

DENIED - AGAIN

By James W. Hankleroad

Finally (July 30, 2020) received the decision from the Florida Commission On Offender Review (Commission) on the question of whether or not I would be granted a parole after serving 50 years inside.

As the title notes - denied - again. The following was given as justifications for the denial.

"The Commission continues to be unable to make a finding that there is a reasonable probability that if you are placed on parole you will live and conduct yourself as a respectable and law-abiding citizen and that your release will be compatible with your own welfare and the welfare of society as required by section 947.18, Florida Statutes.

"1. A review of the entire Department of Corrections record reveals:

"A lack of completed program participation."

(I earned two (2) years worth of college credit - most in the area of psychology - in the 1970's. I was also a staff member of the "Transactional Analysis" program in the 1970's. I also successfully completed the "GO-LRB" program in the 1970's.

I have in hand a "Certificate of Completion" dated May 3, 2016, signed by Senior Chaplain Stephen C. Fox and Warden J. Sorey, of Wakulla Correctional Institution (Main Unit). This certificate states that I have:

"Successfully Completed 2317.5 Hours In The Seven Teaching Domains That Promote Genuine Rehabilitation And Improved Behavior, Increase The Inmates' Life Skills And Personal Knowledge, And Prepare Inmates For Release Into Free Society."

I also successfully participated in an international

VERSION 2.0 - REPLACES VERSION 1.0 !!

leadership conference while resident in Wakulla Correctional Institution (Annex). (I do not have a copy of that certificate on hand because I sent it to my mother.) I am also certified in blood spill cleanup.

Further - I AM FORBIDDEN PARTICIPATION IN ALMOST ALL REHABILITATION AND VOCATIONAL PROGRAMS BY STATE LAW DUE TO THE (non-existent in 1970 due to the U.S. Supreme Court ruling in Furman v. Georgia in 1972) CRIME THAT I AM INCARCERATED FOR, THE SENTENCE THAT I WAS INITIALLY INCARCERATED UNDER (death) AND THE (nonexistent in 1970) SENTENCE (issued in 1972 in the absence of a sentencing hearing) THAT I AM CURRENTLY INCARCERATED UNDER (natural life).

The interviewer who I spoke to said that she was recommending that I be sent to an institution with a (Lifer) Reentry Program.

A recommendation that the Commission refused to accept.

So the question arises - How can I complete programs when:

(a) state law denies me access to rehabilitation and vocational programs; and

(b) the Commission will not recommend that I be permitted to partake of the one re-entry program that I may participate in?)

"Unsatisfactory institutional conduct, as evidenced by the DR received 8/10/2014."

(I received a Disciplinary Report (DR) for refusing to share a cell with a prisoner that I had compatibility problems with. Over a period of several months I made five (5) spoken and written requests for a cell change. Only to be ignored. After being denied for the fifth time I refused to return to that cell.

That got me a cell change - to disciplinary confinement.

Yet - note that one prisoner had his Presumptive Parole Release Date set off for 30 days - when he got a DR for fighting. Another prisoner did 24 years without a DR. Only to be told after his first parole hearing that he would be seen again in

Denied - Again - Harkleroad PG 3 of 8
seven (7) years. (Objective? - apw.dhinitiative.org/.)

"2. A review of the prior Negative 947,18 finding reveals that the following factors are still of concern to the Commission:

"Serious nature of the offense, per the Post Sentence Investigation."

(Murder is a serious crime, which is why the least amount of time served before parole on a life sentence has been five (5) years.

The average time served on a life sentence was approximately 20 years. The time established as my original Presumptive Parole Release Date.

And the amount of time other prisoners with worse criminal and/or prison records than mine have done and been paroled.)

"3. Additional factors:

"Unsatisfactory release plan, as one was not provided."

(As related in Re-entry (apw.dhinitiative.org/) I wrote to 18 of the Commission approved re-entry program providers between January 1 and May 7, 2020. Of the three (3) programs that sent me an application form -

(a) One (1) did not respond to the application form that I returned to them.

(b) One declined. It is a drug rehabilitation program only.

(c) One declined because I have no release ~~plan~~. ~~A release~~ date. A date that I cannot obtain because I have no release plan. A release plan that I cannot create since I have no release date.

Further, I wrote the Commission and asked if it would be possible to be paroled to my home state, Kansas. If so, I would begin looking for re-entry programs there.

The Commission did not respond to my query letter.

Also note that state law requires that individuals with a release date be given assistance in creating a release plan. But individuals like myself, who have no release date, have to

VERSION 2.0

create a release plan without any help in order to obtain a release date from the Commission.

But what about family and/or friends?

My brother and sisters consider me to be an embarrassment to the family. As one sister put it - I have nothing good to offer anyone.

My mother lives in a nursing home so is unable to do anything.

As far as I know only one of my nephews and two (2) of my nieces know that I am in prison and they decline contact. I have no idea if any of my numerous cousins knows that I am inside.

My only friend is not in a position to help. It is my understanding that she and her husband have a slight disagreement about her friendship with me.

What about making connections with other people through pen pal programs?

For quite a few years now the Department of Corrections (DOC) has forbidden all prisoners from seeking pen pals. Which is why I have only the one (1) friend (with me for over 20 years - a saint!) at this time.

Without free world support I am unable to create a release plan.

Also note that the Commission has offered parole to prisoners (usually in their 90's) who had no release plans.

