



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

DECISION AND REASONS

NAME: BOOT, Kevin
DOC #: 231293
FACILITY: Airway Heights Correctional Center (AHCC)
TYPE OF HEARING: .100 Hearing
HEARING DATE: July 25, 2017
PANEL MEMBERS: JP & LRG
FINAL DECISION DATE: August 14, 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. Boot appeared in person and was represented by attorney George Marlton. Testimony was provided by Department of Corrections (DOC) Classification Counselor (CC) Peggy Smet, DOC Sex Offender Treatment and Assessment Program (SOTAP) Supervisor Brent Borg, DOC Ph.D. Timothy Whetstine-Richel, and Mr. Boot.

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 finds that Mr. Boot is not parolable and adds 90 months to his minimum term.

NEXT ACTION:

Schedule a .100 hearing 120 days prior to PERD. The Board will need an updated psychological evaluation for his next Board hearing.

JURISDICTION:

Kevin Boot is under the jurisdiction of the Board on a December 19, 1983, conviction in King County Cause #82-1-00826-1 for Count I – Rape in the First Degree and Count II – Robbery in the Second Degree, both with a Habitual Criminal finding. The time start is December 4, 1984. The minimum term was set at 180 months on each count (the mandatory due to the Habitual Criminal finding) to be served concurrently, from a Sentencing Reform Act (SRA) range of 66 to 88 months on Count I and 12 to 16 months on Count II. The maximum term is Life on both counts. Mr. Boot has served approximately 359 months in prison and 660 days of jail time.

NATURE OF INDEX OFFENSE(S):

According to file materials Mr. Boot, at his age of 29, attacked and sexually assaulted a woman delivering early-morning newspapers. He entered her car, hit and choked her, and gouged her eyes. He drove the victim in her car for approximately an hour, then stopped and vaginally raped her. He then took the four dollar bills and some change in her purse, forced the victim to leave the vehicle, and drove off. The victim went to a nearby residence and called police. Officers saw the vehicle and began following it. Mr. Boot sped up, and the officers found the car abandoned with the motor running and the door open. A K-9 unit tracked and found Mr. Boot hiding in nearby bushes. The victim identified him in a photo montage as he refused to participate in a line-up.

PRIOR CRIMINAL CONDUCT:

Mr. Boot has three prior prison commitments for Burglary in the Second Degree. These three convictions occurred in 1974 and were served concurrently. He was paroled on those causes in March of 1976. His parole was revoked in 1977 as a result of a conviction in King County Cause #82061 for Assault in the Second Degree. That crime involved an adult female whom he attacked as she walked late at night. He was apprehended by a K-9 in this event also and identified at the

scene by the victim. He was paroled again in December of 1981. His parole was revoked in February 1984 as a result of the index crimes, and he has remained in prison since that time.

File materials indicate Mr. Boot was investigated in 1977 for a series of rapes in the Seattle area after he was found with a paring knife on his person and wearing a ski mask under a knit cap. Apparently three young women, aged 17, 19, and 24, on three separate dates in late December 1976 and in January 1977 were grabbed as they were walking at night by a man wearing a ski mask and armed with a knife, and were subsequently raped by the suspect. None of the victims were able to identify Mr. Boot, and consequently no charges were filed due to insufficient information for prosecution.

HISTORY/COMMENTS:

Mr. Boot's last hearing was held in November of 2014. At that time the Board found him not parolable and added 48 months to his minimum term. The Board recommended Mr. Boot reconsider participation in the SOTAP.

Mr. Boot has not incurred a major infraction since his last hearing. Mr. Boot did complete the "Moving Forward" Program, which is also generally referred to as the deniers group for sex offenders.

