



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

DECISION AND REASONS

NAME: RIVAS, Rey
DOC #: 250527
FACILITY: Monroe Correctional Complex – Twin Rivers Unit (TRU)
TYPE OF HEARING: .100 Hearing
HEARING DATE: July 18, 2017
PANEL MEMBERS: JP & LR-G
FINAL DECISION DATE: July 28, 2017

This matter came before Jeff Patnode and Lori Ramsdell-Gilkey, who are members of the Indeterminate Sentence Review Board (ISRB or the Board), on the above date for a release hearing in accordance with the provisions of RCW 9.95.100. Mr. Rivas appeared in person and was represented by attorney En-tie Soon. Testimony was provided by Department of Corrections (DOC) Classification Counselor (CC) Steven Sager, DOC Sex Offender Treatment and Assessment Program (SOTAP) Specialist John Crowley, and Mr. Rivas.

BOARD DECISION:

This was a Deferred Decision. Based on the requirements of RCW 9.95.009(3) and RCW 9.95.100 and the totality of evidence and information considered by the Board, the Board is finds Mr. Rivas conditionally parolable to a MRP (Mutual Reentry Plan), and adds 30 months to his minimum term to allow for transition to a camp setting and possibly work release if appropriate.

NEXT ACTION:

Schedule a .100 hearing 120 days prior to PERD.

JURISDICTION:

Rey Rivas is under the jurisdiction of the Board on a December 10, 1982, conviction in Skagit County Cause #82-1-00152-9 for Attempted Murder in the First Degree, Count I, and Rape in the First Degree, Count II. The time start is December 10, 1982. The minimum term was set at 240 months on Count I and 98 months on Count II, to be served concurrently, from Sentencing Reform Act (SRA) ranges of 214 to 287 months on Count I, and 73 to 98 months on Count II. The maximum term is Life on each count. Mr. Rivas has served approximately 415 months in prison on this cause. The Prosecuting Attorney and Judge both recommended Life.

NATURE OF INDEX OFFENSE(S):

According to file materials, on January 17, 1982, Mr. Rivas, at his age of 29, used a rouse to get into an unknown young woman's vehicle, then raped her at knifepoint, tied up her hands and feet, and pushed her car into a river. The victim was able to move herself into the front seat and roll down the window and escape. She managed to swim part way to shore, where she was discovered by two fishermen. In today's hearing Mr. Rivas estimates he raped the victim three times over a six hour period. He acknowledged he was intoxicated when he committed this offense. He also claimed to be suffering from flashbacks of childhood sexual abuse at the time of the offending.

PRIOR CRIMINAL CONDUCT:

In June 1979 Mr. Rivas, at his age of age 27, was convicted of Rape in the Second Degree. In this crime he drove a known female to a deserted area and raped her, holding a screwdriver to her throat. He also threatened to kill her and dump her body where no one would find her. During today's hearing Mr. Rivas claimed the woman was an ex-girlfriend and the mother of two of his children. He was angry because her current boyfriend had beat their little boy. He claimed he was getting revenge on her for allowing this to happen.

Mr. Rivas' criminal history began at age 13 when he stole a car. In 1973, at age 21, he was arrested for Assault with a knife against a female. In March 1976 Mr. Rivas was convicted in

Whatcom County Superior Court for Assault in the Second Degree for slashing a man's face with a knife.

HISTORY/COMMENTS:

Mr. Rivas' was seen by the Board on September 1, 2015. At that time the Board found him conditionally parolable to a MRP and added 24 months to his minimum term. Subsequent to that decision, the DOC ESRC ordered an FPE be completed on Mr. Rivas, following which the Board rescinded the September 2015 decision pending the receipt of the FPE.

CC Sager stated Mr. Rivas has been doing well. He does well on the unit and in the yard. He has incurred no infractions since his last hearing and has not been a management problem in any way. Mr. Rivas did recently have an FPE completed which indicates he Does Not Meet criteria for RCW 71.09. CC Sager stated if Mr. Rivas is found conditionally parolable to a MRP, he would be a good candidate for the MCC-MSU camp setting. Mr. Sager said that Mr. Rivas would like to use transitional housing in the Snohomish County and has strong support from family to include his wife. CC Sager said that he would like to see Mr. Rivas complete CD treatment prior to release that could be available to him at the MCC-MSU.

