

Fordham Law School

FLASH: The Fordham Law Archive of Scholarship and History

Parole Interview Transcripts and Decisions

Parole Information Project

Parole Interview Transcript/Decision - FUSL000093 (2020-03-04)

Follow this and additional works at: <https://ir.lawnet.fordham.edu/trans>

1 NYS DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

2 *****

3 PAROLE BOARD INTERVIEW

4 In the Matter of

5 [REDACTED]

6 DIN NO. [REDACTED]

7 NYSID NO. [REDACTED]

8 *****

9 TYPE OF INTERVIEW: Initial Release Appearance

10 LOCATION: Gowanda Correctional Facility

11 Video-conferenced to
12 Buffalo Area Office
13 460 Main Street
Buffalo, New York 14202

14 DATE: Wednesday, March 4th, 2020

15 DECISION DATE: Wednesday, March 4th, 2020

16

17 BEFORE: COMMISSIONER ERIK BERLINER
18 COMMISSIONER OTIS CRUSE
COMMISSIONER CARLTON MITCHELL

19

20 ALSO PRESENT: K. VanNote, SORC
21 D. Cotton, ORC
J. Kavanagh, ORC

22 AT FACILITY: Sherry Shay, PA
23 Karen Smith, PA

24

25 HEARING REPORTER: Brooklyn Morton

1 EXAMINATION BY COMMISSIONER BERLINER:

2 Q Good afternoon. Are you [REDACTED]?

3 A Yes, sir. Good afternoon.

4 Q Mr. [REDACTED], I am Commissioner Berliner. I am joined
5 by Commissioner Cruse and Commissioner Mitchell.

6 COMMISSIONER CRUSE: Hello.

7 Q We are here for your initial appearance, right?

8 A Yes, sir.

9 Q All right. I believe it is your first time in front of
10 a parole board. Let me tell you how it is going to go.

11 A Okay.

12 Q We are going to talk about the crime and your
13 background. We will talk about how you have done in the
14 year or so you have been incarcerated and then we will
15 go through your plans for release.

16 A Okay.

17 Q I also got a significant amount of material from you or
18 your attorney. We will go through that toward the end
19 together, okay?

20 A Okay.

21 Q You are convicted of performing a sexual performance by
22 a child and you are serving one to three years by plea
23 out of New York County, right?

24 A Yes. Correct.

25 Q November of 2016 in Manhattan you possessed images of

1 sexual conduct by a child less than 16 years of age.
2 March of 2017 you possessed more than 3,000 images and
3 89 videos depicting young nude females between the ages
4 of six months and 12 months engaging in sexual conduct,
5 such as vaginal intercourse and performing oral sex on
6 an adult male. Is that all true?

7 A The March date is the date when my computer was taken.
8 The November date is not one I am particularly familiar
9 with, but I presume that it is true. I did possess
10 images over a period of time.

11 Q Okay. So the dates notwithstanding, you did, in fact,
12 have all of these images?

13 A Yes.

14 Q Mr. [REDACTED], what is going on? What happened here?

15 A So I have had problems with pornography since I was
16 about eight years old, which was one of the first times
17 I viewed pornography when I was eight years old. The
18 first I viewed child pornography I was about ten years
19 old. At the time I was looking for images of people my
20 own age, approximately. And overtime my behavior on
21 pornography just grew to include child pornography. It
22 wasn't exclusive to that. It wasn't exclusively adult
23 or child pornography. It was sort of everything across
24 the board and I never -- for me, personally, I didn't
25 have -- my outlet was pornography. I didn't smoke. I

1 didn't drink a lot. My stress relief, my depression
2 relief was always pornography from when I was a kid
3 until I was arrested. It was a secret. It was
4 something I never spoke about with anybody, even though
5 I desperately wanted to speak with someone about it. I
6 actually was in therapy for some issues I was having in
7 school and I desperately wanted to talk to my therapist
8 about this, but I was scared to. I was scared of the
9 judgment that I might get for it. I was scared of
10 whatever consequences might come of it and so I just
11 didn't speak about it and by not speaking about it, I --
12 you know, I was left dealing with it on my own. I mean,
13 as opposed to something like drug abuse or alcohol
14 abuse, pornography abuse is not something people can
15 perceive necessarily so it wasn't like people were
16 coming to me like, hey, you have a problem. You need to
17 deal with this.

18 It is was something I just had to deal with
19 completely on my own. Unfortunately, I felt -- in the
20 moment I feel like I had a certain amount of
21 indifference toward what I was doing, but after the fact
22 it really, really tore me apart. Like I evolved an
23 enormous amount of self-loathing about it, depression
24 and it kind of spiralled because of that. The
25 depression that I felt because of it would lead me to

1 doing it more because it was my outlet, which leads to
2 more depression.

3 Q Let me ask you some questions. You said just now that
4 you were indifferent toward it while you were doing it,
5 but you would go through self-loathing afterward. Are
6 you talking about each individual time you viewed this
7 kind of pornography or are you talking about recently
8 after you have been --

9 A No. Each individual time.

10 Q Okay. Was pornography that involved children the only
11 kind of deviant pornography you viewed?

12 A What do you -- I am not sure, like deviant pornography,
13 meaning like --

14 Q Illicit pornography.

15 A Well, I mean, I have viewed all kinds of pornography. I
16 guess I am not sure what else would be considered
17 illicit.

