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PRESS RELEASE

For Immediate Release

Date: June 4, 2021
Re: Josefa Benito Hernandez
Convicted rapist denied parole

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Modesto, California - Stanislaus County District Attorney Birgit Fladager announced today that Josefa Benito Hernandez, age 44, of Modesto was found unsuitable for parole at a May 20, 2021, hearing of the State Board of Parole Hearings held at the California Institution for Men in Chino. Deputy District Attorney Dannica Molina appeared at the hearing on behalf of the People.

On August 4, 2002, Hernandez and a friend were approached at a bar by a 47-year-old female seeking help for car trouble. Hernandez ended up driving the victim to a dark, rural area in west Modesto where he forcibly pulled her from the car and began punching her in the face and body. When the victim struggled to get away, Hernandez ripped off her clothing and used a tire iron to hit the victim in the head and body, fracturing her wrist and arm.

Hernandez dragged the victim to a nearby field where he raped her. When Hernandez left the victim lying in the field and walked back to his vehicle, she ran back to the roadway to try to get help from an approaching car which did not stop. Hernandez then took the opportunity to strike the victim in the head with the tire iron once more. She played dead until he drove away.

When law enforcement arrived on the scene, the victim was naked and covered in blood. In addition to the fractured wrist and arm, she had three large lacerations on her head that took 100 staples to close.

On September 15, 2003, Hernandez was convicted of attempted murder and rape and sentenced to 13 years to life in prison.

Although Hernandez was 25 years old at the time he committed these crimes, a 2018 change in California law deemed him a "youthful offender" requiring the State Board of Parole Hearings to give great weight to the diminished capacity of youth as compared to adults in determining whether to keep such an inmate in prison custody or grant parole.

At the hearing, Deputy District Attorney Molina argued that the hallmark features of youth that the Board was required to consider were not present here and that continued confinement was

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appropriate based on the nature of his crimes. She also argued that Hernandez demonstrated a lack of insight into why he committed these crimes and that a recent evaluation by a prison psychologist revealed that Hernandez continues to pose a moderate risk to the community if he were to be released.

The Board agreed and denied parole for three years. Despite giving great weight to Hernandez's age at the time of the crimes, the Board had a difficult time identifying the presence of youthful offender factors and indicated that Hernandez was not what the Legislature had in mind when drafting the Youthful Offender law.

However, the Board also recognized what it called Hernandez's tremendous progress since being incarcerated the last seventeen years. If Hernandez continues to make such progress, he has the potential to advance his next parole hearing to an earlier date.

This was Hernandez's second parole hearing. Hernandez had previously been denied parole in 2014.

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