



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

DECISION AND REASONS

NAME:	LIBBY, Marion
DOC#:	906619
FACILITY:	CRCC
TYPE OF HEARING:	.100 Hearing
HEARING DATE:	November 16, 2017
PANEL MEMBERS:	JP & KR
FINAL DECISION DATE:	November 27, 2017

This matter came before Jeff Patnode and Kecia Rongen who are members of the Indeterminate Sentence Review Board (ISRB or the Board) on the above date for a release hearing in accordance with the provisions of RCW 9.95.100. Mr. Libby appeared in person and refused the assistance of an attorney. Additional testimony was provided by Department of Corrections (DOC) Classification Counselors (CC) Ardythe Miller and Mr. Libby.

BOARD DECISION:

This was a Deferred 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 majority of the Board finds that Mr. Libby is not parolable and adds 60 months to his minimum term.

NEXT ACTION:

Schedule a .100 hearing approximately 120 days prior to next Parole Eligibility Release Date (PERD). The Board requests an updated psychological evaluation for his next hearing.

JURISDICTION:

Marion E. Libby is under the jurisdiction of the Board on a 1984 conviction in Lewis County Cause #83-1-00143-3 for Statutory Rape First Degree. The time start is March 14, 1985. The minimum term was set at 20 years from a Sentencing Reform Act range of 15 to 20 months. The maximum term is Life. Mr. Libby has served approximately 32 years and 7 months in prison.

The original recommendation included the Judge recommending that Mr. Libby serve a minimum term of life imprisonment, or until Mr. Libby had completed a psychiatric evaluation that unequivocally concluded that he was safe to be at large. The Prosecutor recommended that Mr. Libby serve 40 years confinement.

NATURE OF INDEX OFFENSE(S):

File materials indicate that Mr. Libby (age 33-34) sexually assaulted three known minor females. The girls were sisters and were ages 9, 7 and 5. Mr. Libby had been residing with the girls and their mother for five or six years and was employed by their mother as a "live-in babysitter." The offending behavior included having the girls perform fellatio on him and touching his penis to the vaginal area of the girls. It was reported that the 7 year old victim's hymen was not intact, indicating that she had been penetrated by some kind of object. Examination further revealed cigarette burns on each of the girls' thighs. In addition, doctors found cuts on the backs of the girls' legs and the 7 year old victim's rectum and vaginal area "consistent with that which was made by a knife cut."

Mr. Libby was originally charged with three counts of Statutory Rape First Degree. However, he pled guilty to one count of Statutory Rape with the understanding that it would be recommended that he be committed to Western State Hospital (WSH) to participate in the Sexual Psychopath Program. In 1985, he was terminated from the program and sentenced to prison.

PRIOR CRIMINAL CONDUCT:

Mr. Libby was convicted in 1966 of Contributing to the Delinquency of a Minor in Iowa. In 1972, he was convicted of Possession of Marijuana. Between 1973 and 1977, he was convicted five times for Shoplifting. He was arrested in 1967 for Lewd and Filthy Acts in Nebraska.

HISTORY/COMMENTS:

Mr. Libby's last Board hearing was on November 24, 2014 when he was found not parolable and 60 months were added to his minimum term. The Board recommended he complete the prison sex offender treatment program.

Mr. Libby has incurred two serious infractions since his last Board hearing, one for refusing to return to his cell in a timely fashion (WAC 509 Refuse to Proceed) and a more concerning Sexual Harassment of a Non-Offender (WAC 661) for making an inappropriate comment to a female Corrections Officer. During a search of his person, he reportedly stated "She does this every day, she dreams about me". Mr. Libby has not completed any offender change programs since his last hearing.

CC Miller testified that Mr. Libby is not currently employed or programming. She reviewed the major infractions since his last hearing (see above). She stated that Mr. Libby has not developed a release plan to date though he hopes to release to his fiancée in Auburn Washington. CC Miller stated that with the exception of the infractions, he has not been a management issue.

Mr. Libby testified that he continues to be innocent of the index crimes of conviction. He also denied having committed other un-adjudicated assaults against children for which he previously reported. He could not provide a plausible explanation for why he would be accused of the sexual assaults. When asked, Mr. Libby stated he would participate in the "Deniers" program at AHCC if

he is deemed eligible and the Board recommended he participate.

INFORMATION CONSIDERED:

In preparation for Mr. Libby's hearing and its decision in this case, the Board completed a review of his ISRB file. The Board considered all information contained in the file, including but not limited to: the most recent DOC facility plan; information regarding institutional behavior and programming; any letters of support and/or concerns sent to the Board; the Pre-Sentence Investigation report and psychological evaluations. The Board also considered the testimony of the witnesses listed above.

There is no current recommendation from the Prosecutor.

REASONS:

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 9.95.009 (3) and RCW 9.95.100 the Board finds Mr. Libby not parolable.

Mr. Libby is a high risk untreated sex offender who continues to deny his index crime. In previous years he had taken some responsibility for sexual assaults against children but is now denying those admissions as well. The index crime is particularly egregious and highly concerning to the Board as the physical damage to the victims was extensive. Mr. Libby may benefit from participation in the "Deniers" program (Moving Forward) at AHCC and the Board recommends he be assessed for participation.

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Mr. Libby stated in the hearing that he is willing to participate in that program.

JP: ch
November 28, 2017
November 30, 2017

CC: Institution
Marion Libby
File



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

DATE: 11-28-17

TO: Full Board

FROM: JP/KR

RE: LIBBY, Marion #906619

Panel recommends: Not Parolable; add 60 mos to MT.

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

Agree	Disagree
Jeff Patnode 11-27-17 Elyse Balmert 11-27-17 Lori Ramsdell-Gilkey 11-27-17 Kecia Rongen 11-27-17	