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SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-4315-14T1

TEDDY ROSE,

Appellant,

v.

NEW JERSEY STATE PAROLE BOARD,

Respondent.

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Submitted February 15, 2017 – Decided May 30, 2018

Before Judges Fuentes and Simonelli.

On appeal from the New Jersey State Parole Board.

Teddy Rose, 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).

The opinion of the court was delivered by

FUENTES, P.J.A.D.

On June 4, 1985, Teddy Rose was tried before a jury and convicted of the capital crime of murdering a police officer,

N.J.S.A. 2C:11-3(a); third-degree unlawful possession of a weapon, N.J.S.A. 2C:39-3(b); second degree possession of a weapon for an unlawful purpose, N.J.S.A. 2C:39-4(a); and fourth-degree hindering apprehension, N.J.S.A. 2C:29-3b(2). On June 12, 1985, at the conclusion of the penalty phase of these proceedings, the jury sentenced Rose to death. The Supreme Court thereafter affirmed the conviction and overturned the death sentence. State v. Rose, 112 N.J. 454, 547 (1988). On February 14, 1991, the court resentenced Rose to life imprisonment with a parole eligibility date of August 8, 2014.

On April 15, 2015, the Parole Board (Board) denied Rose's parole petition and imposed an eighty-four-month Future Eligibility Term (FET). His next parole eligibility date is November 11, 2019. Rose now appeals, arguing the three-member parole panel who reported to the Board did not establish, by a preponderance of the evidence, that there was a substantial likelihood he will commit a crime if released on parole. Appellant also claims the three-member panel did not give due consideration to the progress he has made during his lengthy period of imprisonment, and ignored or misunderstood other factors favorable to his parole application.

Appellant argues that the cumulative effect of these errors rendered the Board's decision arbitrary, capricious, and

unreasonable "and must be set aside by affirmative judicial intervention." We disagree and affirm.

Appellant first became eligible for parole on August 8, 2014. By that time, he had served twenty-three years, one month, and fourteen days of his life sentence. The two-member panel that reviewed his application recommended against granting parole and referred the matter to a three-member panel as required by N.J.A.C. 10A:71-3.15(b). The two-member panel based its finding on institutional infractions, confidential material, and other risk factors. Although the two-member panel failed to note three mitigating factors related to appellant's participation in institutional programs, the error was addressed and corrected on appeal by the three-member panel.

The three-member panel considered appellant's parole eligibility on September 10, 2014. This panel also found appellant unsuitable for parole. The panel found appellant lacked insight into his criminal behavior as demonstrated by mischaracterizing his actions in the murder of the police officer. For example, appellant was asked: "what your thoughts [were when] you learned that the patrolman had died?" He responded: "I couldn't believe what happened . . . I didn't understand that shooting a shotgun like that would hurt somebody." Appellant repeated numerous times

his alleged failure to see a connection between his intentional act of shooting a shotgun and the police officer's death.

The three-member panel found this unwillingness to accept responsibility for his actions demonstrated appellant's "lack of understanding" of his actions and a minimization or unwillingness to accept that his decision to engage in lethal criminal conduct led to the officer's death. The standard FET for an inmate serving a sentence for murder is twenty-seven months. N.J.A.C. 10A:71-3.21(a)(1). A different FET may be established by a three-member panel if the standard FET "is clearly inappropriate due to the inmate's lack of satisfactory progress in reducing the likelihood of future criminal behavior." N.J.A.C. 10A:71-3.21(d).

Here, the three-member panel provided three clearly stated reasons for imposing an eighty-four-month FET: (1) appellant's failure to understand the motivations that caused him to engage in violent decision-making; (2) appellant's failure to properly address the anti-social decision-making by participating in specific programs; and (3) appellant's continued anti-social behavior by committing several institutional infractions during his period of imprisonment.

On February 5, 2015, the full Board addressed the matter in response to appellant's appeal. In a written decision dated February 11, 2015, the nine members present unanimously voted to

accept the three-member panel's decision to deny parole. In lieu of restating the Board's comprehensive decision, we incorporate by reference the findings and legal conclusions reached therein. We also incorporate the facts described by the Supreme Court in its decision affirming appellant's conviction. Rose, 112 N.J. at 469-76.

We start our analysis by recognizing that the Board must release on parole an adult inmate

unless information supplied in the report filed pursuant to . . . [N.J.S.A. 30:4-123.54] or developed or produced at a hearing held pursuant to . . . [N.J.S.A. 30:4-123.55] indicates by a preponderance of the evidence that the inmate has failed to cooperate in his or her own rehabilitation or that there is a reasonable expectation that the inmate will violate conditions of parole imposed pursuant to . . . [N.J.S.A. 30:4-123.59] if released on parole at that time. In reaching such determination, the board panel or board shall state on the record the reasons therefor.


[N.J.S.A. 30:4-123.53(a).]

Here, the record amply supports the Board's decision. The Board is the administrative agency with the specialized knowledge and responsibility to decide whether an inmate satisfies the criteria for parole release. Acoli v. N.J. State Parole Bd., 224 N.J. 213, 222 (2016). Thus, we are bound to uphold the Board's decisions unless they are arbitrary or capricious. Id. at 222-23 (citing In re Application of Hawley, 98 N.J. 108, 112-13 (1984)).

Appellant's arguments have not demonstrated any legal basis for this court to interfere with the Board's decision and lack sufficient merit to warrant further discussion in a written opinion. R. 2:11-3(e)(1)(D).

Affirmed.

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

  
CLERK OF THE APPELLATE DIVISION