due to the nature of his crime and/or the
14 notoriety of his crime and victim.

15 Using this heightened standard, the Governor also found the Petitioner must demonstrate
16 his insight for a predetermined, unknown amount of time before he may be found suitable. The
17 case law establishes there is no predetermined amount of time an inmate must demonstrate or
18 possess insight such that it is sufficient for purposes of suitability. (*In re Lee* (2006) 143
19 Cal.App.4th 1400, 1414 [“So long as [one] genuinely accepts responsibility, it does not matter
20 how long-standing or recent it is”]; *In re Elkins* (2006) 144 Cal.App.4th 475, 495 [acceptance of
21 responsibility works in favor of release ‘[n]o matter how longstanding or recent it is,’ so long as
22 the inmate ‘genuinely accepts responsibility’ [Citation] Where the Governor did not suggest
23 that he had any doubt regarding the sincerity of Elkins’ acceptance of responsibility, only that it
24 was too recent.].)

25 The Governor does not appear to suggest that Petitioner has failed to develop insight, in
26 fact, the Governor listed several ways Petitioner has demonstrated insight and listed many of
27 Petitioner’s “positive developments.” The court also notes that nowhere in his decision does the
28 Governor find Petitioner’s insight developments to be feigned or insincere. Instead, he found

1 “they are *very recent*,” and that he “must *continue to develop his insight* into his risk factors, and
2 demonstrate a *sustained* commitment to avoiding conduct that could be used to incite violence or
3 radicalize others.” (Gov. Reversal at p. 4.) Without pointing to a factually identifiable
4 deficiency in Petitioner’s insight, the Governor’s finding that his insight is “too recent” is
5 inappropriate.

6 *Comprehensive Risk Assessment*

7 In finding Petitioner’s insight is too recent, the Governor relies on a statement made by
8 the psychologist in the September 28, 2019 CRA regarding his previous letters to *Hay Zinvor*,
9 that “it is difficult to ignore the passion with which he identified with Armenian soldiers and
10 impossible to know with certainty that his views on the matter have changed so significantly in
11 the span of just six years.” (CRA at p. 10.) Taking the psychologist’s entire statement in
12 context, just before that sentence, the psychologist recounted that “in the current interview and in
13 BPH hearings since he wrote the letters, he has stated his deep regret for writing the letters and
14 that his opinions have changed insofar as while he is thankful that Armenia has a military, he
15 does not identify with such and has no role in supporting it.” (*Id.*) And just after the statement,
16 the psychologist stated, “Mr. Sassounian reported that despite his estimated slim chance of
17 relapsing into old behavioral patterns, he has developed a relapse prevention plan that he was
18 able to speak to with some specificity. He was able to identify relevant internal and external
19 triggers that have led him towards anger and violence in the past and also identified numerous
20 relevant coping skills he now employs on a regular basis. He acknowledged that if he found
21 himself struggling he would not hesitate to reach out for help.” (*Id.*) During the assessment,
22 Petitioner “did not appear to deny that he continues to get angry, though he denied he becomes
23 angry about the political nature of the Turkish/Armenian conflict. He reported a multitude of
24 positive coping skills he uses to address his feelings.” (CRA at pp. 12-13.) Petitioner also
25 stated, “on multiple occasions” during his evaluation, that “the punishment he received for his
26 crime would be an unequivocal deterrent to becoming even peripherally involved in political
27 matters in the future, which appeared to be genuine.” (CRA at p. 13.)
28

1 When discussing Petitioner's vulnerability to radicalization, the psychologist noted that
2 Petitioner "denied knowledge of any existing radical Armenian sects who would seek to use
3 violence in their endeavors. Even so, [he] allowed that he understands [the Board's] concern
4 with regard to this possibility and reported that should anyone contact him about such [radical
5 Armenian factions or violence], he would immediately inform the authorities." (CRA at p. 9.)
6 She also reported that Petitioner "was adamant in his denial that there is any risk of him
7 becoming involved in Armenian political movements. He stated multiple times that he has come
8 to realize that those matters are to be left to the U.N., the diplomats and the politicians. He
9 indicated he will continue to profess the importance of peaceful solutions should anyone
10 approach him regarding the Turkish/Armenian political dynamic." (*Id.*) The court notes that the
11 psychologist found Petitioner to represent a low risk of violence upon release. (*Id.* at p. 15.)
12 Thus, a review of the full finding of the psychologist, as opposed to the one statement quoted by
13 the Governor, shows no evidence of a lack of insight into either his commitment offense or the
14 letters to *Hay Zinvor*. This is especially so when viewing the record through the proper standard,
15 as opposed to the incorrect standards used by the Governor.

