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Decision in Art. 78 proceeding - Huntley, Jason (2023-06-05)

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Huntley v. Towns, Slip Copy (2023)

2023 N.Y. Slip Op. 50539(U)

2023 WL 3831371

Unreported Disposition

NOTE: THIS OPINION WILL NOT APPEAR IN A
PRINTED VOLUME. THE DISPOSITION WILL
APPEAR IN THE REPORTER.

This opinion is uncorrected and will not be published in
the printed Official Reports.

Supreme Court, Putnam County, New York.

In the Matter of the Application of Jason HUNTLEY,
Petitioner, For a Judgment Pursuant to Article 78 of
the Civil Practice Law and Rules,

v.

Darryl TOWNS, as Chairman of the State Board of
Parole, Respondent.

Index No. 00612/2023

|
Decided on June 5, 2023

Attorneys and Law Firms

Petitioner, represented himself

The State of New York was represented by Terrance K.
DeRosa, Asst. Attorney General

Opinion

Victor G. Grossman, J.

*1 The following papers numbered 1 to 7 were read on
Petitioner's application pursuant to CPLR Article 78 for a
Judgment annulling a November 29, 2022 determination of
the State Board of Parole denying Petitioner release on
parole, and ordering a *de novo* parole release interview:

Order to Show Cause — Verified Petition / Exhibits —
Affidavit 1-3

Notice of Settlement — Letter consenting to *de novo* release
interview — Proposed Order 4-6

Letter objecting to proposed settlement / Exhibits 7

Upon the foregoing papers it is ORDERED that the
application is disposed of as follows:

FACTUAL AND PROCEDURAL BACKGROUND

Petitioner was convicted of Murder in the Second Degree in
1992 and sentenced to a term of seventeen (17) years to life
in prison. He is now 67 years of age; he has served thirty-two
(32) years in prison; he has had thirteen (13) parole release
interviews, including four (4) *de novo* interviews, three
ordered by courts and one previously consented to by the
Parole Board. In response to the present Article 78 petition,
wherein Petitioner seeks a judgment annulling a November
29, 2022 determination of the State Board of Parole denying
him parole release, Respondent has in lieu of answering
asked the Court to accept the Parole Board's consent to an
order remanding the matter for yet another *de novo* release
interview without admitting any of the allegations of the
Petition. Although a *de novo* release interview is the only
relief for which Petitioner is eligible in this proceeding, he
objects with some measure of justice that he is being
subjected to "another ride on the procedural merry-go-round
devised by the Board," and requests a judicial ruling on each
of his claims of error with respect to the Board's November
29, 2022 determination. Inasmuch as the Board's concession
effectively moots Petitioner's application, a full judicial
determination thereof is not warranted. However, since the
Board's November 29, 2022 determination is in the Court's
view flawed and irrational, and since the Court's view of the
matter may be of assistance to the parties upon the remand
for a *de novo* release interview, the Court will state its
critique of the rationale for the Board's November 29, 2022
decision.

THE NOVEMBER 29, 2022 PAROLE BOARD DETERMINATION

The Parole Board's November 29, 2022 decision was as
follows:

The Board of Parole commends your personal growth,
programmatic achievements and productive use of time;

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however, a review of your records, a personal interview and deliberation lead the Panel to conclude that release at this time is incompatible with the welfare of society. Accordingly, parole is denied.

You appeared before the Panel as a reappearance candidate for parole following your conviction for Murder 2nd. This represents your first New York State incarceration. You were also convicted of another felony for Criminal Possession of a Loaded Firearm 3rd, which is related to the instant offense. You have served more than 32 years on this sentence.

Your institutional adjustment has been excellent. Your only disciplinary issue was a Tier III violation approximately 26 years ago.

*2 Your case goals are appropriate and you have satisfied the programming required of you by DOCCS. This adjustment is all to your credit. However, discretionary release on parole shall not be granted merely as a reward for good conduct or efficient performance of duties while incarcerated.

The COMPAS Risk Assessment indicates low risk in nearly every category. Despite the low scores and your excellent institutional performance, the Panel does not find your release at this time to be appropriate for the following reasons:

First, there is the nature of the offense itself in which you shot and killed your friend while waving a rifle at him. Next there is your course of conduct in fleeing the scene for Maine where you indicated you intended to kill yourself after seeing your son. Finally, the Panel is concerned that despite the significant amount of work you have done to understand the root causes of the behaviors that led to this tragedy, you displayed limited remorse for Mr. Moukios or his family. You appropriately noted that they are entitled to find your continued incarceration to be indicated, but also told the Panel that you believe justice has been done by your incarceration at this point. The Panel finds this sentiment to be erroneous in that you have yet to develop the empathy necessary to be considered rehabilitated.

