THE CRY OF UNFAIRNESS WITH PAROLE PROCEDURES

Those who are in prison for any length of time that has seen the parole panel or board on two or more occasions wonder what more progress can be made to lessen any likelihood theory of committing another crime, if they were released on parole? What are the Tax Payors paying for if the parole department ignores all the progress made by prisoners who rehabilitated themselves through the Department of Correction's educational program system set up for that very purpose?

There is a grave injustice and a fundamental unfairness when parole personnel are using the same old aggravating factors as reasons for a denial of parole each time a prisoner is seen by them. For instance: (1) Lack of insight into their criminal behavior, when they speak details of the crime they committed. (2) Minimizes conduct, when they say things that are simple and necessary when answering questions. (3) Their substance abuse problem has not been sufficiently addressed, when the prisoner has been 13, 19, or 33 years alcohol and drug free. And the most famous one factor of all, (4) The panel has determined a substantial likelihood exists that you would commit a new crime if released on parole at this time, when parole only solicit certain information from their crime and not from their rehabilitative program factors.

There was a law in place administratively where the parole department had to consider only "New Information" after a prisoner had their first parole release hearing. In other words, the second hearing the parole panel or board could not rehash

old information used at the first release hearing because the prisoner was sanctioned once already for aggravating factors related to his or her case. But that law was changed because if a prisoner lived rightly and was infraction free of any violation of the rules and regulations of the prison facility, release from prison was sure to be granted.

The parole department's ability to rely solely on old information when denying anyone parole a second time, violates the principles of fundamental fairness. It goes without saying that double jeopardy considerations have limited application in administrative proceedings, but it is axiomatic that apart from Federal and State Constitutional protections, courts are duty bound to insure that administrative proceedings are conducted in accordance with common notions of fundamental fairness. I believe there are many cases throughout this Nation when the State's judiciary system can say there may arise cases in which it would be fundamentally unfair to permit repeated sanctions for immutable factors or conduct.

My case is one of the instances where I was denied parole for the second time and the parole panel did not even read my statement submitted for their consideration revealing important evidence. If they had read it, they could not used those four reasons stated on page one for denial of parole. The expression of remorse is very important and taking the necessary steps to assure it is sincere reveals what is in a person's heart.

They are experts at hiding information and even the prosecutor in many cases do not reveal, nor mention the remorseful letters sent to victims through their office apologizing for one's actions.

The signal for mass incarceration was heard around this Nation in 1996 and New Jersey legislation ran to enlarge the discretion of the parole department to deny parole. Just like in the days of old when President Lincoln freed the slaves, the States rallied to implement the 13th Amendment to have a reason to keep their labor force intact. Having an mandate made to delete the word 'new' from the New Information administrative statute, the parole board is no longer bound to those principles of fairness.

When we look into the matter deeper, we will find there are various reasons why a prisoner is denied parole and the same for why a prisoner should be released on parole. To ignore the reasons why a prisoner should be released on parole is very arbitrary and capricious because the decision is based on the parole personnel's own beliefs and convictions instead of the factual evidence of the case before them.

A person commits a crime and they only have their moral standing within the community they live in as mitigating factors before a judge. Depending upon the crime, the aggravating factors are weighed against the mitigating factors and a decision is made. A judge is objective to the case and must concentrate

solely on the evidence that is presented before the court. The seriousness of the crime may outweigh any mitigating factors concerning who a person was and imprisonment is the results. While in prison, the rehabilitative process starts with behavioral, therapeutic, or religious programming and the mitigating factors starts to build. The longer the person is incarcerated, the more mitigating evidence is accumulated, until eventually now outweighing the aggravating evidence.

Parole personnel who are a judge in parole hearings will say they are considering all the material evidence before them, when in fact, they are not. What they think about the case is what they believe. Not looking at evidence right before their eyes is a problem especially when the case is 33 to 49 years old. Did any change occur in the prisoner according to the evidence? That question is very important when looking at the entire record of aggravating and mitigating factors. We cannot leave anything out even if we wanted to do so.

When considering criminal evidence, a defendant cannot be prosecuted for a crime twice, but considering administrative civil evidence, a prisoner can be punished with that same evidence as many times as desired. No court desires to consider this a violation under Unusual Punishment of the 8th Amendment of the U.S. Constitution because the flood gates would open and many prisoners would land on the shores of freedom. Some adjudications can be considered when a prisoner possessing

materials for which prior disciplinary sanctions had been imposed, then double jeopardy principles would bar the successive proceeding on those documents if the case is rehashed. There have arisen many cases in which it would be fundamentally unfair to permit repeated disciplinary sanctions and prosecutions for the same offense or conduct.

