



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

DECISION AND REASONS

NAME: Agtuca, Kenneth
DOC #: 626184
FACILITY: MCC – Washington State Reformatory
DATE OF HEARING: November 20, 2018
TYPE OF HEARING: .100
PANEL MEMBERS: Lori Ramsdell-Gilkey and Elyse Balmert
FINAL DECISION DATE: December 10, 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. Agtuca's ISRB file. Mr. Agtuca appeared in person and was represented by Attorney Michael Filipovic. Testimony was provided by Department of Corrections (DOC) Classification Counselor (CC) Breezann Stouffer.

In 1995 the Board attempted to parole Kenneth Agtuca to his Federal detainer, as that was a sentence involving actual life plus five years. In early 1996 the Board became aware that Mr. Agtuca was refusing to sign his release orders and at that time his parole date was cancelled. The Board determined he would remain on that status until he was ready to sign the release orders. In subsequent years Mr. Agtuca has regularly let the Board know that he was not interested in being paroled to his Federal Detainer.

Mr. Agtuca was recently resentenced on this Federal case and his Life sentence was reduced to 185 months, to run concurrently with all other cases. Through his attorney he advised the Board he was now ready to be considered for release and a hearing was scheduled as soon as possible.

**Mr. Agtuca's hearing was held past his PERD of May 12, 2018, due to the above.

LAST BOARD DECISION:

At the January 22, 2013 hearing, the Board found Mr. Agtuca not parolable and added 90 months to his minimum term.

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. Agtuca is conditionally parolable to a MRP, and adds 48 months to his minimum term to allow for an extended period of transition through lower levels of custody.

NEXT ACTION:

Schedule a .100 hearing approximately 120 days prior to his 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/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. Agtuca conditionally parolable for the following reasons:

- **Has maintained employment throughout much of his incarceration**
- **Has substantial community support and a well thought out release plan**
- **Completed Roots of Success, Bridges to Life, some college courses and is a Redemption Facilitator**
- **Involved in sober support through the White Bison program**

RECOMMENDATIONS:

Transition through lower levels of custody beginning with approximately 24 months in a camp

setting followed by 12 months in a work release setting if eligible. Mr. Agtuca was advised that the Board expects him to remain serious infraction free and to cease incurring negative behavioral observations. The Board would like to be notified immediately if he is found guilty of any serious infraction during this transition period.

JURISDICTION:

Mr. Agtuca is under the Board's jurisdiction for a conviction in Walla Walla County Cause #90-1-00246-1 for Assault in the First Degree Count I with a Habitual Criminal finding. The time start was September 4, 1991, with a statutory maximum of Life. Mr. Agtuca was **originally sentenced on this offense in July of 1977**, with a time start in October of 1982. That sentence was vacated and he was **re-sentenced in September of 1991**. The minimum term was set at 150 months from a Sentencing Reform Act (SRA) range of 129 to 171 months with a maximum term of Life. The Prosecutor recommended a minimum term of 240 months and the Judge ordered a minimum term of 126 months. He served approximately 113 months on this offense prior to his parole in March of 1992; and an additional 312 months since his parole was revoked in November of 1992.

OFFENSE DESCRIPTION:

Mr. Kenneth Agtuca at age 24, while serving a prison term on other offenses, was involved in the stabbing of another inmate. While at the Washington State Penitentiary on November 10, 1976, Kenneth Agtuca and another offender stabbed a fellow inmate 31 times, causing him serious bodily injury.

PRIOR CRIMINAL / RISK RELATED CONDUCT:

Mr. Agtuca has an extensive criminal history and was incarcerated at WSP for a 1970 Robbery and Committing a Felony While Armed with a Firearm conviction out of King County Cause #54034 at the time he committed his instant crime.

In addition, Mr. Agtuca has 1972 convictions out King County Cause 58785 for Robbery and Assault Second; a 1973 conviction out of Walla Walla County Cause 62328 for Assault Second (an

assault on a Corrections Officer); and in U.S. District Court under #CR93-00407R-T, offenses of Conspiracy to Commit Armed Bank Robbery, Armed Bank Robbery, Use of a Firearm During a Crime of Violence and Felon in Possession of a Firearm; Career Criminal. He was sentenced to Life plus five years for these offenses. As noted above, he was recently resentenced on this Federal case and his Life sentence was reduced to 185 months, to run concurrently with all other cases.

PROGRESS/BEHAVIOR:

Classification Counselor Stouffer testified Mr. Agtuca has been on her caseload since August of this year. He has signed up for all available programs. He completes the Bridges to Life program later today. Since the last Board hearing in 2013, he has incurred a couple of serious infractions to include “Setting a Fire”, “Obtaining a tattoo” and “Possession of Spice”. Mr. Agtuca explained each of the infractions adequately. He indicated the fire issue was related to burning sage in his cell for “smudging” purposes. He also admitted he was in the process of trying to get a new tattoo in memory of his brother. He has also received several negative behavioral observations from staff, none of which were particularly concerning. CC Stouffer stated Mr. Agtuca has submitted a written release plan that appears to be well thought out. She stated he has frequent visits from family.

Mr. Agtuca added that he has been involved in the White Bison Program in the past and is working on getting it established at Washington State Reformatory at this time. In addition to the programming mentioned by the Classification Counselor, Mr. Agtuca has obtained certifications as a Media Technician and a Paralegal. He stated his last positive UA for drugs was in 1998 and his last violent infraction appears to be a fight in 1993.

Mr. Agtuca at age 66 has been incarcerated for nearly all of his adult life. He was paroled for a brief period in 1992. Unfortunately he committed a new felony within months of release and was returned to prison. For a good period of time during his incarceration Mr. Agtuca remained criminally oriented. He claims to have been clean and sober since 1998 and voices a commitment

to remain so. The recent psychological evaluation is not particularly positive. The risk assessments indicate he is a high risk for re-offense. Much of the information and scoring is based on static factors that simply will not change. His prison behavior has improved somewhat and it appears that this is an appropriate time to begin transitioning Mr. Agtuca back into the community through a slow and thoughtful process.

LRG: ts

December 6, 2018

December 11, 2018

December 12, 2018

December 18, 2018

cc: MCC-WSR
Michael Filipovic
File



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

TO: Full Board

FROM: Lori Ramsdell-Gilkey (Christine)

RE: AGTUCA, Kenneth

Panel recommends: Conditionally parolable and adds 48 months to his minimum term.

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

Agree	Disagree
Lori Ramsdell-Gilkey 12-10-2018 Elyse Balmert 12-10-2018 Jeff Patnode 12-10-2018 Kecia Rongen 12-10-2018	