18 Q Well, I am talking about, like, you know, there is the
19 sort of --

20 A I mean, like now revenge porn is considered illicit. I
21 definitely viewed that before. I viewed --

22 Q How about -- let me be more specific then. Pornography
23 involved in real or simulated violence.

24 A Probably simulated. No real that I am aware of, but
25 simulated, sure.

- 1 Q Okay. Pornography involving animals?
- 2 A No. Nothing involving animals.
- 3 Q Pornography involving incapacitated or elderly people?
- 4 A Maybe people pretending to be incapacitated, although in
5 that case it was clearly acting. Nothing elderly.
- 6 Q Okay. So your preference for child pornography would be
7 the one that you said fell outside the generic
8 mainstream of pornography?
- 9 A No. I wouldn't say that. I would say that that was the
10 thing that was -- that I was arrested for, that was the
11 thing that they found in my computer, but no. I would
12 say a lot of the pornography I looked at would be
13 outside the normal pornography. I mean, I would also
14 say almost more importantly the amount of pornography I
15 was looking at.
- 16 Q How often were you looking at it?
- 17 A Probably -- when I was in my depressive cycles, probably
18 at least a couple times a week, maybe more and for very
19 extended period of times. I am talking like hours and
20 hours at a time and then there would be times when I
21 wouldn't look at it for a long period, you know, if I
22 was feeling -- you know, if I was doing well, I wasn't
23 depressed, there wasn't a lot of pressure in my life
24 maybe. When I was looking at it, it was a lot.
- 25 Q You have been at sex offender programming here at

1 Gowanda and also, I know in the community prior to
2 conviction, right?

3 A Correct. Yes.

4 Q During the time that you have been getting the kind of
5 professional help that you lacked along the way, have
6 you been able to identify why you have behaved in this
7 way?

8 A Well, so as I said, I guess it is just -- it is an
9 outlet that I developed when I was at a young age.

10 Q I am starting to cut you off.

11 A Sure.

12 Q I guess I want you to answer me in a specific sort of
13 frame, which it is one thing to always have known that
14 pornography was your outlet, but if after each
15 individual time you viewed the child pornography, you
16 felt ashamed, it means you knew it was wrong.

17 A Oh, yeah. No. Absolutely.

18 Q So I want you to have that as context for the answer you
19 give.

20 A Oh, well, so -- I mean, I guess you could call it
21 addictive in that like when I would tend toward
22 pornography, even if it was something that I was not
23 wanting to do or feeling ashamed about going toward,
24 there was just sort of a pull to it for me. I might not
25 start looking at anything even pornographic or much less

1 particularly deviant pornographic, but then, you know, I
2 would feel that sort of like worthlessness and just sort
3 kind of head down that path a little bit further and a
4 little bit further, you know, a feeling of self-loathing
5 where in this is a powerful thing in terms of ability to
6 monitor your behavior. I mean, when you feel that, you
7 sort of -- as my counselor here likes to say, you get
8 the fuck its. Excuse my language, but you already are
9 in that hole and then you --

10 Q I get it. Yeah. All right. You don't have a prior
11 criminal history, right? This is the only thing you
12 have ever been convicted of?

13 A Correct.

14 Q No discipline since you have been in the facility,
15 right?

16 A No, sir.

17 Q Aside from the SOP, which you have been doing since
18 November, you are also in the electrical trades program?

19 A Correct.

20 Q And you completed Phase 1?

21 A Correct.

22 Q No drug use?

23 A No. Like I said, I never used drugs, other than alcohol
24 socially, but not seriously.

25 Q Okay. My records indicate you are anticipated to

1 complete SOP in May; is that right?

2 A Yes. End of May.

3 Q Okay. Do you feel like you're getting something out of
4 the program, aside from what you just shared?

5 A Yes. I will say -- so given that I was in my sex
6 therapy for two years prior to my incarceration, I will
7 admit to having been a little spectacle of coming in how
8 much I was going to get out of this program, but I was
9 pleasantly surprised in terms of not just the tools, but
10 also, language to be able to more appropriately describe
11 with what I was dealing with and relate it to other
12 people who are dealing with similar things. I mean, it
13 is very helpful to be in a situation where you are with
14 a bunch of people dealing with a variety of different
15 problems. The sex therapy I was in prior was almost
16 exclusively people dealing with the same thing I was.
17 It is helpful to have a broader perspective.

18 Q Did you ever take your pornography to the next step?

19 A No. This is a very common question and I understand
20 where people are coming from that, but for me
21 pornography was purely about disconnection from the
22 world. I think of sex about connection. I mean, for me
23 it has been about connection to another person and
24 honestly, this is something I discussed a lot in my
25 group. I think that there is a certain degree to which

1 the pornography that I viewed influenced my sexual
2 behavior in the negative. Like, I have always been
3 pretty adverse to anything particularly sexually
4 adventurous or deviant, I guess is the word, in my
5 actual relationships. I have had some relationships
6 where my partner was more interested in more adventurous
7 things and I was really turned off by that. It wasn't a
8 conscious thing, but I do think there is a certain
9 degree to which the pain I felt over what I had seen
10 influenced my behavior, in terms of actual
11 relationships.

12 Q Right. Interesting. Okay. I have your risk assessment
13 here. You have seen it?

14 A Yes.

15 Q I assume you agree with its low risk in every category,
16 unlikely to have needs in every category finding?

17 A I appreciate it very much, yes. And I --

18 Q You have a case plan here. It talks about coping skills
19 and educational achievement. How far did you go school?

20 A I have a bachelor's degree in electrical engineering.

21 Q Okay. What kind of educational achievement are you
22 looking for in prison?

23 A So I have been taking the electrical trades vocation and
24 honestly, I had not been working in electrical
25 engineering after school, but the electric trades has

1 kind of reignited an interested in -- well, I mean, it
2 is not exactly the same subject, but it is similar. It
3 is sort of the more hands on version and something I
4 might pursue when I get out.

5 Q Okay. What kind of work were you doing?

6 A I was a data analyst for the City of New York so I was
7 using engineering to serve the degree, but it was more
8 the computer programming end of things.