There is also official opposition to your release.

As such, with all factors weighed and considered, the Panel concludes that your release at this time would be inappropriate as it would so deprecate the seriousness of the crime and undermine respect for the law.

THE IRRATIONALITY OF THE BOARD'S DECISION

The Court is struck, first of all, by the fact that the Panel's stated view of the Petitioner is in many respects so very positive. In his favor, the Panel cited:

- Personal growth
- Programmatic achievements
- Productive use of time
- Only one New York incarceration
- 32 years served (15 more than minimum sentence of 17 years)
- Excellent institutional adjustment
- Only one minor disciplinary violation 26 years ago
- Case goals are appropriate
- Programming required by DOCCS satisfied
- Low COMPAS risk assessment in nearly every category
- Excellent institutional performance
- Work done to understand the root causes of the behavior that led to tragedy

Those considerations would, collectively weighed, militate decidedly in favor of parole release. It is therefore critical to assess the validity of the grounds urged by the Panel in opposition to parole. They are essentially fourfold: (1) the nature of the offense; (2) the post-offense flight; (3) insufficient rehabilitation; and (4) official opposition to parole release.

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The Panel cites, first, “the nature of the offense itself in which you shot and killed your friend while waving a rifle at him.” Although Petitioner was convicted of Murder, the factual description offered by the Panel is more suggestive of recklessness than intentional killing. It is therefore unclear why the Panel deemed the nature of the offense to be an aggravating factor warranting denial of parole.

The Panel continued, “[n]ext there is your course of conduct in fleeing the scene for Maine where you indicated you intended to kill yourself after seeing your son.” Accepted at face value, this description of Petitioner's conduct would seem to evince his overpowering remorse arising from his culpability for his friend's death. Did the Panel believe Petitioner was being untruthful, since he was arrested before encountering his son and never carried out the suicide? How the Panel actually interpreted this constellation of facts it does not say. Once again, it is unclear why the Panel deemed it to be an aggravating factor warranting denial of parole.

*3 Central to the Panel's ruling appears to be its conclusion that Petitioner is insufficiently rehabilitated to warrant parole. A careful look at its argument is in order. The Panel stated:

[T]he Panel is concerned that despite the significant amount of work you have done to understand the root causes of the behaviors that led to this tragedy, you displayed limited remorse for Mr. Moukios or his family. You appropriately noted that they are entitled to find your continued incarceration to be indicated, but also told the Panel that you believe justice has been done by your incarceration at this point. The Panel finds this sentiment to be erroneous in that you have yet to develop the empathy necessary to be considered rehabilitated.

The Court is frankly at a loss to understand the logic of this position:

- The Panel began by saying that Petitioner had displayed limited remorse for the victim and his family.

- In support of that statement, the Panel cited what would seem to be evidence of remorse and empathy, i.e., Petitioner's acknowledgment that the victim's family could justifiably consider his continued incarceration to be warranted despite his own perception that the ends of justice had been fulfilled.

- The Panel concluded that Petitioner's view that justice had been done was erroneous because ... he had yet to develop empathy for the victim and his family, the very thing that the Panel had set out to prove!

The Panel's reasoning is circular and wholly irrational.

Finally, the Panel's statement that “[t]here is also official opposition to your release” is simply erroneous. The Panel acknowledged that the only evidence in support of that statement was a letter from the district attorney written in 2011, over a decade before the November 29, 2022. Given the district attorney's failure over the course of a decade to renew that opposition, it would have been more accurate for the Panel to state that as of 2022 there was *no* official opposition to Petitioner's release on parole.

In view of the foregoing, it is

ORDERED, ADJUDGED AND DECREED that the November 29, 2022 decision of the Board of Parole denying Petitioner discretionary release on parole is annulled and vacated, with costs awarded to Petitioner, and it is further

ORDERED, that Respondent is directed to conduct a *de novo* parole interview within forty-five (45) days of the dated of this Order.

The foregoing constitutes the decision, order and judgment of the Court.

All Citations

Slip Copy, 2023 WL 3831371 (Table), 2023 N.Y. Slip Op. 50539(U)

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