



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

DECISION AND REASONS

NAME: SHELTON, James
DOC #: 250236
FACILITY: Stafford Creek Correctional Center (SCCC)
DATE OF HEARING: October 9, 2018
TYPE OF HEARING: .100
PANEL MEMBERS: Kecia Rongen & Elyse Balmert
FINAL DECISION DATE: October 22, 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. Shelton's ISRB file. James Shelton was present and was represented by his attorney Jason Couey. Testimony was provided by Department of Corrections (DOC) Classification Counselor (CC) James Bravos.

Original Prosecutor/Judge Recommendation:

Both recommended 240-300 months.

Current Prosecutor/Judge Recommendation:

Information was provided to the prosecutor in a letter dated May 10, 2018, with no response received.

LAST BOARD DECISIONS:

Mr. Shelton met with the Board August 21, 2018, and requested that his hearing be continued to allow for additional time for him to review his file information. The request was granted.

Mr. Shelton's last .100 hearing was on October 13, 2015, at which time he was found not parolable. He received a new minimum term of 48 months and the Board noted, "Mr. Shelton is not fit to release to the community without additional programming to address his potential for violence and his sexual deviance. Mr. Shelton should consider requesting re-admission into the SOTAP."

***Mr. Shelton had been paroled by the Board in January of 2010. In July 2012 he committed a new Kidnapping offense while on active supervision (pending, Mason County 12-1-00302-0) and was subsequently revoked by the Board in an Akridge hearing that occurred in November of 2012. He was given a new minimum term of 60 months and the Board recommended he participate in SOTAP aftercare or the core program if assessed as eligible and pursue mental health evaluation and follow the treatment recommendations.*

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. Shelton is not parolable and adds 90 months to his minimum term.

NEXT ACTION:

Schedule .100 hearing 120 days prior to parole eligibility review date (PERD).

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, parole 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. Shelton not parolable for the following reasons:

- **Mr. Shelton denies any sexual element to his 2012 Kidnapping offense and as such has**

not participated in corresponding relevant offender change programming.

- **He is assessed as a high risk on the Static 99-R and reviewed by the ESRC Sexually Violent Predator Subcommittee whom determined that he should undergo a Forensic Psychological Evaluation (FPE) to determine if he may meet the criterial for Civil Commitment under RCW 71.09.**
- **Mr. Shelton’s most recent psychological evaluation dated April 24, 2018 indicates “overall level of risk places him in the moderate to high range to reoffend. The re-calibration of the VRAG-R and the previous score on the PCL-R both place him in the high range of risk to engage in behavior that would result in recidivism. His engagement with criminogenically-focused treatment/programming is a positive step toward rehabilitation, but his recent infraction is concerning”.**

RECOMMENDATIONS:

Mr. Shelton should remain infraction-free and participate in offense-specific treatment. He is not admitting to a sexual element in his most recent conviction and has completed SOTAP on his Murder conviction and as such will not likely be admitted into the SOTAP, however he could request to participate in the “Moving Forward” program at AHCC. He stated in today’s hearing that he is willing to do this program and he should request any other programming that will prepare him to transition to lower levels of custody, specifically the Bridges to Life program. He would like to remain at SCCC until he completes his educational programming in March of 2019.

JURISDICTION:

James Shelton is under the jurisdiction of the Board on a May 21, 1976 conviction in Snohomish County Cause No. 6932 for Murder in the Second Degree. The time start is May 21, 1976. The minimum term was set at 216 months from a Sentencing Reform Act (SRA) range of 123 to 164 months. The maximum term is life. Mr. Shelton has served approximately 403 months in total prison time (67 months on the PV) and no days of jail time.

While serving parole Mr. Shelton was convicted of Kidnapping in the Second Degree, in Mason County Cause No. 12-1-00305-0. This sentence fell under the Offender Accountability Act (OAA)

Community Custody Prison (CCP). The term was set at 20 months from an SRA range of 15 to 20 months. The maximum term is ten years. He will also be supervised on community custody for 18 months. The Court ordered that this sentence should run consecutive to the sentence in Cause No. 6932 mentioned above. He has not started serving this sentence yet.