9 Q What part of the city were you working on?

10 A The Department of Design and Construction. I was
11 working on Hurricane Sandy, really.

12 Q Gotcha. You were sentenced by Judge Statsinger, right?

13 A Yes, sir.

14 Q I read through the minutes from that hearing. The only
15 thing I would note is that at your attorney's request
16 the judge did recommend a parole condition, which we
17 don't see everyday, which was that you be permitted to
18 continue the private therapy you had begun, which we
19 talked about a little bit, right?

20 A Yes, sir.

21 Q Okay. Let's talk about your plans. You are going to
22 live with mom on [REDACTED]?

23 A Yes. That is where I was living during my -- during the
24 adjudication of the case.

25 Q I got this paper from your attorney here. I have read

1 through it. One of the things that jumped out to me was
2 your parents both read as pretty successful people. I
3 know they are separated. They are divorced, yeah?

4 A Yes. They were divorced when I was about 16. They
5 separated when I was 14.

6 Q Okay. Mom is a psychiatrist, psychologist?

7 A Psychoanalyst, yes.

8 Q Dad is a civil rights attorney?

9 A Public interest and employment law, mostly.

10 Q Okay. So you know, they both have advanced degrees and
11 probably a pretty thoughtful house. You have the
12 electrical engineering background.

13 A Yes.

14 Q I would imagine there has been some discussion about
15 what happened here.

16 A Yes. I will tell you both of my parents are -- they
17 were definitely initially and continue to be pretty
18 devastated by the revelation of it. I mean, especially
19 considering, as I said, it is not something that they
20 perceived previously. I know my father felt responsible
21 because of the fact that when my parents separated he
22 wasn't around as much when I was young and then my
23 mother being a psychoanalyst and not knowing this about
24 me, that was a significant blow.

25 That being said, since my arrest I have been -- as

1 my mother said, I have been practicing extreme openness
2 about everything I have been through and everything
3 since then and I think that she in particular, as well
4 as my father appreciate the level of complete openness
5 that I am really practicing with them and my sister and
6 my friends and everybody. I have had a lot of
7 discussions with my mother.

8 Q Richard Krueger, MD.

9 A Yes, sir.

10 Q Is he the person you are working with?

11 A He was the psychiatrist in the practice that I went to.
12 I specifically was meeting individually with his
13 colleague, Dr. Keplan.

14 Q Okay. I ask because in some of the paperwork that was
15 submitted to us, and I know a lot of this was put
16 together at sentencing or as part of the pre-plea
17 discussions between your attorney and the DAs office, at
18 least it is on -- Dr. Krueger signed this four-page
19 letter.

20 A Sure. Right.

21 Q It talks -- I learned a lot about you from this letter.

22 A I hope so.

23 Q And it seems a little bit like maybe like Dad didn't
24 just sort of, you know, divorce mom and step away and,
25 you know, but maybe, in fact, introduced you to

1 pornography in some ways, right?

2 A I wouldn't say he introduced me to pornography. I mean,
3 so the first time that I --

4 Q I will tell you I am not trying to put dad on the hot
5 seat. You're the one who did this, but I mean, maybe
6 normalized it for you a little bit.

7 A So yeah. One thing that I actually recently literally
8 just in the last couple of weeks spoke about in our
9 group is that when I was a kid, I did -- I looked on
10 pornography on my father's computer a bunch because his
11 computer was like in our dining room and one time he did
12 catch me, you know, I don't know in the cache or
13 something and he sat me down and basically told me that
14 I couldn't do it on his computer anymore because he was
15 worried that my mother was going to think it was his,
16 which honestly could have been an opportunity for him to
17 be like you shouldn't do it, period, but that was not
18 the tactic there.

19 Q But, he also gave you animal house to watch with a bunch
20 of pre-teen --

21 A Yes.

22 Q So that is what I meant when I said normalizing.

23 A Right. So I wouldn't say normalizing, but more of an
24 out of sight, out of mind kind of --

25 Q So there is also, you know, a lengthy journal article

1 here and, you know, Dr. Krueger's resume is attached and
2 I stopped counting after 16 pages. It goes on for quite
3 a while. You are going to continue to work with Dr.
4 Krueger, that is your hope, or his practice?

5 A Yes. Right.

6 Q Okay. Since you got caught, have there been compulsions
7 to go back and view pornography?

8 A Yes. During the two years that I was in therapy, there
9 were compulsions, but I was openly talking about it, not
10 just with my therapist, but also with my girlfriend for
11 a while, but then eventually was just my roommate and my
12 mother and my sister and my father and the ability to
13 talk about the compulsion, it was sort of a way to
14 defuse it for me in a way that I didn't have before and
15 so I was able to handle it.

16 Q And so you have not --

17 A No, sir.

18 Q And you understand that there is going to be
19 prohibitions on that?

20 A Absolutely.

21 Q Not just child pornography, but even the more otherwise
22 legal pornography for you is going to be off limits for
23 you.

24 A Absolutely.

25 Q There is a letter here from [REDACTED]. I guess you

1 and he are college friends, roommates and he is offering
2 work for you, right?

3 A Yes. He was also the person who I was working for in
4 the two years after my arrest. After my arrest, I was
5 fired from the Department of Design and Construction and
6 began working for my friend, [REDACTED], in his real estate
7 business, at least temporarily.

8 Q There is also a letter here from your father, [REDACTED],
9 right?

10 A Yes.

11 Q Okay. So you do have support.

12 A Absolutely.

13 Q You are going to live with mom. You have all the family
14 support. You have a job lined up.

15 A Absolutely. And my sister has also been extremely
16 supportive.

17 Q In every case we ask the judge, the district attorney
18 and your attorney if they have any thoughts about the
19 possibility of release. In your case, we have heard
20 back from James Roth, he was your attorney, in addition
21 to the ream of paper I mentioned before. There is also
22 a letter from him from this October as well so we will
23 consider that. Let me see if Commissioner Cruse has any
24 questions?

