

Conscious Prisoner ~ The Evolution of Uhuru

The "Non-Review" of Parole Reinstatement by the Parole Review Commission

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By Uhuru B. Rowe
February 18, 2016

"The Commission did not specifically address reinstating discretionary parole due to the limited time for the Commission and the interrelated and complex issues (including incomplete data), which made this issue difficult to address in the time period allowed....," Governor Terry McAuliffe revealed about the Commission on Parole Review in the Executive Summary section of his December 4, 2015 Governor's Commission on Parole Review Final Report and Recommendations (Final R&R, p. 5).

This statement came as a surprise to Virginia prisoners sentenced under the draconian no-parole (85 percent) law, our loved-ones and community grassroots organizations because we all were extremely optimistic that the Commission would do the just and fair thing and recommend that parole be reinstated. But, what is even more shocking is that the Commission did not even consider or address the issue of parole reinstatement even though this was the main reason why the Commission was established in the first place. Let's examine the above statement by the Commission for lawfulness and truthfulness. First, it is stated in the Commission's Final R&R that the Commission "did not specifically address reinstating discretionary parole." As detailed in the Final R&R, the main reason Governor McAuliffe established the Commission on June 24, 2015, via Executive Order #44, was "to review the 1995 decision to abolish parole...." (Final R&R, p. 5). If the Commission never got around to "specifically address[ing] reinstating...parole," then it violated and is in contempt of the Governor's Executive Order #44.

Second, the Commission stated it did not specifically address reinstating discretionary parole "due to... interrelated and complex issues (including incomplete data), which made this issue difficult to address in the time period allowed...". This declaration is meant to deceive the citizens of Virginia into believing the Commission lacked knowledge, research data and related reports concerning the abolition of parole, truth-in-sentencing and the social and economic impact these laws have had on prisoners, disadvantaged communities and the economy. Instead, the opposite is true. Consider the following: The Governor stated in his Executive Order #44 that "Virginia had two decades of evidence by which to assess progress and public safety outcomes and to determine whether abolishing parole has achieved its intended goals....". What happened to this "two decades of evidence" during the five Commission

meetings?

During the first Commission meeting, Eric Finkbeiner, Former Executive Director of former Governor George Allen's Commission on Parole Abolition and Sentencing Reform, "provided a presentation on the history and impact of 1994 parole abolition and sentencing reform...Mr. Finkbeiner's report provided a historical overview of the 1994 objectives....". (Final R&R, p. 54).

During the August 27, 2015 Commission meeting, Meridith Farar-Owens, Director of the Virginia Sentencing Commission, "provided an overview of Virginia's voluntary sentencing guidelines. Topics presented included, but were not limited to, the impetus for sentencing guidelines, goals for sentencing reforms, methodology used to create historically based sentencing guidelines, methodology used when parole was abolished, violent offender's terms of incarceration and guidelines enhancement overview." (Final R&R, p. 64) During the same Commission meeting, Dick Hickman, Deputy Staff Director of the Virginia Senate Finance Committee, "provided a comprehensive overview of the implementation of the abolition of parole and the adoption of felony sentencing guidelines. Topics included but were not limited to the reform objectives, background of the 1994 Crime Bill, old law [verses] new law parole, percentage of time served verses actual time served, sentencing and prison costs, recidivism and crime and incarceration rates." (Final R&R, p. 66). During the five Commission meetings, members had access to two reports released by the Justice Policy Institute: "The Billion Dollar Divide: Virginia's Sentencing, Corrections and Criminal Justice Challenge," and "Virginia's Justice System: Expensive, Ineffective and Unfair." In addition, there was mounds of research data/information provided by the American Probation and Parole Association; American Civil Liberties Union; Legal Aid Justice Center; Virginia Alliance Against Mass Incarceration; and Resource Information Help for the Disadvantage, to name just a few. So, there was plenty of "available data" with which Commission members could have availed themselves to address/examine the issue of parole reinstatement in a timely manner. What the Commission's final report and recommendations does not reveal is that state Republicans remain diametrically opposed to the establishment of the Commission and the idea of restoring parole since 1995. The recent most vocal Republican opponents are state Delegates David Albo, C. Todd Gilbert, Robert Bell, House Speaker William T. Howell and former State Attorney General, Jerry Kilgore. According to Albo, the "Commission on Parole Review is not a legislative body and therefore cannot overturn the abolition if parole. The 64 Republican members of the General Assembly will never reinstate parole." (Final R&R, p. 92) "Whether it is referred to as [a] second look..., reinstatement will never happen," Albo concluded.

