



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

**DECISION AND REASONS**

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NAME: JACKSON, Michael  
DOC #: 626441  
FACILITY: Monroe Correctional Complex – Twin Rivers Unit (TRU)  
TYPE OF HEARING: .100 Hearing  
HEARING DATE: September 14, 2016  
PANEL MEMBERS: JP & LR-G  
FINAL DECISION DATE: September 28, 2016

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This matter came before Jeff Patnode and Lori Ramsdell-Gilkey, 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. Jackson appeared in person and was represented by attorney Richard Linn. Testimony was provided by Department of Corrections (DOC) Classification Counselor (CC) Steven Sager, DOC Sex Offender Treatment and Assessment Program (SOTAP) Specialist Jill Ferger, and Mr. Jackson.

**BOARD 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 Board rescinds the prior Board decision finding Mr. Jackson conditionally parolable and the Board finds that Mr. Jackson is not parolable and adds 72 months to his minimum term.

**NEXT ACTION:**

Schedule a .100 Hearing 120 days prior to his next PERD.

An updated psychological evaluation and/or Forensic Psychological Evaluation (FPE) should be completed prior to Mr. Jackson's next hearing.

**JURISDICTION:**

Michael Jackson is under the jurisdiction of the Board on a June 24, 1982, conviction in Pierce County Cause #81-1-01205-3 for Rape in the First Degree. This was initially a suspended sentence, as Mr. Jackson was to enter into the sexual psychopath program at Western State Hospital. On January 12, 1993, Mr. Jackson's suspended sentence on this cause was revoked and was to be served consecutive to his parole violation. The time start on this cause is February 18, 1995. The minimum term was set at 89 months from a Sentencing Reform Act (SRA) range of 67 to 89 months. The maximum term is Life. Mr. Jackson has served approximately 259 months in prison on this cause and 0 days of jail time.

**NATURE OF INDEX OFFENSE(S):**

According to file materials, on or about November 10, 1981, at his age of 28, Mr. Jackson gained entry to the apartment of a woman who lived alone with her 3 year old daughter. He initiated a conversation with the woman and learned that she was looking for a job. Mr. Jackson told her he could offer her a job if she could demonstrate good physical condition, and had the woman do sit ups and leg lifts. While she was on the floor Mr. Jackson grabbed her by the neck and told her that if she screamed he would hurt her child. Mr. Jackson then removed her bra and pulled her to a bedroom, where he raped her.

**PRIOR CRIMINAL CONDUCT:**

Primarily due to running away from home, Mr. Jackson had several confinements in state prisons as a juvenile between 1967 and 1971.

According to file materials, in May of 1975 Mr. Jackson was sentenced in King County for Rape, Count II. A brief description indicates Mr. Jackson, at approximately the age of 20, entered the apartments of two separate women and raped both of them. One charge was dismissed as part

of a plea bargain and the Court sentenced him to 20 years. Mr. Jackson was subsequently paroled in May of 1981. It was during this parole that Mr. Jackson was arrested and convicted of his current offense of Rape in the First Degree. As indicated previously, the Court initially suspended the sentence pending his treatment at Western State Hospital's sexual psychopath program, although records indicate he did not participate in that program.

Mr. Jackson was paroled again in November of 1988, and one month following his release he was charged with another Rape in the Second Degree, which involved an acquaintance's 14 year old daughter. This conviction was overturned on appeal, and Mr. Jackson was allowed to plead guilty to a Gross Misdemeanor for Attempted Rape. Mr. Jackson's return to custody in 1992 was the result of assaulting his girlfriend.

**HISTORY/COMMENTS:**

Mr. Jackson's last hearing was held on February 3, 2015. At that time the Board found him conditionally parolable and added 36 months to his minimum term. The Board wanted Mr. Jackson to continue his positive behavior and to participate in SOTAP aftercare.

Prior to the 2015 hearing, Mr. Jackson had a subsequent hearing with the Board on September 10, 2013, at which time the Board added 24 months to his minimum term and recommended he participate in additional available programming such as Redemption, T4C, or SOTAP.

Prior to the 2013 hearing, Mr. Jackson met with the Board on January 11, 2011, and 48 months were added to his minimum term, and at a hearing on October 16, 2007, 60 months were added to his minimum term.

Mr. Jackson has been back in prison on a parole violation for assaulting his girlfriend (non-sexual) since 1993, or 22 years. His original term for this offense of Rape in the First Degree was set at 89 months on a SRA range of 67 to 89 months, the maximum term is Life. Although Mr. Jackson has served a significant amount above the SRA range, this is due to his criminal history and his

lapses on parole. He has been in prison essentially since 1977, except for brief periods of time when he was paroled and then reoffended. Mr. Jackson has twice participated in and completed the DOC's Sex Offender Treatment Program, the first time in 1993 and again in July 2000; however, the treatment reports indicated he remained a high risk to reoffend, even after completion of the program.

