

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security

PAROLE BOARD

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RECORD OF DECISION

IN THE MATTER OF

BRIAN NAGLE
W66353

TYPE OF HEARING: **Review Hearing**

DATE OF HEARING: **February 8, 2024**

DATE OF DECISION: **April 23, 2024**

PARTICIPATING BOARD MEMBERS: Edith J. Alexander, Dr. Charlene Bonner, Tonomey Coleman, Sarah B. Coughlin, Tina M. Hurley, James Kelcourse

VOTE: Parole is denied with a review in 4 years from the date of the hearing.

PROCEDURAL HISTORY: 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.

Parole was denied following an initial hearing in 2014, and after a review hearing in 2019. On February 8, 2024, Mr. Nagle appeared before the Board for a review hearing. He was not represented by an attorney. The Board's decision fully incorporates, by reference, the entire video recording of Mr. Nagle's February 8, 2024 hearing.


STATEMENT OF THE CASE: On May 14, 1998, the victim, 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 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. At the time of this incident, Mr. Nagle was on

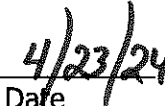
probation for one of his two prior convictions for indecent assault and battery on a child under 14.

APPLICABLE STANDARD: Parole "[p]ermits shall be granted only if the Board is of the opinion, after consideration of a risk and needs assessment, that there is a reasonable probability that, if the prisoner is released with appropriate conditions and community supervision, the prisoner will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." M.G.L. c. 127, § 130. In making this determination, the Board takes into consideration an incarcerated individual's institutional behavior, their participation in available work, educational, and treatment programs during the period of incarceration, and whether risk reduction programs could effectively minimize the incarcerated individual's risk of recidivism. M.G.L. c. 127, § 130. The Board also considers all relevant facts, including the nature of the underlying offense, the age of the incarcerated individual at the time of the offense, the criminal record, the institutional record, the incarcerated individual's testimony at the hearing, and the views of the public as expressed at the hearing and/or in written submissions to the Board (if applicable).

DECISION OF THE BOARD: This was the subject's third appearance before the Board. While on probation for a sexual offense, the subject committed serious sexual offenses on a 6-year-old boy not known to him. The subject followed the victim into the bathroom stall and raped him. The subject's explanation was that he was so passive, it was a rush for him to do something aggressive. He stated that he ruminated about committing this offense prior to committing it. He stated the object of his desire was always young boys. The subject has a history of exposing himself to children. He noted that he had been avoiding his problems and only started making a commitment to his treatment in 2020. Despite having recently completed the Treatment Program, he presented with minimal insight and empathy. The Board also notes that the subject self-reported that he was under the influence of substances during all offenses. Despite being sober throughout his incarceration, he has not engaged in any substance abuse treatment. Board Members are encouraged that he finally agreed to engage in treatment and encourage him to continue. The Board recommends Addiction Treatment, further SOTP maintenance, and Victim Empathy. ADA Graydon provided opposition testimony.

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.


Tina M. Hurley, Chair


Date