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Success of SB 114 dubious, contingent upon Alaska's contemptuous parole board

By H. Thompson Prentzel III Spectrum
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Sponsored by Sen. Tom Begich and opined of favorably by former prosecutor Val Van Brocklin in an April 18 Anchorage Daily News Op-ed, Senate Bill 114 would permit minors sentenced as adults to apply for discretionary parole after serving 15 years of incarceration.

Van Brocklin declares “the Alaska Board of Parole is a strict gatekeeper” as it denied 77 percent of applications in 2020. She added that this proposed legislation, if enacted, would simply provide a “meaningful review” by the state Parole Board. “SB 114 would incentivize incarcerated juveniles to participate in every rehabilitation opportunity to prove themselves worthy of parole by achieving rehabilitation milestones,” Van Brocklin continued.

Sadly, Alaska’s “lifer-class” inmates know better.

The Alaska Board of Parole, with contemptuous defiance, ignored Superior Court Judge Michael A. MacDonald when it again denied parole for inmate Michael Stephens at Wildwood Correctional Center on Aug. 24, 2020 (Stephens v. State of Alaska. 4FA-17-01507CI).

An honorably discharged U.S. Army veteran, Stephens pleaded no contest to a 1982 charge of first-degree murder and received a 99-year sentence in 1983. After serving 33 years, he applied for discretionary parole and was denied. He was permitted to “appear before the board again after five years’ time.” Stephens then sought “post-conviction relief” which Judge MacDonald granted in a 20-page “Decision and Order” decreed on April 14, 2020.

Judge MacDonald's introduction states: "Michael Stephens has petitioned this court to review the decision of the parole board in his case. Stephens has now been in custody for 37 years. During his time in custody, Stephens has been an exemplary prisoner who had completed an extraordinary number of rehabilitation programs. Stephens' in-house probation officer recommended his release. Despite this extraordinary amount of time served, this exemplary record, and the recommendation of the in-house probation officer, the board denied parole. In response to this denial, Stephens filed the present action pursuant to Alaska Criminal Rule 35.1(a)(5). Because the parole board failed to articulate a reasonable basis for its decision, and because the decision is not supported by substantial evidence, the decision is vacated. This case is remanded to the parole board for a rehearing with instructions to provide more specific reasoning for its decision, and to abandon any findings and conclusions that are not supported by substantial evidence."

Judge MacDonald's conclusion states: "The parole board's decision in this case does not sufficiently identify the statutory factors the board considered relevant. The minimal conclusions expressed in the 'denial' letter are not sufficiently specifically explained and are not supported by substantial evidence. Indeed the evidence in the record substantially favors the conclusion that Stephens can be released, that he would comply with conditions of parole upon release, that he will not pose a threat of harm to the public if released, and that his release will not diminish the seriousness of the crime he committed."

With Judge MacDonald's 20-page "order" in hand, Stephens again appeared before the board on Aug. 24, 2020 at Wildwood. Via institutional mail dated Aug. 28, Stephens received a half-page document with the heading "Alaska Board of Pardons & Parole, NOTICE OF BOARD ACTION", followed by "Parole DENIED- serve the remainder of the sentence," followed further with "Other: May re-apply in 10 years."

Inmate Stephens then received a two-page, seven-paragraph "denial letter" from the board dated Sept. 9, 2020. Readers may wonder if seven paragraphs over two pages with eligibility "to appear before the board again in ten years' time" satisfies the requirements explained throughout Judge MacDonalds' "order".

The then members of the Alaska Board of Pardons and Parole didn't attempt to obey Judge MacDonald, but they can't suffer any negative repercussions when defying a judge's orders or a court's decisions. Alaska's "lifer-class" inmates have known the falsity of the promise given by hope whilst completing dozens of supposed "correctional" rehabilitative programs enduring decades, yet never ably meeting the moveable standards of Alaska's board for corrected and parolable inmates.

Prisoners without hope, particularly younger ones, become increasingly disrespectful of institutional strictures rendering "correctional centers" ever more dangerous for inmates and staff.

ADN columnist Charles Wohlforth wrote three articles detailing plights of three prisoners trapped in Alaska's system who sought relief in vain. Mature readers may recall the ludicrous trials of Donald "Mac" McDonald in the late 1980s. "Mac" served 33 years for crimes he couldn't have committed, then appeared before the board as the first inmate to serve 33 years without any "disciplinary actions" at age 69. He was denied parole and permitted to "re-apply in ten years' time." Journalist Bill O'Reilly won a "best documentary" award, disproving "Mac's" guilt after sending a camera crew to Kodiak Island in 1991 (see freemacproject.com).

Alaska's legislature, with a governor's signature, could remove the ultimate fate of prisoners eligible for discretionary parole from the board's hands and cede it to the courts. A governor could finally utilize the king-like power vested to them in the state constitution's Article III, Section 21 on Executive Clemency regarding "pardons, commutations and reprieves."

Alaska spends more money on its prison system than on its university system. We could free up some revenue by releasing geriatric senior citizen inmates to supervised parole.

The maximum sentence in Denmark is 21 years. The man who shot Pope John Paul II was pardoned by Italy's president after 19 years. John Hinckley Jr., who shot President Reagan, has been home for years.

The actions of Alaska's Board of Pardons and Parole don't conform to our system of checks and balances, ergo they are amoral. They won't mete out justice, only punishment, and they are cruel and unusual. Hopefully Alaskans will do better in the future.

Qui Tacet Consentire Videtur (Silence Gives Consent)

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