25 COMMISSIONER CRUSE: I listened carefully. No

1 questions.

2 COMMISSIONER BERLINER: Commissioner Mitchell?

3 COMMISSIONER MITCHELL: No. I also listened
4 carefully. I don't have any questions. Thank you.

5 COMMISSIONER BERLINER: All right. I thank you
6 both.

7

8 BY COMMISSIONER BERLINER:

9 Q Mr. [REDACTED], you do have a Certificate of Earned
10 Eligibility. I think I failed to mention that at the
11 beginning of our conversation. That is obviously to
12 your credit. Is there anything else you think we need
13 to know to make a decision?

14 A Just that I am extremely sorry for what I did and it is
15 something that I know a lot of people talk about -- I
16 mean, I heard a lot of people through therapy talk about
17 wanting to put this sort of situation behind them, but I
18 very much don't. I -- this is something that I want to
19 carry with me for the rest of my life productively. I
20 want to use it either to help other people in similar
21 situations or just for myself to use it and I plan to do
22 wherever it is I am able to continue with my life.

23 Q One last question that I neglected to ask you awhile
24 ago, but I think it would be remiss if I didn't: This
25 is not a victimless crime.

1 A No. Absolutely not.

2 Q Have you -- what do you think about the little children
3 out there who were, you know, brutalized along the way?

4 A Yeah. I mean, I think it is really horrible and it cuts
5 me pretty deep when I think about it. In the days and
6 months and years since my arrest I have experienced a
7 small fraction of the exposure that they experienced in
8 having the porn created and I can say from my own
9 experience that that has been pretty devastating and I
10 can't imagine how devastating to them. It would have
11 that be -- for something completely out of your control,
12 but also from a very young age and just for your entire
13 life and so yeah. I mean, it cuts me pretty deep and
14 that is part of why this is not something I want to put
15 behind me because I do think that having this experience
16 and also, having the experience leading up to it of the
17 behavior that I exhibited, I hope that I have something
18 to contribute to preventing, you know, further abuse or
19 dissemination of porn in the future.

20 Q All right. I want to thank you for coming in and
21 speaking with us. Give us a few days to go through
22 everything. We will get back to you with our decision
23 as soon as we can.

24 A Thank you. I appreciate it.

25 Q Good luck to you, sir.



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

INTERVIEW CONCLUDED

1 (After due deliberation by the Parole Board Panel, the
2 following Decision was rendered:)

3 DECISION

4
5 Denied 18 months.

6 Next appearance September 2021.

7 The Board of Parole congratulates you on your
8 Certificate of Earned Eligibility. However, despite the
9 presumption created in your favor, a review of the record, a
10 personal interview and deliberation lead the panel to conclude
11 that there is a reasonable probability that if released at
12 this time, you would not live and remain at liberty without
13 again violating the law. Accordingly, parole is denied.

14 Your instant offense of promoting a sexual
15 performance by a child represents your first New York State
16 incarceration and only conviction of record. Your case plan
17 goals are appropriate and you have been engaged in
18 programming, including SOP and vocational training. Your
19 disciplinary record is clean. Your institutional adjustment
20 is to your credit.

21 The COMPAS risk assessment indicates low risk of
22 every category. The panel departs from the COMPAS for several
23 reasons; first, there is the nature of the crime itself, which
24 involved you possessing pornographic images and videos of
25 children over a period of time; second, while the panel

1 acknowledges your work and programming before and during your
2 incarceration, there are concerns that you lack some insight
3 into the harm your actions caused, however indirectly. While
4 you were able to discuss the crimes clearly and with
5 significant insight into what led to your behaviors, your
6 discussions of the children who were harmed required prompting
7 and remained abstract and disconnected from real empathy.

8 As such, the panel concludes that your
9 rehabilitation is not yet complete and recommends that you
10 spend this time completing recommended programming and working
11 to gain that insight. The panel has considered your letters
12 of support, including from your attorney and the packets
13 submitted on your behalf.

14 At this time, however, with all factors weighed and
15 considered, the panel concludes that your discretionary
16 release would be incompatible with the welfare of society.

17 If CR:

18 I will seek, obtain and maintain employment and/or an
19 academic/vocational program.

20 I will not consume alcoholic beverages.

21 I will not frequent any establishment where alcohol is
22 served as its main business without the permission of the P.O.

23 I will not operate any motor vehicle, apply for, renew
24 or possess any driver's license without the written permission
25 of the P.O.

1 I will abide by a curfew established by the P.O.

2 I will participate in anti-aggression/anti-violence
3 counseling as directed by the parole officer.

4 I will cooperate with a mental health evaluation
5 referral and follow-up treatment as directed by the P.O.

6 I will participate in sex offender counseling/treatment
7 as directed by the P.O.

8 I will have no contact with any person under the age of
9 eighteen, without written permission of the P.O.

10 I will comply with all case specific sex offender
11 conditions to be imposed by the P.O.

12 I will cooperate with all medical referrals and
13 treatment recommendations.

14 I will comply with all court orders including those
15 ordering fines, surcharges and/or restitution.

16 Geographic restrictions as per P.O.

17 I will abide by the mandatory condition imposed by the
18 Sexual Assault Reform Act, Chapter 1 of the Laws of 2000
19 (SARA).

20 I will not use or possess any medications or supplements
21 designed or intended for the purpose of enhancing sexual
22 performance or treating erectile dysfunction without the
23 written permission of my parole officer and the approval of
24 his or her supervisor.

