

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

NEWPORT, SC.

SUPERIOR COURT

[Filed: July 20, 2016]

CURLEY SNELL

Petitioner,

V.

STATE OF RHODE ISLAND

Defendant.

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C.A. No. PM-2014-5193

DECISION

NUGENT, J. The matter presently before the Court is Petitioner Curley Snell’s (Snell or Petitioner) Application for Post-Conviction Relief. The Petitioner claims the Rhode Island Parole Board (the Board) failed to adhere to the requirements of Rhode Island law and due process by denying him parole without providing sufficient justification for its decision. He now asks this Court to order a new parole hearing because of that perceived deficiency. Jurisdiction is pursuant to G.L. 1956 § 10-9.1-2.

I

FACTS & TRAVEL

On March 19, 2001, Snell was charged with one count of felony domestic assault (Count 1), two counts of assault with a dangerous weapon (Counts 2 and 3), and one count of simple domestic assault after previously having been convicted twice of domestic assault (Count 4). On December 11, 2001, a jury convicted Snell on all charges and, on March 22, 2002, Snell was sentenced to a total of forty-five years, thirty years to serve and the remaining fifteen years suspended, with fifteen years’ probation. Specifically, the Court sentenced Snell to serve fifteen

years on Count 1 and a consecutive fifteen years to serve on Count 3. On Count 2, the Court imposed a fifteen-year suspended sentence, with fifteen years of probation to commence upon his release from the Adult Correctional Institutions (ACI). Lastly, on Count 4, Snell was sentenced to ten years, of which five years was to serve concurrent to Count 1 and five years thereafter suspended, with probation to commence upon his release from the ACI.¹

Snell has been serving his sentence at the ACI for roughly fifteen years. In that time, he has twice gone before the Board. The first time, in 2011, the Board voted to deny parole. In explaining its decision, the Board stated that it “[wa]s the first time Mr. Snell ha[d] come before the Board on this serious offense.” See Pet’r’s Ex. A. Again, in 2014, Snell went before the Board seeking parole. This time, the Board noted that its denial was “due to the serious nature of Mr. Snell’s crime, the length of his sentence and the opposition from the Attorney General’s Office.” Id.²

¹ Snell’s case has been the subject of four Supreme Court Decisions which further expound upon the factual and procedural history of the present action. See generally (i) State v. Snell, 861 A.2d 1029, 1030 (R.I. 2004); (ii) State v. Snell, 892 A.2d 108, 112 (R.I. 2006); (iii) State v. Snell, 11 A.3d 97, 98 (R.I. 2011); and most recently (iv) Snell v. State, 126 A.3d 463, 465 (R.I. 2015).

² The seriousness of Petitioner’s offense can further be evidenced by looking to the Supreme Court’s opinion in State v. Snell, 892 A.2d at 113 (addressing the merits of Petitioner’s conviction). There, the Court set forth the factual background of the crimes for which Snell is currently incarcerated noting that

“[D]efendant then grabbed [Tanny Eisom, the Mother of his child] by the sleeves of her coat near her hands, pulled her forward and struck her a few times in the face and head with a closed fist. Ms. Eisom said that her sister then stepped in and grabbed defendant by the arm, telling him to stop. He did not stop, however, pulling Ms. Eisom’s hair, hitting her, and ultimately stabbing her in the back of her neck with a three-inch pocketknife. . . . [Ms. Eisom’s brother came out to attempt to help her and] in the ensuing tussle, she observed defendant slice [her brother] across the stomach and stab him in the neck. Ms. Eisom testified that [her brother] fell to the ground after the stabbing, hitting his head on the steps near the entryway. She testified that defendant then proceeded to kick and

On October 23, 2014, Snell filed the instant Petition with this Court seeking post-conviction relief based on the Board's repeated denial of his parole. In his Post Conviction Memorandum, filed April 20, 2016, Petitioner argues that the Board's April 16, 2014 decision to deny parole was in violation of the Rhode Island General Laws, the Rhode Island Parole Board Guidelines, and his due process and equal protection rights provided for by the state and federal constitutions. There is no dispute as to the above facts. Rather, Petitioner argues that the Board's decision was legally deficient.