Mr. Rivas provided a description of his index offense which appeared to match file material. He did not minimize his behavior and took responsibility for his criminal conduct, though his description of his flashbacks to his childhood sexual abuse as the driver for his behavior is suspect. He could list his High Risks and interventions he has learned. He said he believes he has learned much about himself in treatment and believes he is no longer a risk to reoffend in a sexual way. He stated his medical issues have significantly decreased his sexual arousal. He said he has significant community support from family and his wife. He said he would like to release to transitional housing and establish himself before living with his wife.

SOTAP Specialist Crowley testified Mr. Rivas did well in the SOTAP Aftercare program. He said he was also the primary provider for Mr. Rivas for his core SOTAP. Mr. Crowley indicated that Mr.

Rivas was a valuable member of his aftercare group and quickly became a leader. He said he also did very well in the core SOTAP program as well and had a seamless transition between the two components of the program.

Attorney En-tie Soon, stated that the Board has previously found Mr. Rivas conditionally parolable to a MRP, rescinded that decision due to the FPE, and he should be found conditionally parolable again as the FPE indicated he does not meet criteria for civil commitment.

INFORMATION CONSIDERED:

In preparation for Mr. Rivas' hearing and its decision in this case, the Board completed a review of his ISRB file. The Board considered all information contained in those files, including but not limited to: the most recent DOC facility plan; information regarding institutional behavior and programming; any letters of support and/or concerns sent to the Board; the Pre-Sentence Investigation report; and the most recent psychological evaluation dated May 4, 2015, by Deborah Wentworth, Ph.D as well as a Forensic Psychological Evaluation, February 2, 2017 from Dr. Mark Patterson. The Board also considered the testimony of the witnesses listed above.

There is no current recommendation from the prosecutor.

REASONS:

This was a deferred decision following a full Board discussion using a structured decision-making framework that takes into consideration; the statistical estimate of risk, criminal history, parole/release history, ability to control behavior, responsivity to programming, demonstrated offender change, release planning, discordant information, and other case specific factors. Based on the requirements of RCW 9.95.009 (3) and RCW 9.95.100 the Board finds Mr. Rivas conditionally parolable to a Mutual Reentry plan.

Mr. Rivas had a favorable psychological evaluation in 2015 completed by Dr. Wentworth which reads in part, ...when his "mitigating and risk factor elements are combined, it appears that his

emerging picture is that of lower risk” and “transitioning through lower custody levels would give Mr. Rivas a chance to maintain his self-regulation while under DOC supervision and contribute to a successful adjustment to the community,” The Board had previously found Mr. Rivas conditionally parolable and had to rescind the decision pending the outcome of an FPE ordered by the ESRC and that evaluation has since been completed, indicating Mr. Rivas does not meet criteria for a further RCW 71.09 review.

In the FPE dated February 2, 2017, Dr. Patterson states the following: “At this time, in light of his current age, his current health status, and his treatment completion status, Mr. Rivas’s static risk factors and long term vulnerabilities do not render him likely to reoffend sexually without appropriate confinement. In other words, the totality of the available evidence indicates that Mr. Rivas is not likely to commit future acts of predatory sexual violence due to his diagnosed mental disorders if not confined in a secure facility”.

Mr. Rivas is an ESRC recommended Level 3 for community notification and was referred by the DOC ESRC for an FPE. Despite the assessed risks, Mr. Rivas has completed significant programming to mitigate his risk to reoffend sexually. He has completed both the core SOTAP as well as the aftercare and reportedly did well in both programs. He should request to complete CD treatment while his is on his MRP

JP: ts

July 18, 2017, July 31, 2017, August 11, 2017, August 14, 2017

cc: MCC-TRU
Rey Rivas
File
Attorney



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

DATE: July 31, 2017

TO: Full Board

FROM: JP & L RG (Teresa)

RE: RIVAS, Rey #250527

Panel recommends: Conditionally parolable to an MRP. Add 30 months to his minimum term to allow for time to transition to lower levels of custody.

Next action: Schedule a .100 hearing 120 days prior to his PERD.

Agree	Disagree
Jeff Patnode 7-28-2017 Lori Ramsdell-Gilkey 7-28-2017 Elyse Balmert – 7-28-2017 Kecia Rongen 7-28-2017	