It should be noted: Mr. Jackson earlier self-reported three additional rapes that were never prosecuted, two of which occurred in 1975 and one in 1981. All of his rapes involved threats of violence and the use of physical force to control his victims.

Mr. Jackson has remained infraction free for the past ten years. He had earlier accumulated 35 serious infractions between 1975 and 2006, although only seven of those involved aggressive behavior.

Mr. Richard Linn, Attorney for Mr. Jackson, raised a preliminary matter pertaining to the validity of the current process related to FPEs and how one that assesses an offender as meeting RCW 71.09 criteria has historically resulted in a "Not Releasable" determination by the Board in every case that he is aware of. He further made a formal request for the State/Board to provide funding for a second FPE that could possibly rebut the assessment provided by Ph.D. Hoberman in the February 2016 report. Mr. Linn also provided the Board with an article that questions the validity of current practices in the field related to sexual predator determinations and that assessments provided to the state/prosecution for SVP determination are biased in the direction of increased dangerousness as compared to those provided for the defense.

Mr. Linn further asked to be on the record regarding sections of the report that he found "egregious" in nature, with one being the section questioning the efficacy of sex offender treatment. He was also concerned about statements made by Ph.D. Hoberman regarding the nature of the clinical assessment/interview for the SVP Evaluation that he interpreted as diminishing the role of the interview as a factor in the determination. Finally, Mr. Linn expressed

concern that offenders under the jurisdiction of the Board continue to be found conditionally parolable, receive a subsequent FPE, and have the conditionally parolable determination rescinded. He further stated that the post FPE “Not Releasable” determination does not allow offenders in this circumstance to receive the appropriate treatment that they would otherwise receive if they are allowed to go through the SVP commitment process and be transferred to the Special Commitment Center.

CC Sager testified that there has been little change since Mr. Jackson’s hearing in 2015. CC Sager stated that they were in the early stages of developing a MRP (Mutual Reentry Plan) for Mr. Jackson when the ESRC referred his case to the ESRC Sexually Violent Predator Subcommittee, following which the FPE process started, putting a hold on any kind of transition. He stated that Mr. Jackson continues to have positive interactions with his peers and staff, although there was a recent situation related to his job in the inmate commissary. CC Sager stated that Mr. Jackson had recently lost his job as a female staff that also worked in the commissary made a report regarding Mr. Jackson that she compared to “stalking like behavior” and that she was very uncomfortable about the way he had been looking at her. She reported that other inmates had also noticed the behavior and brought it to her attention. CC Sager provided the Board with a copy of an email from the staff that detailed her concerns. Mr. Jackson did resign his position in the commissary as a result of this situation. CC Sager stated that he did feel it is important to note that the female staff did not have knowledge of Mr. Jackson’s offense behavior.

Mr. Jackson was asked about the incident that occurred at his job site. He stated that he had lost focus as he had just received the results of his FPE. He stated that he was very disturbed by the report and as a result was spending a fair amount of time in his head. Mr. Jackson further stated that after reading the report he does not understand what is left for him to do that could result in him being found parolable. Regarding the work site incident, he stated that he had gone to his supervisor and talked to him about what was happening, which he followed by submitting his resignation. Mr. Linn asked CC Sager as to why Mr. Jackson was not infraacted and CC Sager could not explain why an infraction had not occurred as he believed that one should have been issued.

Specialist Ferger asked Mr. Jackson as to why he had not reached out to her regarding the situation and he responded that he did not know that he could as he had already completed the SOTAP Aftercare program.

Mr. Jackson could explain what he has learned in the SOTAP, which he has completed on two occasions. He could describe his high risk areas and appeared to have some insight into the drivers for his sexual assaults. He stated that when he was paroled previously he had yet to participate in sex offender treatment and had not yet learned the skills he needed, and that resulted in a revocation and his return to prison. Mr. Jackson discussed his recent experiences in the Redemption Program and Bridges to Life, which he stated opened his eyes to the impact of his offending behavior. Mr. Jackson stated that if he is found to be releasable that he hope to work, he is in good health, and he has community support in the Seattle area from his mother and siblings.

Mr. Linn asked Mr. Jackson follow up questions regarding the FPE interview. A portion of the report indicates that Mr. Jackson became combative at times during the interview and Mr. Linn asked Mr. Jackson to explain why the report characterized him in such a way. Mr. Jackson stated that he did become upset when Ph.D. Hoberman made statements about Mr. Jackson's family that he felt were inaccurate and disrespectful. Mr. Jackson stated that he was "triggered" by the conversation and did become agitated. Mr. Linn further stated that the report discusses his criminal attitudes and asked Mr. Jackson whether or not he agrees with that assessment. Mr. Jacksons stated that he is a "different guy" and does not have those old attitudes. Mr. Jackson further stated that he holds no anger toward the ISRB as characterized in the FPE. Mr. Linn also stated that the actuarial assessments from the FPE are highly subjective and questioned the validity of a report that was generated by one individual. In closing, Mr. Linn recommended the Board find Mr. Jackson releasable so that he may go through the RCW 71.09 process.