25 I will participate in the Division of Parole's polygraph

1 program as directed by my parole officer. I understand that
2 this will include periodic polygraph sessions consisting of a
3 pre-examination interview, polygraph examination and post-test
4 interview with the polygraph examiner or my parole officer.

5 I will not use the internet to access pornographic
6 material, access a commercial social networking website,
7 communicate with other individuals or groups for the purpose
8 of promoting sexual relations with persons under the age of
9 eighteen, and communicate with a person under the age of
10 eighteen unless I receive written permission from the Board of
11 Parole to use the internet to communicate with a minor child
12 under eighteen years of age who I am the parent of and who I
13 am not otherwise prohibited from communicating with.

14 I will abide by the mandatory condition imposed by the
15 Sexual Assault Reform Act, Chapter 1 of the Laws of 2000
16 (SARA).

17 I **WILL NOT** own, use, possess, purchase or have control
18 of any computer, computer related material, electronic storage
19 devices, communication devices and/or the Internet unless I
20 obtain prior written permission from my Parole Officer.

21 Furthermore, if approved:

22 (A) If I am permitted by my Parole Officer to
23 possess a computer at my residence, permission will be granted
24 for only one computer.

25 I will provide all personal, business, phone,

1 Internet service provider, and/or cable records to my Parole
2 Officer upon request.

3 (B) I will provide copies of financial documents to
4 my Parole Officer upon request. These documents may include,
5 but are not limited to, all credit cards bills, bank
6 statements, and income tax returns.

7 I will provide all user ID's and passwords
8 required to access the computer, my C.M.O.S. and BIOS,
9 Internet service provider, any/all e-mail accounts, instant
10 messaging accounts, any removable electronic media, including
11 but not limited to media such as smart cards, cell phones,
12 thumb drives and web virtual storage.

13 (C) I will provide my Parole Officer with my
14 password and user ID for any approved device.

15 I acknowledge that individuals who have access
16 to my computer system and/or other communication or electronic
17 storage devices will also be subject to monitoring and/or
18 search and seizure. I agree to be fully responsible for all
19 material, data, images and information found on my computer
20 and/or other communication or electronic storage devices at
21 all times.

22 (D) I will not create or assist directly or
23 indirectly in the creation of any electronic bulletin board
24 system, services that provide access to the Internet or any
25 public or private computer network without prior written

1 approval from my Parole Officer.

2 I will not use any form of encryption,
3 cryptography, steganography, compression and/or other method
4 that might limit access to, or change the appearance of, data
5 and/or images without prior written approval from my Parole
6 Officer.

7 (E) I will not attempt to circumvent, alter,
8 inhibit or prevent the functioning of any monitoring or
9 limiting equipment, device or software that has been installed
10 by or at the behest of, or is being utilized by, the Division
11 of Parole for the purposes of recording, monitoring or
12 limiting my computer or Internet use and access, nor will I
13 tamper with such equipment, device or software in any way.

14 (F) I will cooperate with unannounced examinations
15 directed by my Parole Officer of any and all computer(s)
16 and/or other electronic device(s) to which I have access. This
17 includes access to all data and/or images stored on hard disk
18 drives, floppy diskettes, CD ROMs, optical disks, magnetic
19 tape, cell phones, and/or any other storage media whether
20 installed within a device or removable.

21 I will install or allow to be installed, at my
22 own expense, equipment and/or software to monitor or limit
23 computer use.

24 I understand that I shall not download, access, or
25 otherwise engage in any Internet enabled gaming activities to

1 include Pokémon Go. I further understand that I shall not be
2 in the company of any person who is engaged in any Internet
3 enabled gaming activities nor will I have any gaming software
4 on any Internet enabled device that I am permitted to access
5 or otherwise possess.

6 I will propose a residence to be investigated by the
7 Department of Corrections and Community Supervision and will
8 assist the Department in any efforts it may make on my behalf
9 to develop a residence.

10 If I am deemed a Level 3 risk pursuant to Article
11 6-C of the Correction Law - or - I am serving one or more
12 sentences for committing or attempting to commit one or more
13 offense(s) under Articles 130, 135 or 263 of the Penal Law or
14 Sections 255.25, 255.26 or 255.27 of the Panel Law and the
15 victim of such offense(s) was under 18 years of age at the
16 time of the offense(s), and as such I must comply with Section
17 259-c(14) of the Executive Law, I will not be released until a
18 residence is developed and it is verified that such address is
19 located outside the penal law definition of school grounds and
20 is approved by the Department.

21 In pertinent part, Executive Law Section 259-c(14)
22 provides: *"The board shall require, as a mandatory condition*
23 *of such release, that such sentenced offender shall refrain*
24 *from knowingly entering into or upon any school grounds, as*
25 *that term is defined in subdivision fourteen of Section 220.00*

1 of the penal law, or any other facility or institution
2 primarily used for the care or treatment of persons under the
3 age of eighteen while one or more of such persons under the
4 age of eighteen are present..."

5 Penal Law Section 220.00(14): "School grounds"
6 means (a) in or on or within any building, structure, athletic
7 playing field, playground or land contained within the real
8 property boundary line of a public or private elementary,
9 parochial, intermediate, junior high, vocational, or high
10 school, or (b) any area accessible to the public located
11 within one thousand feet of the real property boundary line
12 comprising any such school or any parked automobile or other
13 parked vehicle located within one thousand feet of the real
14 property boundary line comprising any such school. For the
15 purposes of this section an "area accessible to the public"
16 shall mean sidewalks, streets, parking lots, parks,
17 playgrounds, stores and restaurants.

18 (All Commissioners concur.)