CC Smet stated Mr. Boot has been doing well. He does well on the unit and in the yard. He has incurred no infractions since his last hearing (last was in 2006), and has not been a management problem in any way. Mr. Boot did recently complete the Moving Forward Program, but still has not completed SOTAP. Ms. Smet explained that Mr. Boot has had an FPE (Forensic Psychological Evaluation) completed, which indicates he Does Not Meet criteria for RCW 71.09. She further stated Mr. Boot has no community support at this time, though he is in communication with his brother in California and his son who is currently at Stafford Creek Correction Center. CC Smet stated that the last evaluation completed by Dr. Wentworth indicates he does not have

Dissociative Disorder and assessed him as a high risk to reoffend. CC Smet indicated Mr. Boot discontinued his mental health medications in January of 2016 and appears to be adjusting without issue. CC Smet stated that Mr. Boot receives very good reports from his current job supervisor.

Mr. Boot stated he no longer has an active appeal and continues to deny his role in any sexual assault. Mr. Boot states that in all the convictions or allegations he has never committed a sexual assault, but admits to other criminal behavior. He continues to refer to himself as “we” which is specific to the different elements of himself that he believes exist. He described the circumstances/allegations as mistaken identity.

SOTAP Supervisor Brent Borg and Dr. Whetstine-Richel testified that Mr. Boot did complete the Moving Forward Program. However, they both stated that Mr. Boot struggled with identifying any high risk behaviors that were related to the circumstances which resulted in the multiple allegations and convictions against him. Both agreed that this identification is central to achieving benefit from the program.

Attorney George Marlton stated that Mr. Boot has completed the Moving Forward Program and he has made progress in his improved prison behavior. Mr. Marlton stated that based on his progress, if the Board finds Mr. Boot not parolable, the additional time added to his minimum term should be as short as possible.

INFORMATION CONSIDERED:

In preparation for Mr. Boot’s hearing and its decision in this case, the Board completed a review of Mr. Boot’s ISRB file. The Board considered all information contained in that file, 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 psychological evaluations. The Board also considered the testimony of the witnesses listed above.

The Judge made no recommendation regarding Mr. Boot's minimum term and the Prosecutor recommended 30 years.

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. Boot not parolable.

Mr. Boot is a high risk sexual offender who continues to deny his role in any sexual assault and remains an untreated sex offender. The most recent psychological evaluation completed by Dr. Wentworth, dated October 6, 2014, concluded, "...Mr. Kevin Boot does not meet the criteria for Dissociative Identity Disorder." She further reported his "behavior and symptoms are more appropriately categorized as meeting the criteria for Antisocial Personality Disorder with passive/aggressive, paranoid and affective features." He is seen as a high risk to reoffend with high levels of psychopathy.

The Board acknowledges that Mr. Boot did participate in and complete the "Moving Forward" Program for offenders denying their sex offense. However, Mr. Boot made limited progress in the program as he struggled with connecting any of his behaviors in the community to the resulting allegations against him. Dr. Wentworth indicates that Mr. Boot likely finds the Dissociative Identity Disorder (DID) diagnosis useful in having to avoid taking responsibility for his offense and to keep others "at arm's length".

The Board recommends Mr. Boot continue to remain infraction free and complete the SOTAP. The Board will see Mr. Boot sooner if he participates in and successfully completes the SOTAP. The Board would also like to see Mr. Boot participate in any other offender change programs that will assist him in linking his behavior in the community to why he is in prison.

JP:jas

July 25, 2017

August 14, 2017

August 21, 2017

cc: Institution
Kevin Boot
File
George Marlton, Attorney



STATE OF WASHINGTON

**DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD**

P.O. BOX 40907, OLYMPIA, WA 98504-0907

DATE: July 25, 2017

TO: Full Board

FROM: JP & LRG (Jody)

RE: BOOT, Kevin/*DOC #231293*

Panel recommends: Find Mr. Boot not parolable and add 90 months to his minimum term.

Next action: Schedule a .100 hearing 120 days prior to PERD, or upon completion of the SOTAP.

Agree	Disagree
Jeff Patnode 8/14/17 Elyse Balmert 8/14/17 Lori Ramsdell-Gilkey 8/14/17 Kecia Rongen 8/14/17	