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Ex-Convict Wins

Fight - Won't

Return to 'Q'

Saved by 10 Month Parole

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SACRAMENTO — Ex-convict Frank Nubin, facing return to prison on a bureaucratic technicality after almost two years of freedom, instead was granted immediate parole today.

Henry Kerr, chairman of the California Adult Authority, said Nubin's sentence had been refixed at the maximum 10 years, which means that he will have 10 months and eight days to serve on parole.

A special condition of the parole, Kerr added, is that Nubin, 46, abstain totally from the use of alcohol because of his "volatile history."

Not Overjoyed

He added that the move — interpreted as a lenient one — was made "after careful review and not in response to news media coverage or public pressure."

Nubin, however, was less than overjoyed.

He had been in the office of Raymond Procnier, head of the Department of Corrections, for an hour and a half after coming here to surrender for what might have been a return to San Quentin.

Nubin, put on parole in

1968 after serving a prison term for assault, was clapped back in prison after a battle with his former wife — even though the charges against him were dropped when she refused to testify.

Error on Date

Nubin got out on a writ of habeas corpus when the Adult Authority had listed his new commitment date incorrectly as after the expiration of his full term.

The Attorney General, after almost two years, proved that the date was a paper error, and the Adult Authority proceeded to order Nubin back to prison despite his steady employment as an ironworker and generally clean record.

Before today's last-minute order granting parole, Nubin

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had been apprehensive about being sent back to San Quentin.

Sign or Else

"They made me sign the parole paper without a chance to talk to my lawyer," he complained.

"They told me either to sign the parole agreement or return to prison. If it hadn't been for my wife, I wouldn't have signed their papers at all."

His wife, Earnice, had been called into Procnier's office at one point in the proceedings.

'Lot of Fear'

"I have a lot of fear. I feel physically sick about the whole thing. I cannot conceive of the idea of going back to prison.

"We" — speaking of his family — "have faced this question day-to-day this week. Everybody's on edge. It doesn't feel real."

Nubin said he had discussed the situation with his wife, and that while he wants to be totally discharged he foresaw the possibility that he might be required to remain free on parole.

"I'd still be obligated to the state under parole," he observed. "But I feel a bird in hand is worth two in the bush. I can't make a living while in prison."

His attorney, Salle Soladay, said Nubin would surely have had to go back to prison to day "if it weren't for the publicity this week and the public response."

State Senator Nicholas Petris (D-Oakland) disclosed he had taken a personal interest in the case, and planned to meet Nubin in Sacramento.

"The fact is," Petris said, "that for the longest period of time since he's been out, he has conducted himself as a good citizen.

"There is nothing to be gained by sending him back to prison, and a tremendous amount to be gained by letting him stay out and reinstating his parole."

A week ago Marin Superior Judge E. Warren McGuire ordered Nubin to surrender to the Adult Authority today and urged that he be immediately considered for parole.

Yesterday, Judge McGuire indicated he would probably grant Nubin a further stay if the Adult Authority failed to

take immediate action on his case.

Predicament

On Tuesday, an Adult Authority spokesman said Nubin would have to leave his home and job and return to San Quentin, where his case would be considered at the first opportunity of the Parole Board — probably in December.

After an Examiner story revealed Nubin's predicament, the Adult Authority changed its story, saying it was "quite possible" the former convict would not have to return to prison at all.