19
20
21
22
23
24
25



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATION

I, Brooklyn Morton, Court Reporter and Notary Public, in and for the State of New York, do hereby certify that I attended the foregoing proceedings, took stenographic notes of the same, that the foregoing, consisting of 27 pages, is a true and correct copy of same and the whole thereof.

Dated: March 15th, 2020

Brookl yn Mbrt on

Brooklyn Morton, Court Reporter

FOLDER COPY NYS Dept. of Corrections and Community Supervision Date: 03/09/20
FORM 9026 Parole Board Release Decision Notice

Name: [REDACTED] Facility: GOWANDA SOP
DIN: [REDACTED] Interview Date: 03/04/2020
Nysid: [REDACTED] Interview Type: INITIAL

Earned Eligibility Certificate : ISSUED
Supervision Fee: ELIGIBLE
Certificate of Relief from Disability: INELIGIBLE

Parole Decision:
DENIED - HOLD FOR 18 MONTHS, NEXT APPEARANCE DATE: 09/2021

Confidential Comments:

Conditions of Release/Staff Instructions/Reasons for Denial:

ALL MEMBERS CONCUR WITH DECISION.

THE BOARD OF PAROLE CONGRATULATES YOU ON YOUR CERTIFICATE OF EARNED ELIGIBILITY. HOWEVER, DESPITE THE PRESUMPTION CREATED IN YOUR FAVOR, A REVIEW OF THE RECORD, A PERSONAL INTERVIEW AND DELIBERATION LEAD THE PANEL TO CONCLUDE THAT THERE IS A REASONABLE PROBABILITY THAT IF RELEASED AT THIS TIME, YOU WOULD NOT LIVE AND REMAIN AT LIBERTY WITHOUT AGAIN VIOLATING THE LAW. ACCORDINGLY, PAROLE IS DENIED. YOUR INSTANT OFFENSE OF PROMOTING A SEXUAL PERFORMANCE BY A CHILD REPRESENTS YOUR FIRST NYS INCARCERATION AND ONLY CONVICTION OF RECORD. YOUR CASE PLAN GOALS ARE APPROPRIATE AND YOU HAVE BEEN ENGAGED IN PROGRAMMING, INCLUDING SOCTP AND VOCATIONAL TRAINING. YOUR DISCIPLINARY RECORD IS CLEAN. YOUR INSTITUTIONAL ADJUSTMENT IS TO YOUR CREDIT. THE COMPAS RISK ASSESSMENT INDICATES LOW RISK IN EVERY CATEGORY. THE PANEL DEPARTS FROM THE COMPAS FOR SEVERAL REASONS. FIRST, THERE IS THE NATURE OF THE CRIME ITSELF, WHICH INVOLVED YOU POSSESSING PORNOGRAPHIC IMAGES AND VIDEOS OF CHILDREN OVER A PERIOD
(continued)

FOLDER COPY NYS Dept. of Corrections and Community Supervision Date: 03/09/20
FORM 9026 Parole Board Release Decision Notice

Name: [REDACTED] Facility: GOWANDA SOP
DIN: [REDACTED] Interview Date: 03/04/2020
Nysid: [REDACTED] Interview Type: INITIAL

OF TIME. SECOND, WHILE THE PANEL ACKNOWLEDGES YOUR WORK IN PROGRAMMING BEFORE AND DURING YOUR INCARCERATION, THERE ARE CONCERNS THAT YOU LACK SOME INSIGHT INTO THE HARM YOUR ACTIONS CAUSED, HOWEVER INDIRECTLY. WHILE YOU WERE ABLE TO DISCUSS THE CRIMES CLEARLY AND WITH SIGNIFICANT INSIGHT INTO WHAT LED YOU TO YOUR BEHAVIORS, YOUR DISCUSSIONS OF THE CHILDREN WHO WERE HARMED REQUIRED PROMPTING AND REMAINED ABSTRACT AND DISCONNECTED FROM REAL EMPATHY. AS SUCH, THE PANEL CONCLUDES THAT YOUR REHABILITATION IS NOT YET COMPLETE AND RECOMMENDS THAT YOU SPEND THIS TIME COMPLETING RECOMMENDED PROGRAMMING AND WORKING TO GAIN THAT INSIGHT. THE PANEL HAS CONSIDERED YOUR LETTERS OF SUPPORT, INCLUDING FROM YOUR ATTORNEY, AND THE PACKET SUBMITTED ON YOUR BEHALF. AT THIS TIME, HOWEVER, WITH ALL FACTORS WEIGHED AND CONSIDERED, THE PANEL CONCLUDES THAT YOUR DISCRETIONARY RELEASE WOULD BE INCOMPATIBLE WITH THE WELFARE OF SOCIETY.

IF CR:

I WILL SEEK, OBTAIN, AND MAINTAIN EMPLOYMENT AND/OR AN ACADEMIC/VOCATIONAL PROGRAM.

I WILL NOT CONSUME ALCOHOLIC BEVERAGES.

I WILL NOT FREQUENT ANY ESTABLISHMENT WHERE ALCOHOL IS SOLD OR SERVED AS ITS MAIN BUSINESS WITHOUT THE PERMISSION OF THE P.O.

I WILL NOT OPERATE ANY MOTOR VEHICLE, APPLY FOR, RENEW, OR POSSESS ANY DRIVERS LICENSE WITHOUT THE WRITTEN PERMISSION OF THE P.O.

(continued)

FOLDER COPY NYS Dept. of Corrections and Community Supervision Date: 03/09/20
FORM 9026 Parole Board Release Decision Notice

Name: [REDACTED]
DIN: [REDACTED]
Nysid: [REDACTED]

Facility: GOWANDA SOP
Interview Date: 03/04/2020
Interview Type: INITIAL

I WILL ABIDE BY A CURFEW ESTABLISHED BY THE P.O.

