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PRESS RELEASE

For Immediate Release

Date: August 2, 2022
Re: Timothy Barstow Malone
Convicted Killer Granted Parole

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Modesto, California - Stanislaus County District Attorney Birgit Fladager announced today that Timothy Barstow Malone, age 41, of Modesto was found suitable for parole during a July 20, 2022 hearing of the State Board of Parole Hearings held at the California Medical Facility in Vacaville. Deputy District Attorney Victoria Vasquez appeared at the hearing on behalf of the People.

On November 11, 1998, 18-year-old Malone took a handgun with him to San Jose to meet with 55-year-old victim David Frank Thompson of Ben Lomond. At the meeting, Malone pretended to be interested in buying Thompson's Lexus automobile. Thompson allowed Malone to test drive the car and, in return, Malone shot Thompson twice in the head. Malone then stuffed Thompson's body in the trunk of the Lexus, cleaned up as much blood as he could from the vehicle's interior and convinced a friend to help him bring both the stolen car and his mother's car to his home in Stanislaus County.

When he got back to his residence in Riverbank, Malone put Thompson's body in his little sister's red wagon and pulled it down a trail near his home to a nearby river where he dug a hole and buried the body.

During an interview by investigators from Stanislaus and Santa Cruz Counties, Malone tried to put the blame on the victim, saying that Thompson tried to assault him. Malone later alleged that Thompson had tried to make a "romantic pass" at him, causing the murder. He was so convincing that a psychologist who interviewed him in 2001 gave the opinion that Malone had suffered "an archetype instance of homosexual panic and a subsequent impulsively violent outburst." However, Inmate Malone has subsequently said in his writings that the alleged assault was a lie.

Although charged with first degree murder and special circumstances making Malone eligible for the death penalty, due to his young age and lack of criminal history the People ultimately withdrew the possibility of a death sentence, leaving him with the potential of life in prison without parole. Following his preliminary hearing in the case, Malone entered into a plea agreement where he pled guilty to the first degree murder, carjacking and admitted an enhancement that he personally and intentionally used a firearm causing death. In return for the plea, Malone received an agreed upon

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sentence of 40 years-to-life in state prison, avoiding the potential of life without the possibility of parole.

While awaiting trial in the custody of the Stanislaus County Jail, Malone slashed the cheeks of a fellow inmate, giving him a 6 to 8-inch wound on the left cheek and a 1-inch wound on the right cheek. Malone at first lied to deputies, trying to convince them that he was trying to stop his cellmate from committing suicide. An investigation discovered that Malone was actually assisting a criminal street gang by giving his cellmate “snitch marks.”

Following the passage of Assembly Bill 1812 in 2018, Malone became eligible as a “youthful offender” for consideration of having his sentence recalled and being resentenced due to his age at the time of the crime. On January 29, 2021, CDCR Secretary Kathleen Allison submitted CDCR’s recommendation that Malone’s case be returned to Stanislaus County Superior Court for that consideration. After briefing and argument by the People and attorneys for the inmate, Judge Nancy Leo denied CDCR’s recommendation stating:

Mr. Malone is to be commended for his exemplary behavior while in custody – although it’s kind of ironic; I would expect nothing less of inmates but to obey the rules while they’re incarcerated – but I think that the sentence that was handed down at the time of sentencing is appropriate based on Mr. Malone’s conduct before, during and after this absolutely horrific, senseless homicide. I don’t believe that I read or heard anything that would give me a sense that this society would be safe and that there’s anything that would suggest that his future dangerousness to society has been mitigated. So, with that, I cannot in good conscience recall the sentence.

In 2021, Malone filed a request for clemency with Governor Gavin Newsom. The District Attorney’s Office responded arguing that the request be denied. As the July parole hearing approached, the Governor’s Office had not given any notice of the status of that request.

During the July 2022 parole hearing, Malone changed his story once more, telling the board that as he was returning the stolen Lexus to Stanislaus County, he heard a noise coming from the trunk where he had stored the victim’s body. When he opened the trunk, Malone realized Thompson was still alive, so he shot him once again, this time in the back, making sure that his victim would never be able to testify against him.

Prosecutor Vasquez argued to the Board that Malone still poses an unreasonable risk of violence to society if he were to be released and read statements from the victim’s relatives made at the sentencing in 2001.

After deliberations, the Board found that Malone no longer posed any risk of violence to the public if he were to be released and granted parole. The Board believed that Malone’s murderous lack of self-control in 1998 had since been mitigated by his extensive and active cooperation in programming while incarcerated, that he showed insight into the causative factors that made him shoot a man in order to steal his car, his institutional good behavior without violating any rules since being incarcerated, and his accumulation of four Associate of Arts degrees, one Associate Degree in Science and a Bachelor’s of Science degree in Psychology.

This was Malone’s first and only parole hearing since going to prison.

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