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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-2508-15T2

CRAIG ADAMS,

Appellant,

v.

NEW JERSEY STATE PAROLE BOARD,

Respondent.

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Submitted March 14, 2018 – Decided April 6, 2018

Before Judges Koblitz and Manahan.

On appeal from the New Jersey State Parole Board.

Craig Adams, appellant pro se.

Gurbir S. Grewal, Attorney General, attorney for respondent (Melissa H. Raksa, Assistant Attorney General, of counsel; Christopher C. Josephson, Deputy Attorney General, on the brief).

PER CURIAM

Craig Adams, who is incarcerated at the New Jersey State Prison in Trenton, appeals from a final agency decision of the New Jersey State Parole Board (Board), affirming the panels' decisions

denying him parole and imposing a 180-month future eligibility term (FET). We affirm.

Adams raises a single argument on appeal:

POINT I

THE STATUTE THE PAROLE BOARD USED TO DENY MR. ADAMS PAROLE VIOLATES HIS RIGHT UNDER THE EQUAL PROTECTION CLAUSE OF THE UNITED STATES CONSTITUTION.

Having considered this argument in light of controlling law, we conclude that it lacks sufficient merit to warrant extended discussion in a written opinion. R. 2:11-3(e)(2). We add only the following.

Adams argues that the Parole Act of 1979 (Act), N.J.S.A. 30:4-123.45 to -123.79, which governs parole release decisions, violates the Equal Protection Clause of the Fourteenth Amendment. The premise of Adams's argument is that, in contrast to the Act, the No Early Release Act (NERA), N.J.S.A. 2C:43-7.2, "guarantees parole for inmates after they serve the mandatory minimum of their sentence." According to Adams, this causes disparate treatment in that one group of prisoners is "guaranteed parole, while others are denied despite having committed the same crimes and results in a violation of the Fourteenth Amendment." We disagree.

Inmates sentenced pursuant to NERA are not guaranteed parole release at the expiration of their mandatory eighty-five percent

time-served sentences. To the contrary, while inmates subject to the Act, like Adams, may be granted parole release well before the expiration of their maximum sentence, NERA inmates are not eligible for parole release before the expiration of a minimum of eighty-five percent time served of their maximum sentence. Therefore, if Adams was serving a life sentence under NERA, he would not be eligible for parole until he served eighty-five percent of seventy-five years. Further, at the expiration of their mandatory minimum sentence, if granted parole, NERA inmates are required to serve a mandatory period of parole supervision. N.J.S.A. 2C:43-7.2(c). As such, we conclude that the denial of parole to Adams by application of the Act does not implicate a violation of his constitutional rights.

Although Adams does not argue that the Board's decision to deny parole and to impose a 180-month FET was arbitrary, capricious and unreasonable, we briefly address our standard of review of the decision. The scope of our review is limited. "[T]he Parole Board is the 'agency charged with the responsibility of deciding whether an inmate satisfies the criteria for parole release under the Parole Act of 1979.'" Acoli v. N.J. State Parole Bd., 224 N.J. 213, 222 (quoting In re Application of Hawley, 98 N.J. 108, 112 (1984)), cert. denied, \_\_\_ U.S. \_\_\_, 137 S. Ct. 85 (2016). "The decision of a parole board involves 'discretionary

assessment[s] of a multiplicity of imponderables . . . .'" Trantino v. N.J. State Parole Bd., 166 N.J. 113, 201 (2001) (Trantino V) (alteration in original) (quoting Greenholtz v. Inmates of Neb. Penal & Corr. Complex, 442 U.S. 1, 10 (1979)). "[T]he Board 'has broad but not unlimited discretionary powers' . . . ." Id. at 173 (quoting Monks v. N.J. State Parole Bd., 58 N.J. 238, 242 (1971)). The Board's decision regarding parole will not be disturbed unless "arbitrary, capricious, or unreasonable, or [] not supported by substantial credible evidence in the record as a whole." In re Stallworth, 208 N.J. 182, 194 (2011) (alteration in original) (quoting Henry v. Rahway State Prison, 81 N.J. 571, 579-80 (1980)); see also Acoli, 224 N.J. at 222-23.

Adams is serving a life sentence for a murder he committed with others in 1984. Under the statute in effect at the time, "[t]he Parole Board's ultimate determination of parole fitness must be based on whether there is a likelihood that [appellant] will again engage in criminal activity." Trantino v. N.J. State Parole Bd., 154 N.J. 19, 39 (1998) (Trantino IV); see also Williams v. N.J. State Parole Bd., 336 N.J. Super. 1, 7 (App. Div. 2000). "[T]he Board panel shall determine whether . . . by a preponderance of the evidence . . . there is a substantial likelihood that the inmate will commit a crime under the laws of the State of New Jersey if released on parole." N.J.A.C. 10A:71-3.10(a).

N.J.A.C. 10A:71-3.11(b)(1) to (23) contains a non-exhaustive list of factors that the Board may consider in determining whether an inmate should be released on parole. "[T]he Board [must] focus its attention squarely on the likelihood of recidivism." McGowan v. N.J. State Parole Bd., 347 N.J. Super. 544, 565 (App. Div. 2002).

We find the applicable factors were taken into account in reaching the decisions, as evidenced by the two-member panel's notice of decision, as well as the three-member panel's notice of decision. Despite our concern over the length of the FET, even with a credit reduction, our review reveals nothing in the Board's decision that was arbitrary, capricious or unreasonable.<sup>1</sup>

Affirmed.

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

  
CLERK OF THE APPELLATE DIVISION

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<sup>1</sup> For an inmate who committed a crime prior to August 19, 1997, such as Adams, the FET is reduced by credits. See N.J.A.C. 10A:71-3.2(i); see also N.J.S.A. 30:4-123.56(b).