I WILL PARTICIPATE IN ANTI-AGGRESSION/ANTI-VIOLENCE COUNSELING AS DIRECTED BY THE P.O.

I WILL COOPERATE WITH A MENTAL HEALTH EVALUATION REFERRAL, AND FOLLOW UP TREATMENT AS DIRECTED BY THE P.O.

I WILL PARTICIPATE IN SEX OFFENDER COUNSELING/TREATMENT AS DIRECTED BY THE P.O.

I WILL HAVE NO CONTACT WITH ANY PERSON UNDER THE AGE OF EIGHTEEN WITHOUT WRITTEN PERMISSION OF THE P.O.

I WILL COMPLY WITH ALL CASE SPECIFIC SEX OFFENDER CONDITIONS TO BE IMPOSED BY THE P.O.

I WILL COOPERATE WITH ALL MEDICAL REFERRALS AND TREATMENT RECOMMENDATIONS.

I WILL COMPLY WITH ALL COURT ORDERS INCLUDING THOSE ORDERING FINES, SURCHARGES, AND/OR RESTITUTION.

I WILL ABIDE BY GEOGRAPHIC RESTRICTIONS ESTABLISHED BY THE P.O.

I WILL ABIDE BY THE MANDATORY CONDITION IMPOSED BY THE SEXUAL ASSAULT REFORM ACT ("SARA").

I WILL NOT USE OR POSSESS ANY MEDICATIONS OR SUPPLEMENTS DESIGNED OR INTENDED FOR THE PURPOSE OF ENHANCING SEXUAL PERFORMANCE OR TREATING ERECTILE DYSFUNCTION WITHOUT THE WRITTEN PERMISSION OF MY PAROLE OFFICER AND THE APPROVAL OF HIS OR HER AREA SUPERVISOR.

I WILL PARTICIPATE IN THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION'S POLYGRAPH PROGRAM AS DIRECTED BY MY PAROLE OFFICER. I UNDERSTAND THAT THIS WILL INCLUDE PERIODIC POLYGRAPH SESSIONS

(continued)

FOLDER COPY NYS Dept. of Corrections and Community Supervision Date: 03/09/20
FORM 9026 Parole Board Release Decision Notice

Name: [REDACTED] Facility: GOWANDA SOP
DIN: [REDACTED] Interview Date: 03/04/2020
Nysid: [REDACTED] Interview Type: INITIAL

CONSISTING OF A PRE-EXAMINATION INTERVIEW, POLYGRAPH EXAMINATION, AND POST-TEST INTERVIEW WITH THE POLYGRAPH EXAMINER OR MY PAROLE OFFICER.

I WILL NOT USE THE INTERNET TO ACCESS PORNOGRAPHIC MATERIAL, ACCESS A COMMERCIAL SOCIAL NETWORKING WEBSITE, COMMUNICATE WITH OTHER INDIVIDUALS OR GROUPS FOR THE PURPOSE OF PROMOTING SEXUAL RELATIONS WITH PERSONS UNDER THE AGE OF EIGHTEEN, AND COMMUNICATE WITH A PERSON UNDER THE AGE OF EIGHTEEN UNLESS I RECEIVE WRITTEN PERMISSION FROM THE BOARD OF PAROLE TO USE THE INTERNET TO COMMUNICATE WITH A MINOR CHILD UNDER EIGHTEEN YEARS OF AGE WHO I AM THE PARENT OF AND WHO I AM NOT OTHERWISE PROHIBITED FROM COMMUNICATING WITH.

YOU SHALL NOT BE RELEASED UNTIL THE BOARD OF PAROLE AND DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION ARE INFORMED OF THE SEX OFFENDER RISK LEVEL THAT HAS BEEN OR WILL BE ESTABLISHED BY A COURT OF COMPETENT JURISDICTION PURSUANT TO CORRECTION LAW 168-N.

I WILL NOT OWN, USE, POSSESS, PURCHASE OR HAVE CONTROL OF ANY COMPUTER, COMPUTER RELATED MATERIAL, ELECTRONIC STORAGE DEVICES, COMMUNICATION DEVICES AND/OR THE INTERNET UNLESS I OBTAIN PRIOR WRITTEN PERMISSION FROM MY PAROLE OFFICER. FURTHERMORE, IF APPROVED:

IF I AM PERMITTED BY MY PAROLE OFFICER TO POSSESS A COMPUTER AT MY RESIDENCE, PERMISSION WILL BE GRANTED FOR ONLY ONE COMPUTER.

I WILL PROVIDE ALL PERSONAL, BUSINESS, PHONE, INTERNET SERVICE PROVIDER, AND/OR CABLE RECORDS TO MY PAROLE OFFICER UPON REQUEST.

I WILL NOT CREATE OR ASSIST DIRECTLY OR INDIRECTLY IN THE CREATION OF ANY ELECTRONIC BULLETIN BOARD SYSTEM, SERVICES THAT PROVIDE ACCESS TO THE INTERNET, OR ANY PUBLIC OR PRIVATE COMPUTER

(continued)

FOLDER COPY NYS Dept. of Corrections and Community Supervision Date: 03/09/20
FORM 9026 Parole Board Release Decision Notice

Name: [REDACTED] Facility: GOWANDA SOP
DIN: [REDACTED] Interview Date: 03/04/2020
Nysid: [REDACTED] Interview Type: INITIAL

NETWORK WITHOUT PRIOR WRITTEN APPROVAL FROM MY PAROLE OFFICER.

I WILL NOT USE ANY FORM OF ENCRYPTION, CRYPTOGRAPHY,
STEGANOGRAPHY, COMPRESSION AND/OR OTHER METHOD THAT MIGHT LIMIT
ACCESS TO, OR CHANGE THE APPEARANCE OF, DATA AND/OR IMAGES WITHOUT
PRIOR WRITTEN APPROVAL FROM MY PAROLE OFFICER.