16 Furthermore, reviewing the full record, the court finds no evidence that Petitioner lacks
17 insight. In fact, on the contrary, the evidence demonstrates that Petitioner has great remorse for
18 the commitment offense, has developed insight into the fact that he should not become involved
19 in matters best left to the government, and has developed numerous "tools" to cope with his
20 anger, what he has identified as a trigger. Many examples of Petitioner's insight have been
21 written in Petitioner's own hand through letters, journal entries, and book reports: *The Process I*
22 *Took to Explore and Address the Governor's and the Board's Concerns About my 2012 and*
23 *2013 Hay Zinvor Letters, Journal Notes on 2012 Letter to Hay Zinvor* (Pet. Exh. 8), *Regret and*
24 *Reconciliation, 2019 Letter to Hay Zinvor* (Pet. Exh. 9), Letters to the Editors of Armenian
25 Newspapers *Asbarez, California Courier, and Hye Gyank* (Pet. Exh. 11), *Writing on the Non-*
26 *Violent Advocacy Work of Dr. Martin Luther King, Jr.* (Pet. Exh. 12), Petitioner's
27 comprehensive Relapse Prevention Plan (Pet. Exh. 13; see also HT at pp. 81-82), and Petitioner's
28 detailed parole release plans for both California and Armenia (Pet. Exh. 14). There are also

1 many examples in the hearing transcript where Petitioner spoke at length about the 2012 and
2 2013 letters and his insight into the problems surrounding them and regrets about the same (HT
3 at pp. 33-34, 64) as well as the reports generated in two comprehensive risk assessments
4 conducted in 2019 (Pet. Exh. 5 & CRA, dated Nov. 7, 2019, Exh. 16).

5 Regarding the commitment offense and its repercussions, Petitioner wrote a victim
6 apology letter to Mr. Arikan's family, friends, and colleagues, as well as one to the "Nation of
7 Turkey, the Turkish Government, and Turkish Communities of the World." (Pet. Exh. 7.) In the
8 letters, he expresses his deep regret for taking Arikan's life and causing the pain he has caused
9 Arikan's wife and children, as well as the Turkish government and people. (*Id.*) Petitioner
10 acknowledged the fear that Arikan's assassination must have created for all Turkish government
11 officials and people and his regret for making them feel "personally targeted, violated and
12 unjustly attacked." (*Id.*) Petitioner stated that he has learned that violence is senseless and
13 accomplishes nothing positive, [and that] peace and diplomacy are the answers, and most
14 importantly, that Turkey has a right to its independence and to pursue its own interests. (*Id.*)

15 In preparation for presenting a letter for publication to *Hay Zinvor* in 2019 to amend the
16 impression of his earlier letters, Petitioner wrote detailed journal notes. (Pet. Exh. 9.) In them he
17 wrote that he would like to correct the characterization of his crime as having simply "kill[ed]
18 Arikan," instead, he said, "I murdered him in cold blood." (Exh. 9 at p. 1.) He seeks to correct
19 the minimization of his crime, or even, being hailed a hero, and instead wants people to
20 understand that he "regret[s] my crime and I did not help, I only caused death, trauma, anger,
21 fear, [and] resentment." (*Id.*)

22 Importantly, Petitioner stated "I must be very careful what I say, [or] write, because due
23 to my crime and political nature of my crime of murder, any "nationalistic" comments, any
24 praise of "armed forces" or "struggle," could be taken as a call for violence. When I wrote the
25 [2012] letter, I thought I was honoring the Armenian soldier and their service," and he goes on to
26 express a wish that he had the sense to make good decisions or the ability (he was not a United
27 States citizen) to join the armed services when he was younger instead of committing his crime.
28 (*Id.*; see also HT at pp. 29-31, [Petitioner stated that he was in denial about the potential negative

1 impact of the letter or that “anybody could [be] hurt by it.”], 34, 69 [Petitioner also noted that he
2 will “stay away from nationalistic people...[and] not be near anybody...that advocates
3 violence.”)

