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PRESS RELEASE

For Immediate Release

Date: January 27, 2023
Re: Josefa Benito Hernandez
Convicted Rapist Denied Parole

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Modesto, California - Stanislaus County District Attorney Jeff Laugero announced today that Josefa Benito Hernandez, age 45, of Modesto was found unsuitable for parole during a December 28, 2022 hearing of the State Board of Parole Hearings held at the California Institution for Men in Chino. Special Prosecutor Holly MacKinnon 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 her 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.

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At the hearing, Prosecutor MacKinnon asked the Board to deny parole, pointing out that Hernandez's lack of adequate release plans coupled with his insufficient sex offender and victim impact programming made him an unreasonable risk of danger to the community if he were to be released from prison. She argued his lack of insight into his extremely violent and disturbing attack made him a current threat to public safety. Prosecutor MacKinnon argued that the hallmark features of youth that the Board was required to consider were not present here and that continued confinement was appropriate based on the extremely heinous nature of his crimes.

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 found that he lacked awareness and sufficient sex offender programming. The Board found that he did not possess the tools necessary to avoid reoffending.

This was Hernandez's third parole hearing. He was previously denied parole in 2014 and 2021. Hernandez will be eligible for another parole hearing in 2025, however, that date may be advanced based on recent changes in the law.

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