I UNDERSTAND THAT I SHALL NOT DOWNLOAD, ACCESS, OR OTHERWISE
ENGAGE IN ANY INTERNET ENABLED GAMING ACTIVITIES TO INCLUDE POKEMON
GO. I FURTHER UNDERSTAND THAT I SHALL NOT BE IN THE COMPANY OF ANY
PERSON WHO IS ENGAGED IN ANY INTERNET ENABLED GAMING ACTIVITIES NOR
WILL I HAVE ANY GAMING SOFTWARE ON ANY INTERNET ENABLED DEVICE THAT I
AM PERMITTED TO ACCESS OR OTHERWISE POSSESS.

I WILL PROPOSE A RESIDENCE TO BE INVESTIGATED BY THE DEPARTMENT OF
CORRECTIONS AND COMMUNITY SUPERVISION AND WILL ASSIST THE DEPARTMENT
IN ANY EFFORTS IT MAY MAKE ON MY BEHALF TO DEVELOP A RESIDENCE.

IF I AM DEEMED A LEVEL 3 RISK PURSUANT TO ARTICLE 6-C OF THE
CORRECTION LAW - OR - I AM SERVING ONE OR MORE SENTENCES FOR
COMMITTING OR ATTEMPTING TO COMMIT ONE OR MORE OFFENSE(S) UNDER
ARTICLES 130, 135 OR 263 OF THE PENAL LAW OR SECTIONS 255.25, 255.26
OR 255.27 OF THE PENAL LAW AND THE VICTIM OF SUCH OFFENSE(S) WAS
UNDER 18 YEARS OF AGE AT THE TIME OF THE OFFENSE(S), AND AS SUCH I
MUST COMPLY WITH SECTION 259-C(14) OF THE EXECUTIVE LAW, I WILL NOT
BE RELEASED UNTIL A RESIDENCE IS DEVELOPED AND IT IS VERIFIED THAT
(continued)

FOLDER COPY NYS Dept. of Corrections and Community Supervision Date: 03/09/20
FORM 9026 Parole Board Release Decision Notice

Name: [REDACTED]
DIN: [REDACTED]
Nysid: [REDACTED]

Facility: GOWANDA SOP
Interview Date: 03/04/2020
Interview Type: INITIAL

SUCH ADDRESS IS LOCATED OUTSIDE THE PENAL LAW DEFINITION OF SCHOOL
GROUNDS AND IS APPROVED BY THE DEPARTMENT.

IN PERTINENT PART, EXECUTIVE LAW SECTION 259-C(14) PROVIDES:

"THE BOARD SHALL REQUIRE, AS A MANDATORY CONDITION OF SUCH RELEASE,
THAT SUCH SENTENCED OFFENDER SHALL REFRAIN FROM KNOWINGLY ENTERING
INTO OR UPON ANY SCHOOL GROUNDS, AS THAT TERM IS DEFINED IN
SUBDIVISION FOURTEEN OF SECTION 220.00 OF THE PENAL LAW, OR ANY OTHER
FACILITY OR INSTITUTION PRIMARILY USED FOR THE CARE OR TREATMENT OF
PERSONS UNDER THE AGE OF EIGHTEEN WHILE ONE OR MORE OF SUCH PERSONS
UNDER THE AGE OF EIGHTEEN ARE PRESENT,..."

PENAL LAW SECTION 220.00(14)

"SCHOOL GROUNDS" MEANS (A) IN OR ON OR WITHIN ANY BUILDING,
STRUCTURE, ATHLETIC PLAYING FIELD, PLAYGROUND OR LAND CONTAINED
WITHIN THE REAL PROPERTY BOUNDARY LINE OF A PUBLIC OR PRIVATE
ELEMENTARY, PAROCHIAL, INTERMEDIATE, JUNIOR HIGH, VOCATIONAL, OR HIGH
SCHOOL, OR (B) ANY AREA ACCESSIBLE TO THE PUBLIC LOCATED WITHIN ONE
THOUSAND FEET OF THE REAL PROPERTY BOUNDARY LINE COMPRISING ANY SUCH
SCHOOL OR ANY PARKED AUTOMOBILE OR OTHER PARKED VEHICLE LOCATED
WITHIN ONE THOUSAND FEET OF THE REAL PROPERTY BOUNDARY LINE
COMPRISING ANY SUCH SCHOOL. FOR THE PURPOSES OF THIS SECTION AN "AREA
ACCESSIBLE TO THE PUBLIC" SHALL MEAN SIDEWALKS, STREETS, PARKING
LOTS, PARKS, PLAYGROUNDS, STORES AND RESTAURANTS.

FOLDER COPY NYS Dept. of Corrections and Community Supervision Date: 03/09/20
FORM 9026 Parole Board Release Decision Notice

Name: [REDACTED]
DIN: [REDACTED]
Nysid: [REDACTED]

Facility: GOWANDA SOP
Interview Date: 03/04/2020
Interview Type: INITIAL

Comments:

ORC REC:1-8,10-14,18,20,27,28,32,33,35,38,40,45,FC01
BD IMP:SAME-2&4. 3/20 INIT-DENIED 18MOS. 9/21 CONDS GIVEN

FOLLOWING DELIBERATION, THIS DECISION IS BASED ON REVIEW OF THE CASE RECORD AS WELL AS THE INTERVIEW WITH PAROLE BOARD MEMBERS.

SORC *K. Vannote* K. VANNOTE

Board Members:
BERLINER, ERIK

CRUSE, OTIS

MITCHELL, CARLTON