OFFENSE DESCRIPTION:

File material indicates James Shelton at age 17 years, strangled to death a known 16-year-old female. The record indicates the victim refused his sexual advances and he forced her to perform fellatio and vaginally raped her. Mr. Shelton states he engaged in consensual sex with the female whom he claimed in prior hearings was an “on again off again” girlfriend. When she wouldn’t consent to sex a second time he strangled her to death then had intercourse with her body. He claims he did not mean to kill her and thought she had only passed out. Mr. Shelton stated, “I was *only* convicted of Second Degree Murder.” He indicated he had been drinking alcohol and sniffing glue prior to the offense.

The OAA offense of Kidnapping in the Second Degree (Mason County 12-1-00302-0), involves Mr. Shelton accosting an unknown adult woman walking alone late at night. Mr. Shelton stated he saw the woman walking and decided he wanted to talk to her. He parked his truck nearby then walked up behind her to hug her and “comfort” her. They both fell over the side of the hill and the victim began screaming. He covered her mouth with his hand and she bit him and managed to run away and contact police. Mr. Shelton was quickly apprehended in the area. Interestingly Mr. Shelton stated, “I was the only one that actually got hurt”. He denied any plan to assault the victim and maintained he just wanted to talk to a woman.

PRIOR CRIMINAL / RISK RELATED CONDUCT:

There have been no prior formal charges or adjudications. However, the pre-sentence report completed in April of 1976, indicates James Shelton was placed on three months of informal probation in 1974 for “riding in a stolen vehicle”.

This same PSI mentions a statement taken from the mother of a minor male. This woman reported James Shelton had sexually assaulted her son after first tying his hands and feet. Reportedly with the boy laying on his stomach, James put some Vaseline on his own penis and told the boy, "Open your butt so I can get my weiner in". It does not appear any action was taken on this.

In addition, there is a statement from an ex-girlfriend from the eighth grade. In summary, she reported that on one occasion when they were in high school, they attempted to engage in sexual intercourse and Mr. Shelton was unable to maintain an erection long enough to do so. He also strangled her long enough to make her pass out. She indicated she avoided him after that. She indicated she ended up at the same party as he one night and he wanted her to engage in anal sex or fellatio with him and she refused. After he threatened to choke her she told him to do whatever he wanted. He then masturbated himself and ejaculated on her.

While in work release in 1988 he was infractioned for having sex with a female inmate who became pregnant. Around that same time he was charged with raping his sister. He was found guilty of the infraction but found not guilty of the rape at trial.

PROGRESS/BEHAVIOR:

CC Bravos provided a summary of programming, behavior and other relevant activities for Mr. Shelton. He stated Mr. Shelton is currently employed as a wheel chair pusher, is involved in a variety of education programs, and is pursuing his AA degree. CC Bravos indicated that since his last hearing with the Board Mr. Shelton has also completed the "Roots of Success" and "Redemption" programs. He stated that Mr. Shelton is not viewed as a management problem and has no negative behavioral log entries. CC Bravos stated Mr. Shelton has one serious infraction that occurred in February 2018 for "Fighting" with another offender. He stated Mr. Shelton has good community support from his mother and sister, he hopes to release to his sister's home in Shelton, and obtain a trucking job (CDL).

Mr. Shelton stated he does not dispute the facts of his index offense of Murder in the Second Degree. He stated the allegation by his sister has since been demonstrated to be untrue which is supported by a letter from his sister to the Board. He also pointed out that he was found not guilty of this allegation. When asked about the other numerous unadjudicated allegations in his ESRC report, Mr. Shelton stated that they are all untrue and he has no other sexual assaults.

Mr. Shelton was asked to provide his version of the Kidnapping offense from 2012. He provided a description that was very different than the file material and he had no explanation for the difference. He stated his only motivation was he wanted “someone to talk to”. He stated he is willing to participate in SOTAP though he understands he was assessed as “not prioritized”. File material indicates the SOTAP treatment team chose not to admit Mr. Shelton as he previously completed the program in 2006 and denies any sexual element to his most recent kidnapping offense. He stated he is willing to participate in the Moving Forward program at AHCC. Mr. Shelton stated it is important to him to complete his AA Degree and he should be done by March of 2019.

JP:ffo

October 9, 2018

October 24, 2018

cc: SCCC
James SHELTON
Jason Couey, Attorney
File



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

TO: Full Board

FROM: Jeff Patnode (Fawn)

RE: SHELTON, James DOC #250236

Panel recommends: Find Not Parolable and add 90 months to his minimum term.

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

Agree	Disagree
Elyse Balmert 10-22-2018 Jeff Patnode 10-22-2018 Lori Ramsdell-Gilkey 10-22-2018 Kecia Rongen 10-22-2018	