In light of my limited research, the extension of time in prison beyond the statutorily prescribed parole eligibility date triggers the right to fundamental fairness if decisions for denial of parole are arbitrary. The fact that certain parole members are soliciting information in order to render an negative result is a violation of parole policy and procedures. I would be fair to say, this is improper professional conduct because a prisoner has a right to rebut any evidence and present evidence on their own behalf. Is the prisoner given an opportunity to present their evidence according to procedural rights or not? How can they when the reasons for denial of parole is given to them after the parole hearing is over? Is that unfair?

Policy procedures mandate the parole panel or board to solicit information necessary to render its decision and that is where their discretion is one sided. They dictate the hearing and violate a prisoner's right by making a determination that whoever failed to proffer the requisite information parole wanted in order to establish their suitability for parole. Now the require burden of proof the prisoner is suitable for parole

has shifted from the parole panel or board to the prisoner.

Most prisoners sitting in a parole hearing is uneducated to the governing parole policy and procedures. The information being solicited by parole usually is centered mostly on the crime(s) the prisoner was convicted of and not on what a prisoner accomplished while serving their time. Therefore, parole have gathered a preponderance of evidence supporting their decision, and the burden of prove is satisfied according to them that the prisoner is a recidivist and should not be released. They never consults, look upon, nor do they solicited any information proving rehabilitation like soliciting the crime or if the prisoner would abide by the laws of the State if released. They never want to see any evidence showing forth the ability of the prisoner to succeed in society on parole.

An erroneous evidentiary finding by a State administrative agency rises to the level of a Constitutional claim cognizable on judicial review if it implicates the fundamental unfairness of the hearing. The prisoner having a parole hearing does not bear the burden of persuading the parole panel or board that they are a suitable candidate for parole because the legislation shifts the burden to parole panel or board to prove that the prisoner is not to be released. Just like the prosecutor must prove the burden of his case against a defendant. But there are certain people who are always presumed guilty and must prove their innocence in front of a peculiar people.

If the law presumes a prisoner is no longer a threat to society upon the completion of a period of parole ineligibility, proof is that completion without having to introduce evidence of that fact. When parole pushes that burden upon the prisoner to prove themselves, they are impermissible shifting the burden of proof onto the prisoner which is unfair, unreasonable, and not according to law. But this is done all the time in the parole hearings within the State of New Jersey.

As I write this, I'm carrying my cross to Golgotha's hill and parole's actions will nail me to the cross, hanged me up, and no one can see me until now. The Fifth Amendment Due Process Clause affords its citizens protection against unjust, arbitrary and unfair government procedures in judicial or administrative proceedings which affect personal and liberty rights, especially when government procedures tend to operate arbitrarily. When I raise the contentions of concern and as strong as they may be, they are always said to have no merit. The words "Have No Contentions or No Merit" are very famous in the State of New Jersey, specifically in administrative and judicial reviews of criminal actions.

One of the secrets that is covered up, a parole member gathered information from the Correctional Institution a prisoner is being detained that was submitted, made a Case Assessment sheet and gave the person's file to another parole member. They looked at the Case Assessment sheet only. The hearing

commence by one, then two other parole members and they say, "We read your file," by looking only at the Case Assessment sheet. The fact is, they lied, because they never read the file in its entirety, but said they did. Everyone didn't actually look into the file where there is evidence that was submitted by the prisoner and others on their behalf, therefore, after reading some insightful information, you can think of the mispresenting of parole policy procedures with its rules and regulations that can be manipulated to produce the required results in whose favor? Where I sit in prison, we know it was not in my favor.

I was 31 years old when arrested back in May 1988 because after an argument with my wife (Now deceased), in a drunken state of mind, I mistakenly grab a girl I thought was my wife to take her home. I was convicted of kidnaping in 1989. Since I had 2 prior convictions, without being given the required extended term sentencing hearing I was sentenced to an illegal term of life with 25 years parole ineligibility. The judge said I would be released after serving the parole stipulation of 25 years, but 33 years later, I'm still in prison with over 57 programs based on Religious, Enrichment, Behavioral, Therapeutic, and Substance abuse training.

By correspondence while in prison, I obtained a Associate & Bachelor in Religious Education, a Master & Doctorate in Ministry, and a Behavioral & Substance Abuse Facilitator Training

Certificate. The parole department, by only considering the details of my past criminal record of 16 years, beginning in 1972 and ending 1988, continue to say, I have not rehabilitated myself during these last 33 years of program participation, therefore, in prison I sit.

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July 30, 2021