4 Petitioner acknowledged that what for most people would sound like a simple patriotism
5 or “love of country,” for him to say it “sounds very different.” (*Id.* at p. 2.) He reported that
6 when he wrote the 2012 letter he believed he “was honoring the 18-20 year old soldiers for their
7 service and courage. [He] did not think about [the] violence-military connection.” (*Id.* at p. 4.)
8 He said, while he respects Armenia’s “heroes,” his thoughts are in “other warmer place[s] now –
9 family, love, peace, and compa[ss]ion.” (*Id.*)

10 He revealed that it was not until he was presented with the 2012 letter at his subsequent
11 Board hearing and the commissioners told him what it meant to them that he “realized how those
12 letters could be seen by others and [he] felt a great sense of shame and embarrassment.” He said,
13 “I did not mean any harm. I know now that being patriotic is out of bounds for me and it’s an
14 issue I will stay away from. I desire peace and dialogue and I will preach it every day of life any
15 time I’m asked no matter where.” (*Id.* at p. 6; see also HT at pp. 34, 64.)

16 In his 2019 letter sent to *Hay Zinvor*, he clarified that he did not want to be regarded as a
17 hero for the “murder of an innocent human being.” (Ex. 10 at pp. 1-2.) He told the Board, he
18 wrote the letter because it was the “right” thing to do and he “mean[t] it from the bottom of [his]
19 heart.” (HT at pp. 148-149.) He said that nothing “will ever excuse or justify my crime and the
20 harm and pain I brought to Mr. Arian, his family and friends, the Turkish government, and the
21 Turkish people.” (*Id.* at p. 2.) Petitioner related that the “truth is, in 1982, I was an angry man
22 full of rage. My heart was filled with hate and resentment for the Turkish government. I allowed
23 this rage, hate, anger, and resentment to grow out of control to the point where I wanted to inflict
24 pain on the Turks for hurting Armenians and causing my family and other Armenians to suffer.”
25 (*Id.*) He expressed regret for his crime and renounced violence, and instead advocated non-
26 violent solutions for peace and dialogue, as well as shared his deep appreciation for Mahatma
27 Gandhi, Dr. Martin Luther King, Jr., the Dalai Lama, and Nelson Mandela. (*Id.* at pp. 2-3.) This
28

1 is all evidence of Petitioner's insight into both his commitment offense, as well as, the impact of
2 his 2012 letter.

3 The court finds the Governor's decision was both arbitrary and procedurally flawed.
4 (*Shaputis II, supra* at p. 221.) The standard used by the Governor to measure Petitioner's insight
5 based on the type of crime and its notoriety, as well as its recency was improper, causing the
6 decision to become arbitrary and capricious in violation of established case law. (*In re Lee*
7 (2006) 143 Cal.App.4th 1400; *In re Elkins* (2006) 144 Cal.App.4th 475; *Lawrence, supra*, 44
8 Cal.4th at p. 1210; *In re Rosenkrantz, supra*, 29 Cal.4th at p. 677.) Additionally, the record
9 before the court does not contain evidence to support any finding of a lack of insight, and does
10 not support a finding of current dangerousness. (§ 2402, subd. (b).)

11 *Other Relevant Evidence*

12 Although the court may not reweigh the evidence considered by the Governor, it is not
13 limited to the evidence relied upon by the Governor in determining whether his decision is
14 supported by some evidence. (*In re LeBlanc* (2014) 226 Cal.App.4th 452, 457; *In re Shaputis*
15 (2011) 53 Cal.4th 192, 214, fn. 11.) Here, the court notes both the Board and the Governor
16 found Petitioner suffered severe childhood trauma growing up which had a "significant impact
17 on his life" (Gov. Reversal at p. 2; HT at p. 155); also, Petitioner has demonstrated sincere
18 remorse (HT at pp. 54-56); two recent psychological evaluations placed Petitioner at a low risk
19 for violence upon release; Petitioner's classification score is 19, which is the lowest possible for
20 a life inmate; and Petitioner has not received a serious rules violations in nearly 20 years (HT at
21 p. 153). Petitioner has engaged in varied rehabilitative self-help programming and numerous
22 vocations (HT at pp. 158-159); Petitioner has comprehensive release plans for both the United
23 States and Armenia; and he has developed a detailed relapse prevention plan⁶ (HT at pp. 154-
24 155, 160-161). Furthermore, Petitioner was 19 at the time of the offense, making him a youth
25 offender, and the Board and psychologists found he displayed the hallmark features of youth and
26 subsequent increased growth and maturity. (HT at pp. 155-158; CRA at pp. 14-15; Pet's Exh. 16
27

28 ⁶ The Board noted that Petitioner's relapse prevention plan is for political violence, "not just any kind of violence," which the Board found to be "very important." (HT at p. 161.)

