



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

DECISION AND REASONS

NAME: NICHOLSON, Robert
DOC #: 126645
FACILITY: Coyote Ridge Corrections Center
DATE OF HEARING: July 24, 2018
TYPE OF HEARING: .100
PANEL MEMBERS: Jeff Patnode and Lori Ramsdell-Gilkey
FINAL DECISION DATE: August 13, 2018

This matter came before the above named Board Members of the Indeterminate Sentence Review Board (ISRB or the Board) for a .100 hearing in accordance with RCW 9.95.100. In preparation for the hearing, the Board reviewed Mr. Nicholson's ISRB file. Mr. Nicholson appeared in person and declined to be represented by an Attorney. Testimony was provided by Department of Corrections (DOC) Classification Counselor (CC) Micah Fultz.

The sentencing Judge did not make a recommendation and the Prosecutor stated: "This man is extremely dangerous and should never be released from custody unless competent psychiatric evaluation would deem it certain that he was sufficiently changed to be at large and present no threat of further similar crimes. The minimum term of sentence should be life."

LAST BOARD DECISION:

Mr. Nicholson met with the board for a .100 hearing on October 23, 2012. The board found him not parolable and added 90 months to the minimum term. The board did not give any recommendations. However, in the decision, the Board noted Mr. Nicholson's refusal to apply to Sex Offender Treatment Program and refusal to participate in a new Psychological Evaluation is

problematic as it leaves only with prior reports that assessed him to be a high risk to reoffend and recommended he not be considered for parole.

CURRENT BOARD 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 finds that Mr. Nicholson is not parolable and adds 90 months to his minimum term.

NEXT ACTION:

Schedule a .100 hearing approximately 120 days prior to his next PERD. An updated psychological evaluation will be needed for his next hearing.

REASONS FOR DECISION:

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, 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 9.95.100, the Board finds Mr. Nicholson not parolable for the following reasons:

- Mr. Nicholson continues to refuse to participate in offense specific programming (SOTAP) as requested by the Board.
- He continues to refuse to participate in an updated psychological evaluation.
- The Psychologic Evaluation completed December 29, 2017 by Dr. Robtoy indicates Mr. Nicholson's overall level of risk places him in the moderate range to reoffend. The recalibration of the VRAG-R and updated training and information on the PCL-R both place him in moderate range. Dr. Robtoy opines "His lack of engagement of sex offender treatment and his refusal to participate in the evaluation do not bode well for a successful transition to the community at this time."

RECOMMENDATIONS:

The Board hopes Mr. Nicholson will reconsider his refusal to participate in SOTAP. Additionally, the Board recommends he continue to manage his behavior and take advantage of his next opportunity to participate in a psychological evaluation before his next hearing, as it will certainly provide the Board with updated information to assist in making a more informed release decision.

JURISDICTION:

Robert Nicholson is under the jurisdiction of the Board on a November 11, 1968 conviction in King County Cause 37141 for Rape, Counts I, II & III. The time start is February 6, 1976. The minimum term was set at 264 months each count concurrent from a Sentencing Reform Act (SRA) range of 149 to 198 months. The maximum term is Life. Mr. Nicholson has served approximately 508 months on this cause in prison with 0 days of jail time.

OFFENSE DESCRIPTION

File materials indicate that Mr. Nicholson sexually assaulted three unknown women in their homes over the course of five nights. He was armed with a knife and he unlawfully entered the victim's residences and terrorized and brutally raped them.

PRIOR CRIMINAL / RISK RELATED CONDUCT:

Mr. Nicholson has a 1969 conviction for Escape from Lawful Custody; King County Cause #48450. He escaped while being escorted from jail for medical treatment. He had been jailed for convictions under King County Cause #47402 for several aforementioned crimes. File materials describe that Mr. Nicholson grabbed a woman at a bus stop, dragging her into nearby blackberry bushes and threatened her with a handgun and a knife, then violently raped her and took \$1 from her purse. Subsequent to his arrest two other victims identified Mr. Nicholson as the man who sexually assaulted them.

In 1967 Mr. Nicholson was convicted of Second Degree Burglary in Yakima County. Reports indicate that he entered the home of a female and assaulted her while placing a knife to her throat. Mr. Nicholson tied her arms and legs and tore off her pajamas and molested her. He also stole money and other items from the victim which were recovered in his wife's home when he was arrested.

As a juvenile in 1960 Mr. Nicholson was convicted of Burglary and Larceny and committed to George Junior Republic facility.

PROGRESS/BEHAVIOR:

CC Fultz provided a summary of programming, behavior and other relevant activities for Mr. Nicholson. He stated Mr. Nicholson is currently working in the kitchen with good reports from his supervisors. Mr. Nicholson has recently completed Redemption and Conflict Resolution and has no serious infractions since his last hearing with the Board. Mr. Nicholson continues to maintain his innocence and is not interested in SOTAP. Mr. Nicholson is interested in transitioning through work release and would like to reside in Spokane County in a country setting if he is found releasable.

Mr. Nicholson made it known to the Board that he does not recognize the Board's authority to add time to his minimum term. He indicated he admits to one of his sex offense convictions but not the others. The Board informed him that if he acknowledges a sex offense he *may* be eligible to participate in the SOTAP program. He indicated that he has no interest in moving institutions and is happy where he is currently. He stated he did do some work in the 1980s regarding his offending and believes that the work he has done is sufficient to be released. He stated he is not willing to participate in SOTAP and would not be willing to participate in the "Moving Forward" program either as he does not want to change institutions.

NICHOLSON, Robert #126645

Page 6 of 6

Mr. Nicholson stated that he has refused psychological evaluations as the last one he participated in had inaccuracies.

JP: ch

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cc: CRCC
File



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INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

TO: Full Board

FROM: Jeff Patnode (Christine)

RE: NICHOLSON, Robert DOC #126645

Panel recommends: Not parolable and adds 90 months to his minimum term.

Next action: Schedule a .100 hearing 120 days prior to his PERD. An updated psychological evaluation will be needed for his next hearing.

Agree	Disagree
Jeff Patnode 8-13-2018 Elyse Balmert 8-13-2018 Lori Ramsdell-Gilkey 8-13-2018 Kecia Rongen 8-13-2018	