



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

IN THE MATTER OF

BRIAN NAGLE

W66353

TYPE OF HEARING: Review Hearing

DATE OF HEARING: February 21, 2019

DATE OF DECISION: November 4, 2019

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Gloriann Moroney, Colette Santa, Paul Treseler¹

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, the age of the inmate at the time of offense, the criminal record, the institutional record, the inmate's testimony at the hearing, and the views of the public as expressed at the hearing or in written submissions to the Board, we conclude by unanimous vote that the inmate is not a suitable candidate for parole. Parole is denied with a review scheduled in five years from the date of the hearing.

I. STATEMENT OF THE CASE

On March 15, 1994, in Essex Superior Court, Brian Nagle pleaded guilty to rape of a child and indecent assault and battery on a child under the age of 14, subsequent offense. He was sentenced to serve two concurrent life sentences. At the time of the plea, Mr. Nagle, a registered Level III sex offender, had two prior convictions for sexual assaults on children and a number of convictions for open and gross lewdness on children.

On May 14, 1998, the victim², a 6-year-old boy, went into the bathroom at a Burger King in Amesbury. Brian Nagle, 32-years-old, was in the bathroom, standing by the sink. The boy went into a stall, and Mr. Nagle followed him in before he could close the door. Mr. Nagle

¹ Board Member Treseler was present at the hearing, but was no longer a Board Member at the time of vote. Board Members Bonner and Santa were not present at the hearing, but participated in the vote.

² Names of sexual assault victims are withheld pursuant to G.L. c. 265, § 24C.

took down the child's pants, put the child's penis in his mouth, and put his mouth on the child's buttocks. Another patron saw Mr. Nagle standing behind the child in the stall and asked if he was the child's father. Mr. Nagle did not respond, but quickly left the bathroom and the restaurant. The witness and another patron pursued Mr. Nagle as he fled into the nearby woods. Mr. Nagle was apprehended shortly thereafter and positively identified by one of the patrons who had participated in the chase.

II. PAROLE HEARING ON FEBRUARY 21, 2019

Brian Nagle, now 53-years-old, appeared before the Parole Board on February 21, 2019, for a review hearing. He was not represented by counsel. Mr. Nagle was denied parole after his initial hearing in 2014. In Mr. Nagle's opening statement to the Board, he apologized for the crimes he committed. He expressed his shame and disgust for his distorted thinking, stating that there is no excuse for his horrible actions. Mr. Nagle added that the only thing he can do, now, is to make sure that he never harms anyone again.

When Board Members questioned him as to the number of people victimized by his sexual deviance, Mr. Nagle responded, "I'm not sure [of] the exact amount." Mr. Nagle acknowledged, however, that victimization can last a lifetime. At the time of the offense, Mr. Nagle explained that he felt sad, had no goals or purpose, and derived no pleasure in any activities. When Board Members asked him why he chose to victimize children, Mr. Nagle responded that he was abused as a child from ages 9 to 11. The Board noted that Mr. Nagle's evaluations place him well above the average risk for re-offending, and that his triggers are anxiety, depression, and isolation.

Mr. Nagle told the Board that he previously had an issue with drugs and alcohol, so he participates in Alcoholics Anonymous/Narcotics Anonymous. He stated, however, that it has been "a very long time" since he used substances. Mr. Nagle indicated that it will take him another year to complete the Sex Offender Treatment Program, but he has already completed three years of treatment. The Board indicated that the staff overseeing the treatment program had a concern that Mr. Nagle was "resistant to treatment." The Board noted that Mr. Nagle was on probation for eight months from another sex offense at the time he committed the governing offense. The victim of that offense was a minor, as well. In addition, Mr. Nagle told the Board that he had prior offenses of "flashing" boys. When questioned about support in the community, Mr. Nagle responded that his mother and sister are his supporters. If released, Mr. Nagle requests to be paroled to his mother's house.

The Board considered oral testimony from Essex County Assistant District Attorney Elin Graydon, who also submitted a letter of opposition.

III. DECISION

The Board is of the opinion that Brian Nagle is a serial sex offender in need of further treatment. Mr. Nagle's release is not compatible with the welfare of society.

The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at

liberty without violating the law and that release is not incompatible with the welfare of society." 120 C.M.R. 300.04. In forming this opinion, the Board has taken into consideration Mr. Nagle's institutional behavior, as well as his participation in available work, educational, and treatment programs during the period of his incarceration. The Board has also considered a risk and needs assessment and whether risk reduction programs could effectively minimize Mr. Nagle's risk of recidivism. After applying this standard to the circumstances of Mr. Nagle's case, the Board is of the opinion that Brian Nagle is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Nagle's next appearance before the Board will take place in five years from the date of this hearing. During the interim, the Board encourages Mr. Nagle to continue working towards his full rehabilitation.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing. Pursuant to G.L. c. 127, § 130, I further certify that all voting Board Members have reviewed the applicant's entire criminal record. This signature does not indicate authorship of the decision.


Pamela Murphy, General Counsel

11/4/2019
Date