After considering all the arguments raised by Petitioner, the Court believes that the Board's decision was legally sufficient based on state and federal law. Accordingly, the Petitioner's Application for Post-Conviction Relief is denied for the reasons set forth in further detail below.

II

STANDARD OF REVIEW

In Rhode Island, “[p]ursuant to the provisions of G.L. 1956 § 10–9.1–1, ‘the remedy of postconviction relief is available to any person who has been convicted of a crime and who thereafter alleges either that the conviction violated the applicant’s constitutional rights or that the existence of newly discovered material facts requires vacation of the conviction in the interest of justice.’” DeCiantis v. State, 24 A.3d 557, 569 (R.I. 2011) (quoting Page v. State, 995 A.2d 934, 942 (R.I. 2010)); see also Brown v. State, 32 A.3d 901, 907 (R.I. 2011). “An applicant for postconviction relief bears the burden of proving, by a preponderance of the evidence, that such relief is warranted in his or her case.” DeCiantis, 24 A.3d at 569; Larngar v. Wall, 918 A.2d 850, 855 (R.I. 2007).

stomp on [her brother]’s head and face with his boots before walking away and fleeing the scene.” Id.

Our Supreme Court has further expounded that the actions of the Rhode Island Parole Board are further reviewable by this Court pursuant to a petition for postconviction relief. See State v. Ouimette, 117 R.I. 361, 365, 367 A.2d 704, 707 (1976). “It seems to us that [§] 10-9.1-1, the postconviction remedy statute, is the proper vehicle for bringing [parole challenges] before the court.” Id. Included in the Court’s authority to hear parole challenges is the ability of the Court “to order the Parole Board to grant the defendant a new hearing.” Ouimette, 117 R.I. at 372, 367 A.2d at 711.

III

ANALYSIS

In essence, Petitioner’s argument is that the Board’s April 16, 2014 decision failed to adhere to the guidelines set forth for the Parole Board pursuant to § 13-8-14.1. That Section provides, in pertinent part, that:

“(a) At least once each calendar year the parole board shall adopt standards to be utilized by the board in evaluating applications for parole of persons convicted of a criminal offense and sentenced to the adult correctional institutions. These standards shall establish, with the range of parole eligibility set by statute, the portion of a sentence which should be served depending on the likelihood of recidivism as determined by a risk assessment, and shall serve as guidelines for the board in making individual parole determinations.”

Accordingly, the Board adopted guidelines which established that:

“The revised parole guidelines consist of two major components that interact to provide an actuarial based risk score. The first is a Risk Assessment Instrument that weighs both static and dynamic factors associated with the offender’s record. The other component is the Offense Severity class.” Rhode Island Parole Board 2014 Guidelines 2 (May 6, 2014) (these guidelines were in place at the time of Petitioner’s denial).

The guidelines further explain that “[s]tatic factors are those associated with the offender’s prior criminal record. They will not change over time. Dynamic factors reflect characteristics the offender has demonstrated since being incarcerated and are factors that can change over time.” Id. Those factors are used in tandem with the Rhode Island Department of Corrections Offense Severity scale which classifies offenses from “Low” to “High”—for capital crimes. Id. at 3. The offense severity and the static and dynamic factors are used to create an offender’s Severity Risk Matrix, which is represented by a score.

Snell now argues that he is entitled to notice of what his Severity Risk Matrix score was and how that score was used in rendering a decision on his eligibility for parole. However, in determining a candidate’s eligibility for parole, the Board is also encouraged to use a list of factors that includes the seriousness of the underlying offense. Id. While “it is not Board policy to deny parole solely on the basis of the nature and circumstances of the offense; there are, however, certain instances where denial on this basis may be warranted.” Id. at 4. Furthermore, § 13-8-14(a)(2) states in pertinent part that:

“(a) A permit [to be at liberty upon parole] shall not be issued to any prisoner under the authority of §§ 13-8-9 – 13-8-13 unless it shall appear to the parole board:

...

“(2) That release would not depreciate the seriousness of the prisoner’s offense or promote disrespect for the law.” (Emphasis supplied.)

Indeed, our Supreme Court has noted that the seriousness of the crime is a relevant factor to be considered by the Parole Board because that factor goes to the very heart of risk analysis in that it speaks to the likelihood of future lawful behavior. Quimette, 117 R.I. at 372, 367 A.2d at 711.