1 at pp 14-15.) Additionally, Petitioner is now 58 years old, which in and of itself reduces the
2 probability of recidivism. (HT at p. 153; see *In re Stoneroad* (2013) 215 Cal.App.4th 596, 634,
3 fn. 21 [“The [Stanford] study also notes that other studies “demonstrate that as a general matter,
4 people age out of crime. For most offenses—and in most societies—crime rates rise in the early
5 teenage years, peak during the mid-to-late teens, and subsequently decline dramatically. Not only
6 are most crimes committed by persons under 30, but even the criminality that continues after that
7 declines drastically after age 40 and even more so after age 50.” (Weisberg et al., Stanford
8 Criminal Justice Center, *Life in Limbo: An Examination of Parole Release for Prisoners Serving*
9 *Life Sentences with the Possibility of Parole in California* (Sept. 2011) 1, 17.)) Each of these
10 do not support a finding of current dangerousness.

11 CONCLUSION

12 Based on the foregoing, the court finds the Governor failed to articulate how the record
13 contains “some evidence” to support his conclusion that Petitioner is currently an unreasonable
14 risk of danger to society if released. Furthermore, the Governor used improper standards when
15 evaluating Petitioner’s parole suitability—namely, his insight. Though his commitment offense
16 was undoubtedly callous and bore a trivial motive, it also bore very unique circumstances
17 culminating after years of trauma, denials, insults, and rage. These circumstances, along with its
18 having taken place nearly 40 years ago, makes the commitment offense an immutable factor that,
19 *without more*, may no longer be probative of Petitioner’s current dangerousness. The Governor
20 does not point to any evidence that Petitioner lacks insight, but rather, finds his insight has been
21 developed “too recent[ly],” and to the extent the Governor finds Petitioner’s insight may be
22 lacking it is because of the “increase[d] [] burden” placed on Petitioner by the Governor due to
23 the “historical and political context” and “outsized political import” of his crime.

24 The record, instead, points to Petitioner having developed deep remorse for and insight
25 into both his crime and the letters he wrote to *Hay Zinvor* and how those were “out of bounds”
26 for him given his crime. Even when only a modicum of evidence is required, the Governor still
27 must point to evidence and articulate a rational nexus between the factor used “and the necessary
28 basis for the ultimate decision—the determination of current dangerousness.” (*In re Lawrence*,

1 *supra*, 44 Cal.4th 1181, 1210.) Here, the court could find no evidence of a lack of insight by
2 Petitioner and, as discussed, the Governor's statement of decision lacks a rational nexus to
3 current dangerousness.

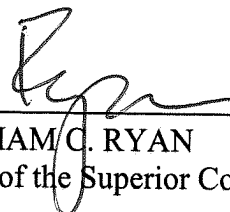
4 The court does not reach this conclusion without due consideration. The court is mindful
5 of the impact this decision will undoubtedly have on the victims' family and friends, as well as
6 the government and the people of the Republic of Turkey. Petitioner committed a murder for
7 which he has been appropriately punished. Based on the record before this court, however, there
8 is no evidence demonstrating Petitioner *currently* poses an unreasonable risk of danger to
9 society, which is the legal standard the court is required to apply by law.

10 DISPOSITION

11 For all the foregoing reasons, the Order to Show Cause, having served its purpose is
12 DISCHARGED and the petition for writ of habeas corpus is GRANTED. The Governor's
13 reversal is VACATED, the Board's grant of parole from December 27, 2019, is hereby
14 REINSTATED. The Board is directed "to proceed in accordance with its usual procedures for
15 release of an inmate on parole unless within 30 days of the finality of this decision the Board
16 determines in good faith that cause for rescission of parole may exist and initiates appropriate
17 proceedings to determine that question. [Citations.]" (*In re Twinn* (2010) 190 Cal.App.4th 447,
18 474.)

19 The Clerk is ordered to serve a copy of this order upon Susan L. Jordan, Esq., as counsel
20 for Petitioner, and upon Deputy Attorney General Jennifer L. Heinisch, as counsel for
21 Respondent, the Governor of the State of California.

22
23
24 Dated: 2-24-21

25 
26 WILLIAM C. RYAN
27 Judge of the Superior Court
28



1 **Send a copy of this order to:**

2
3 **Petitioner's Counsel**

4 Susan L. Jordan, Esq.
5 The Law Offices of Susan L. Jordan
6 P.O. Box 718
7 Rocklin, CA 95677-0718

8 **Respondent's Counsel**

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