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This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-5376-14T4

DERRICK ROUNDTREE,

Appellant,

v.

NEW JERSEY STATE
PAROLE BOARD,

Respondent.

Submitted February 6, 2017 – Decided February 22, 2017

Before Judges Sabatino and Haas.

On appeal from the New Jersey State Parole
Board.

Derrick Roundtree, appellant pro se.

Christopher S. Porrino, Attorney General,
attorney for respondent (Lisa A. Puglisi,
Assistant Attorney General, of counsel;
Gregory R. Bueno, Deputy Attorney General, on
the brief).

PER CURIAM

Appellant Derrick Roundtree contests the Parole Board's March
25, 2015 final agency decision denying him parole and imposing a
120-month Future Eligibility Term ("FET"). We affirm.

Following a jury trial in 1996, appellant was convicted of first-degree carjacking and third-degree unlawful possession of a weapon. The trial judge imposed a fifty-year aggregate sentence with an aggregate eighteen-year minimum parole eligibility period.

In October 2013, appellant appeared before a two-member panel of the Parole Board, at which he was considered for parole for the first time during his incarceration. The panel denied parole for several reasons. Among other things, the panel noted the appellant's extensive and repetitive criminal record, his past failures to respond favorably to community supervision, and the thirty disciplinary infractions he committed thus far during his time in prison. In addition, the Board found that appellant exhibited insufficient insight into his criminal behavior, and continued "to blame others and society" for his crimes. The panel also noted that appellant had not yet sufficiently addressed his substance abuse problem.

A three-member Board panel similarly concluded that appellant was ineligible for parole, and recommended the 120-month FET. The full Board ratified that decision, finding without merit appellant's challenges to both the parole denial and the length of the FET. This appeal followed.

On appeal, appellant contends that the Board's decision is arbitrary and capricious and should be set aside. He also argues that the 120-month FET is excessive.

We must accord considerable deference to the Board and its expertise in parole matters. Our standard of review of the Board's decisions is limited, and "grounded in strong public policy concerns and practical realities." Trantino v. N.J. State Parole Bd., 166 N.J. 113, 200 (2001) ("Trantino V"). "The decision of a parole board involves 'discretionary assessment[s] of a multiplicity of imponderables[.]'" Id. at 201 (alteration in original) (quoting Greenholtz v. Inmates of Neb. Penal & Corr. Complex, 442 U.S. 1, 10, 99 S. Ct. 2100, 2105, 60 L. Ed. 2d 668, 677 (1979)).

"To a greater degree than is the case with other administrative agencies, the Parole Board's decision-making function involves individualized discretionary appraisals." Ibid. (citing Beckworth v. N.J. State Parole Bd., 62 N.J. 348, 358-59 (1973)). Consequently, our courts "may overturn the Parole Board's decisions only if they are arbitrary and capricious." Ibid. We will not disturb the Board's factual findings if they "could reasonably have been reached on sufficient credible evidence in the whole record." Id. at 172 (quoting Trantino v. N.J. State Parole Bd., 154 N.J. 19, 24 (1998) ("Trantino IV") (quoting N.J.

State Parole Bd. v. Cestari, 224 N.J. Super. 534, 547 (App. Div.), certif. denied, 111 N.J. 649 (1988)); see also McGowan v. N.J. State Parole Bd., 347 N.J. Super. 544, 563 (App. Div. 2002) (applying that standard).

Having reviewed the record in light of these well-accepted standards, including the materials in the confidential appendix, we conclude that appellant's arguments are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(D). There is abundant support in the record for a conclusion that there is "substantial likelihood that [appellant] will commit a crime . . . if released on parole" at this time. N.J.S.A. 30:4-123.53(a) (amended 1997). Therefore, we discern no basis for disturbing the Board's decision to deny parole.

We likewise are satisfied that the 120-month FET imposed by the Board, although lengthy, is neither arbitrary nor capricious. An inmate serving a minimum term in excess of fourteen years is ordinarily assigned a twenty-seven month FET after a denial of parole. See N.J.A.C. 10A:71-3.21(a)(1). However, in cases where an ordinary FET is "clearly inappropriate due to the inmate's lack of satisfactory progress in reducing the likelihood of future criminal behavior," the Board may impose an FET in excess of administrative guidelines. N.J.A.C. 10A:71-3.21(d). As noted above, the Board found that appellant has thus far been unable to

identify the causes of his criminal behavior, and has failed to develop adequate and appropriate insight in how to prevent himself from engaging in future criminal conduct. He also continues to commit numerous serious infractions of prison rules while incarcerated. Under the totality of these circumstances, the Board appropriately imposed a 120-month FET.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION