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PRESS RELEASE

For Immediate Release

Date: November 22, 2022
Re: Damian Bernardo Montano
Third Strike Inmate Denied Parole

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Modesto, California - Stanislaus County District Attorney Birgit Fladager announced today that Damian Bernardo Montano, age 66, formerly of Arizona was found unsuitable for parole during an October 14, 2022 hearing of the State Board of Parole Hearings held at the Correctional Training Facility in Soledad. Deputy District Attorney Victoria Vasquez appeared on behalf of the People.

On February 18, 2000, California Highway Patrol officers observed Montano driving over 80 miles an hour and repeatedly drifting off the roadway on Patterson Road in Stanislaus County. When contacted, Montano's speech was slurred, he smelled of alcohol, had bloodshot and watery eyes and failed field sobriety tests. A chemical test showed his blood alcohol level to be 0.21%, over two times the legal limit.

A criminal history records check revealed Montano had been previously convicted of driving under the influence three times within a three-month period in 1994, elevating his charge to a felony. Montano had also previously been convicted of serious or violent felonies that included burglary of an inhabited dwelling, rape of a mentally or physically disabled person, false imprisonment and assault with intent to commit rape, all of which counted as "strikes" under California's "Three Strikes" law, making him eligible for a sentence of 25 years to life in state prison. Montano had been in and out of prison since 1976 and violated parole at least seven times.

On December 3, Montano waived his right to a jury trial and submitted his case on the police reports before Judge Al Girolami who then convicted him of felony driving under the influence. Montano also admitted his prior "strike" convictions. On December 13, 2002, Judge David VanderWall denied Montano's *Romero* motion to strike one or more of his prior convictions and sentenced him to serve a total of 28 years to life in state prison.

While in prison, Montano repeatedly violated prison rules including possessing expired medication, fighting with fellow inmates on multiple occasions and aligning himself with a documented prison gang.

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A prison psychologist who examined Montano prior to the parole hearing gave the opinion that Montano poses a “moderate” risk for future violence if he were to be released into the community.

Prosecutor Vasquez argued that Montano was aggressive towards the Board during his testimony at the hearing when they confronted him about his past offenses, that he had not engaged in substantial programming and that his history of violence in prison also supported a finding of unsuitability for parole.

Following deliberations, the Board denied parole for five years finding as aggravating factors Montano’s lack of sexual offender programming, his prior incarcerations were not a deterrent because Montano reoffended while on parole and his lack of offender change. The Board found that despite Montano’s advanced age he still poses an unreasonable risk to public safety.

This was Montano’s first parole hearing. Montano may have his next hearing advanced sooner than five years if he can show a change in his circumstances.

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