What about the future? When will I be considered for parole again?)

"The Commission finds that your next interview date shall be within 7 years rather than within 2 years, from your last interview based on your conviction for First Degree Murder and the Commission's findings that it is not reasonable to expect you will be granted parole during the following years. [Emphasis in original.] The basis for this finding is as follows:"

(For the record - the Florida Supreme Court has ruled in a

Denied - Again - Harkleroad

PG 5 of 8

number of cases that in the absence of a "capital sentence" there is no "capital offense". In 1970 First Degree Murder was defined by the Florida Legislature as a "capital offense". However, when the U.S. Supreme Court threw out the capital sentence in 1972 then the "capital offense" statute of First Degree Murder of 1970 was rendered null and void. So - under the law - I am in prison for committing a nonexistent crime and under a nonexistent sentence ("natural life" - i.e., "life without parole") issued in the absence of a resentencing hearing.

Facts that the Florida Supreme Court has refused to address. The DOC and Commission - illegally - "correct" my nonexistent sentence to "life with the possibility of parole", which is why I get considered for parole.)

"1. Use of a deadly weapon; to wit: a ligature."

(The "ligature" in question was a gay. I have never been able to figure out how a "gay" is a "deadly weapon".)

"2. Unreasonable risk to others."

(What "risk", to who, and how? Of course, being an inventor I solve problems - and some people do not want problems solved.)

"3. Physical and psychological trauma to the victim."

(The victim was murdered. Rather obviously there was "trauma". But victim "trauma" has never kept the Commission from paroling other prisoners who had/have worse criminal and/or prison histories than mine. In some cases several times.)

"Unsatisfactory institutional conduct."

(This subject was covered earlier.)

(So - start with an outright lie. Move on to a cotton candy claim - it looks good but has no substance. Then to a claim

VERSION 2.0

that has no bearing on my behavior 50 years after the crime. With last, but not least, another cotton candy claim.

These are "objective" reasons why I will not be parolable for the next seven (7) years?

I have been jerked around by the Commission for so many years I have gotten the message.

Florida will not willingly give me a parole.

My evidence?

(1) Individuals with worse criminal and/or prison histories than mine have been paroled. Sometimes more than once.

(2) The cotton candy justifications for denial of parole.

(a) Outdated facts.

(b) Misrepresentation of facts.

(c) Irrelevant facts.

(d) Generalized claims with no facts to support them.

(e) Outright lies.

(3) The Commission position is a patronage job. One gets appointed to a seat because one helped the Governor to get elected.

So, the people who have been denying me a parole over the years have changed.

But the cotton candy justifications for denying me a parole have not changed over the years. Clearly it is DOC bureaucrats (the Commission is under the DOC) who are making the decisions.

But what about legal action?

Even though parole is not a right in Florida case law says that the Commission may not act in an arbitrary or capricious manner.

The last time that I sought a courts help -

(1) I was illegally charged a filing fee of several hundred dollars by the Clerk of the Court. The judge denied my motion to have the fee waived.

(2) When my petition for relief was dismissed by the judge the copy of the dismissal order that was to be sent to me was - lost? When I finally learned of the dismissal the judge whv in-

Denied - Again - Harkleroad
formed me refused - illegally - to send me a copy of the dismissal order - twice. So there was no opportunity for an appeal without having another huge filing fee lien, being attached to my name.

But what about clemency?

It was in the early 1990's that the DOC submitted my case to the Clemency Committee. The DOC asked for a reduction in my sentence.

It was denied.

In April of 2014 I submitted a Request for Review for Commutation of Sentence. Seeking a reduction of sentence to a term of years so that I could earn my release through the accumulation of gain time credit.

The Commission issued its recommendation - that I be denied a reduction of sentence - in June of 2019. Without providing me any reasons. Thusly making it impossible for me to present any argument in rebuttal.

The Clemency Committee subsequently denied my request - without giving me any reasons - in July of 2019.

I have to wait five (5) years before the Committee will look at my case again.

Unless the Governor calls for a special meeting.

So what will I do?

I am 70 years old this year (2020). I have not worked enough to be eligible for Social Security. Getting to be too old to be employable if I am released from prison.

My only source of potential income is my writings and my inventions. Over 600 articles written to date. That is two (2) books. Three (3) short stories that can be made into movies. (At least one (1) would be successful. The main character is from the Bible and his story has never been told.)

Then there are the uncompleted works. A new translation of the Holy Bible. Bible name concordance. Bible plays. Bible people biographies. Word game books. English as a Second Language Dictionary for Spanish Speakers.

VERSION 2.0

I have so many project and product ideas that I have had to write them down. Some are simple - bingo game variations - some are complex - flood/drought control.

And that is where everything sits. On paper. It is quite probable that everything I sent home has been thrown out by my sisters by now - so the only projects I may have at this time are those in my personal possession.

My goal - my guiding star - has been and continues to be a city designed and built - not with adult wants in mind but - with the needs of the children in mind.

After all - how can the environment be good for the adults if it is not good for the children?

So I will continue to fight the good fight. Striving to serve God no matter where I am.

For one never knows what door will open tomorrow.

Or as the Edgar Rice Burroughs character John Carter of Mars (or was it Venus?) would say -

"I STILL LIVE!"

(The author is a former death row resident incarcerated in Florida since 1971.)