It should be noted that our Supreme Court has held that an inmate in this state has a constitutional entitlement to the opportunity to be heard and advised of the reasons for parole

denial. See Lyons v. State, 43 A.3d 62, 67 (R.I. 2012). However, it has not gone so far as to say that the Board must give an exhaustive analysis of each candidate's circumstances or provide them with their Severity Risk Matrix score. See Estrada v. Walker, 743 A.2d 1026, 1031 (R.I. 1999).

In the present case, the Board noted that it was denying Snell parole "due to the serious nature of Mr. Snell's crime, the length of his sentence and the opposition from the Attorney General's Office." Pet'r's Ex. A. Clearly, the Board stated in writing the rationale for Petitioner's parole denial. See Lyons, 43 A.2d at 67. The gravamen of Snell's instant claim is that the aforementioned reasoning was not sufficiently detailed. However, the Court finds there to be no legal support for the Petitioner's claim, and, accordingly, he has not met his burden of proof on a petition for postconviction relief. DeCiantis, 24 A.3d at 569.

Rather, it is the Court's opinion that the Board's April 16, 2016 decision fulfilled the Board's statutory requirements and did not violate the Petitioner's constitutional rights. As previously noted, the decision complied with our Supreme Court's mandate that an inmate be afforded the opportunity to appear before the Board and be advised of the reasons for denial. Lyons, 43 A.2d at 67. Indeed, Petitioner does not challenge that he was given no reason for the denial; instead, he takes issue with the reasons proffered.

There is no authority to support the position that Petitioner is entitled to the Severity Risk Matrix score or how it was used in the Board's ultimate determination. In his own Memorandum, Petitioner acknowledges that "[o]ne would assume that the Board followed its guidelines and assigned Mr. Snell certain points regarding his static factors . . . and his dynamic factors." Pet'r's Post Conviction Mem. 7. While the Court agrees with this contention, it further notes that the Board's consideration of the seriousness of the offense also served as a predictor of

future criminal behavior. See Ouimette, 117 R.I. at 372, 367 A.2d at 711. As such, the Board took into account the Petitioner’s likelihood of recidivism, as required by § 13-8-14.1. Other courts which have considered this issue have similarly found that there is no explicit requirement that the Board provide Petitioner any exceedingly detailed explanation.³ In sum, the Court finds that the Board’s consideration of the seriousness of the underlying offense, the length of the sentence, and the Attorney General’s opposition satisfied its legal obligation and afforded Petitioner full constitutional protection, under the state and federal constitutions.

As courts have repeatedly held, Snell—and other convicted persons—have no constitutional or other inherent right to release before the expiration of his sentence. See Greenholtz v. Inmates of the Nebraska Penal & Corr. Complex, 442 U.S. 1, 7 (1979); Higham v. State, 45 A.3d 1180, 1185 (R.I. 2012); Pine v. Clark, 636 A.2d 1319 (R.I. 1994). Although Snell takes exception with the Board’s reasoning, the “failure [of the Parole Board] to provide [an in-depth] explanation [of its reasoning] is not ground that warrants the grant of an application for postconviction relief.” Estrada, 743 A.2d at 1031. Indeed, such a requirement would place a significant time burden on the operations of the Board. For the reasoning set forth above, Snell’s Application for Post-Conviction Relief is denied.

³ See e.g., Jay Young v. State of Rhode Island, C.A. No. KM-2015-0962 (R.I. Super. Ct. June 7, 2016); (Rubine, J.); Christopher Rocheleau v. State of Rhode Island, C.A. No. KM-2014-0812 (R.I. Super. Ct. May 4, 2015) (Rubine, J.).

IV

CONCLUSION

As stated, this Court finds that Snell has failed to meet his burden of proving that he was denied due process, equal protection of the law, or that the Board's decision was legally invalid pursuant to the Parole Board's Guidelines and the statutory provisions that give rise to them. Therefore, Snell's Application for Post-Conviction Relief is denied. Counsel shall submit an appropriate judgment for entry.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: Curley Snell v. State of Rhode Island

CASE NO: PM-2014-5193

COURT: Newport County Superior Court

DATE DECISION FILED: July 20, 2016

JUSTICE/MAGISTRATE: Nugent, J.

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