State Republicans were, and remain, so fierce in their opposition to the idea of parole reinstatement that Secretary of the Commonwealth and co-chair of the Commission, Levar Stoney, advised Commission members during the October 26, 2015 meeting that discussions during the next meeting should "not pertain specifically to parole," and even proposed changing the name of the Commission to the "Criminal Justice Reform." (Final R&R, p. 92) WE NEVER HAD A CHANCE...

Those of us who had faith that the bipartisan Commission would do the right thing are deeply disappointed that the Commission was hijacked by Republican bullies, resulting only in smalltime recommendations for reforms which are contrary to the will of the citizens of Virginia on both sides of the political spectrum.

A 2016 Commonwealth Poll conducted by the L. Douglas Wilder School of Government and Public Affairs at the Virginia Commonwealth University, in collaboration with the Office of the Virginia Secretary of Public Safety, shows that 76 percent of all Virginians- including 86 percent who identify as Democrats, 68 percent who identify as Republicans, 88 percent of Black Respondents, and 77 percent of White Respondents- support the idea of parole reinstatement. If this Poll truly reflects the will of "the people," and if it's the job of state legislators to serve and represent the interests of "the people," then why doesn't the Commission's Final Report and Recommendations reflect the will and interest of the people who overwhelmingly favor reinstating parole?

Since the Commission failed to perform its duties as laid out in Executive Order #44, in the face of Republican bully tactics, here are some proposed recommendations to Governor McAuliffe and members of the state General Assembly that will serve justice on those of us confined under the no-parole (85 percent) and draconian truth-sentencing laws, tackle the issue of mass incarceration here in Virginia, ensure public safety and divert funds spent on prisons and jails toward community-based reentry, job placement and housing programs and public education:

1. Reinstate discretionary parole for all no-parole (85 percent) law prisoners by Repealing Virginia Code Sections (VA Code) 53.1-165.1 and 53.1-202.3; Restore discretionary parole under VA Code Sections 53.1-151 thru 53.1-55; and Restore Good Conduct Allowance (Good Time Credits) under VA Code 53.1-202.
2. In compliance with U.S. Supreme Court precedent in *Miller v. Alabama* and *Graham v. Florida* which rendered juvenile life without parole sentences unconstitutional, established parole eligibility for every prisoner sentenced to life without parole as juveniles after serving a base minimum of 25 years, or create a mechanism for a new sentencing hearing in the court that heard the case.
3. Amend and Reenact VA Code 19.2-303 so that ALL prisoners currently in the VA DOC can petition the court that heard his/her case for a suspension/reduction/modification of the unserved portion of the sentence after serving a base minimum of 20 years and after completion of an Education/Rehabilitation/Reentry Preparedness Program.
4. Amend and Reenact VA Code 53.1-40.01 so that the qualifying age for consideration of so-called geriatric parole is the age of 55 or older and who has served at least five years of the sentence imposed, or the age of 50 or older and who has served at least ten years of the sentence imposed. This must be Retroactive.
5. Amend and Reenact VA Code 19.2-298.01(B) & (F) so that the sentencing court MUST provide an adequate and detailed explanation when imposing a sentence that exceeds the sentencing guidelines recommendation, and allow for meaningful appellate review of such a sentence. "According to the Virginia Criminal Sentencing Commission Annual Reports from FY2007 to FY2013, no written reason for departure was provided by judges in more than 3,000 cases in which the sentence imposed exceeded the guidelines recommendation. Thus, it is unclear whether the departure in those cases was due to factors like race, religion, sexual orientation, economic status, or other considerations that should not play a role in sentencing decisions." (R.I.H.D. News, January 2016) This must be Retroactive.

*All comments about this BLOG POST can be mailed to me at Uhuru Rowe #1131545, P.O. Box 430, Dillwyn, VA 23936 or by email to me through JPay. Download the JPay Mobile app to your phone and sign up to exchange emails with me.