

PEOPLE V. STUART DIZAK---PAROLE---NUMEROUS IRREGULARITIES prepared 7/1/20

A RECORD FOUR HEARINGS IN 26 MONTHS, THE SECOND BOARD REVERSING THE DECISION OF THE FIRST BOARD THAT HAD GRANTED ME PAROLE THE PRIOR MONTH

On February 28, 2017 I appeared before my first parole board. That board granted me an effective parole date of May 18, 2017. That date was based upon confirmation from the attorney general's office that a tier 3 misbehavior conviction had been ordered expunged from my record by Albany Supreme Court. The parole board not only received that confirmation; they also received a certification of eligibility from the Department of Corrections. Yet the following month I was called before a previously unheard of, 2nd board, reversing the decision of the prior board stating that they still considered me a threat to my ex-wife (of 17 years at the time).

Most interesting to note, a few minutes after I exited, a Lieutenant who was at the hearing, approached me, stating **"Dizak, I feel sorry for you if it was up to me, I would let you out of here tonight."** (The board had been provided with clear and convincing documentation that the crime I had been convicted of was a fabrication.)

After the second board reversed the decision of the first board, that same Lieutenant said, **"Dizak, I'm sorry but I can't help you. I would be putting my job at risk."** Then to add insult to injury, when I received a copy of the hearing transcript, at the bottom of the first page was a handwritten unsigned notation, **stating that in any appeal I was not permitted to refer to the first board. Absolutely absurd and not permissible. What would any reasonably intelligent person conclude?**

In April of 2018 I was called before a third board in 14 months, another first instance. The board opened by complimenting me and achieving all the goals the prior board had set for me. However, a few days later when I received their decision, I was shocked when once again, I was denied parole, stating that they still considered me to be a threat to my ex-wife.

Upon my appeal, **Oneida County Judge Michael Dwyer, assigned attorney James Godemann,** who was given until July 31, 2018 to prepare and perfect (file) my appeal. That date came and went without Mr. Godemann filing my appeal, nor even responding to any of my inquiries as to status. After I complained to the parole appeals board, they responded by simply granting Godemann two successive 30 day extensions that he had never requested. More significantly, they ignored my request for replacement counsel which under the circumstances I was entitled to.

Instead, on September 28, 2018 I received notice that Judge Dwyer had terminated representation by Godemann, but without assigning replacement counsel. In turn, the parole appeals unit gave me 30 days to prepare and file my appeal brief on my own. Outrageous, as they allow an attorney an initial four months and defying Executive Law 259, which grants me right to counsel. Once again what would any reasonable person conclude?

At that point I wrote to Albany Supreme Court Chief Clerk, Michael Diamond, appraising him of my situation and requesting directions on how to proceed. **He responded by advising me to bypass the parole appeals unit and file an Article 78 petition (appeal) with his court, requesting intervention.** However, by that time any decision would have been moot as on **April 16, 2019** I appeared before a fourth board, (also denying my appeal). And of great significance, even if I had prevailed in court, all the

court is allowed by law to do is order a new hearing. **(This for all intent and purpose renders the appeal system virtually useless.)**

Moreover, that fourth board, without any legitimate basis, ignored their own requirements such as addressing my institutional record and accomplishments, and future plans, such as housing arrangements, employment, and financial needs. **Additionally, failing to address that age 76, according to their own statistics, there is less than a 1% chance of anyone committing another crime. ***

Prior to that hearing I had wrote to that board, informing them that the day before my trial, the prosecutor had offered me a plea bargain of 8 years. Then prior to the start of my trial the judge offered me 4 ½ years. Obviously, neither could have had much concern that I was any threat to my ex-wife or anyone else, thus countering the parole board's "boiler plate "conclusion that they considered me to be a threat to society. I was also to later learn through my attorney that the board's primary reason was that I had allegedly wrote a letter to an inmate detailing the reasons I wanted my ex-wife murdered. However, nobody was ever able to come up with a copy of that letter.

To use the parole board's own term, "without a moral compass." And to use legal terms, the board's multiple decisions were arbitrary and capricious, without foundation and an abuse of discretion.

***And unlike most inmates who have been granted parole, I have been a contributing member of society all my life and I do not nor ever have used drugs or alcohol.**

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Five Points Correctional
Guidance Unit
Memo

TO: 09B3893 DIZAK, STUART CELL LOC: 09-C2-36B
FROM: ORC ANDREWS @
DATE: 3/6/17
RE: PAROLE QUESTIONS

To your inquiry about your Earliest Release Date and the Parole Board: The Parole board explained this to you, your Parole Eligibility date is 5/18/17. That is the date the Commissioner was referring to. That is your earliest possible release date, but you can be held after that. If we receive documentation that your ticket will be expunged then you will be placed on the next parole board list. However, if we do not receive any documentation then your next appearance will be 5/17.

As for your ART need: Even if the ticket gets expunged, you have an active Order of Protection so you need ART for that reason.

ORC Andrews
Cc: Guidance File

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PAROLE ATTORNEY

BRUCE C. ENTELISANO, ESQ.

107 West Liberty Street
Rome, NY 13440
315-888-4LAW (4529)

~~THE~~ COURT HAS FAILED TO RESPOND

TO THIS ON A MAILMAN LETTER
FROM THE PRIOR ATTORNEY

CHARLES S. GREENBERG

December 15, 2019

Honorable Vincent Dinolfo
Monroe County Court
99 Exchange Boulevard
Rochester, NY 14614

RE: People v. Dizak, 2009-0393 (Monroe Cty. Ct. 2009)

Dear Judge Dinolfo:

Please accept this letter as a request for any information you may be able to provide regarding evidence that may have been offered in the instant matter.

My client has unsuccessfully attempted to obtain parole, and in each case the parole board has indicated his records indicate he wrote a letter explaining why he wanted his wife dead. My ability to find such a letter has been limited, but I enclose a redacted version of a grand jury indictment in the matter and show no such evidence of any such letter in that document.

To that end, I would respectfully request any information you might be able to provide that would allow me to inform the parole board regarding Mr. Dizak's contention that no such letter ever existed.

Mr. Dizak is not currently able to request such information for himself, as I am his appointed representative. See DOCCS letter attached.

Regards,

BRUCE C. ENTELISANO, ESQ.