SOTP Specialist Ferger testified that Mr. Jackson had been attending SOTAP aftercare until he

completed in October of 2015. She stated that initially Mr. Jackson had a difficult time and did not believe he needed to be in the program. Specialist Ferger testified that this changed relatively quickly and Mr. Jackson did very well overall in the aftercare group. She stated that he had been a leader and provided very good feedback to other group members. Specialist Ferger indicated that she believes Mr. Jackson has internalized his treatment based on her observations of him with his peers and his interactions with her, and that he works hard to manage how others perceive him. Mr. Linn asked Specialist Ferger follow up questions to include whether or not Mr. Jackson would be able to receive additional long term prison based SOTAP and the answer is that the program is generally time limited.

**INFORMATION CONSIDERED:**

In preparation for Mr. Jackson's hearing and its decision in this case, the Board completed a review of his ISRB file. The Board considered all information contained in that file, including but not limited to: the most recent DOC facility plan; the End of Sentence Review Committee's (ESRC) report, which recommends a community risk Level Three and indicates a moderate/high and high risk on two different actuarial tools; information regarding institutional behavior and programming; any letters of support and/or concerns sent to the Board; the Pre-Sentence Investigation report; previous psychological evaluations; as well as the latest one prepared by Dr. Deborah Wentworth dated August 7, 2013, and the Forensic Psychological Evaluation dated February 3, 2016, prepared by Ph. D. Harry M. Hoberman, L.P. The Board also considered the testimony of the witnesses listed above.

The Pierce County Prosecutors Office provided a recommendation in a letter dated June 26, 2016. They responded as follows, "The Pierce County Prosecutors Office urges the Indeterminate Sentence Review Board to reject Mr. Jackson's petition for release". In their letter they refer to the multiple forced rapes and the Forensic Psychological Evaluation dated February 2016 to support their recommendation.

**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. Jackson not parolable.

Mr. Jackson is recommended by the ESRC as a Level Three for community notification and has a recent FPE completed in February 2016 which assesses him as meeting the criteria as a Sexually Violent Predator in Washington State, RCW 71.09. Dr. Wentworth's psychological reports note that "Mr. Jackson presents a mixed picture of a significant history of violent sexual offense and a tendency to reoffend within a short period of time from release. He has also demonstrated some commendable changes in attitude and behavior, including accepting responsibility for his behaviors and his rehabilitation." Based on assessments completed by Dr. Wentworth scoring Mr. Jackson on risk and protective factors, he scores in the high risk for sexual recidivism and moderate range for protective factors. In the more recent FPE completed by Ph.D. Hoberman, L.P., he concludes that "Mr. Jackson's risk for sexual re-offense appears elevated beyond the threshold of "more probable than not". Ph.D. Hoberman, L.P., further concludes that "The available collective information indicates that Mr. Jackson continues to present a danger to others in terms of future sexually violent offenses against females if he were to reside outside a secure facility and does not receive intensive, long term general and specialized sex offender specific treatment".

Mr. Jackson has made attempts to participate in offender change programming and follow recommendations from the Board to address areas of concern. The Board does commend Mr. Jackson for those efforts. However, based on the information available from multiple sources, the Board cannot determine Mr. Jackson's "rehabilitation has been complete and he or she is a fit subject for release", RCW 9.95.100. The Board recommends that Mr. Jackson continue to

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remain infraction free and participate in additional offender change programs that may be available to him. The Board would also like to see an updated FPE prior to meeting with Mr. Jackson again.

JP:jas

September 22, 2016

cc: Institution  
Michael Jackson  
File  
Richard Linn, Attorney



STATE OF WASHINGTON

**DEPARTMENT OF CORRECTIONS  
INDETERMINATE SENTENCE REVIEW BOARD**

P.O. BOX 40907, OLYMPIA, WA 98504-0907

DATE: September 23, 2016

TO: Full Board

FROM: JP & LR-G (Jody)

RE: JACKSON, Michael #626441

Panel recommends: Find Mr. Jackson not parolable and add 72 months to his minimum term.

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

<b>Agree</b>	<b>Disagree</b>
Jeff Patnode 9/26/16 Lori Ramsdell-Gilkey 9/26/16 Tom Sahlberg 9/26/16 Kecia Rongen 9/28/16	