

November - 24, 2008

6576100

Oregon Board of Parole
2575 Center St. NE Suite 100
Salem, Oregon 97301-4621

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RECEIVED

BOPPPB

In Re: INCARCERATION HISTORY REPORT

Honorable Members of the Parole Board:

Today I received my copy of Barb Cooney's report. This letter will address the incarceration history. But first I feel compelled to open with the Rules and Laws prisoners believe govern their release from prison. OAR 255-35-020 (2)(d) says:

"(2) Judicial Sentences; Mandatory Minimums; (d) ... the Board, in setting the parole release date may apply the applicable matrix and variations or establish a release date at ANY POINT UP TO THE PREVIOUSLY IMPOSED MINIMUM SENTENCE."

My matrix window was January 9, 1998, to January 9, 2002. The Judicial Impact Minimum Sentence is February 28, 2009. Nothing in ORS 144.228 says I have to learn to cut hair or repair an air conditioning unit before I parole.

In fact ORS 144.228.(2)(b)(c) says the executive officer's report shall contain:

"(c) The industrial record [work; not school] ... the nature of the occupations

FOR BOARD HEARING

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[jobs] and a recommendation as to the kind of work, IF ANY, the person is best fitted to perform ... "

Nothing in the Law requires the prisoner to learn a trade. In fact, the Law allows for the fact the prisoner may not have developed skills in prison. Skilled or not, has no bearing on the Board's decision to parole. For the record, I am an electrician.

There is only one requirement that needs to be met, in order to parole a prisoner sentenced as a "dangerous offender" under ORS 161.725. The requirement is found in ORS 144.223 (1)(b) and OAR 255-38-005.

"(1)(b) At the parole consideration hearing, the prisoner **SHALL** be given a release date in accordance with the applicable [MATRIX] range and variation permitted if the condition which made the prisoner dangerous is absent or in remission.

In no event shall the prisoner be held beyond the maximum sentence less good time credits imposed by the court."

The applicable matrix range passed nearly seven years ago. The maximum sentence imposed by the court was 25 years, OAR 255-35-020 (2)(d). Nowhere does the Law say the Board can hold me past

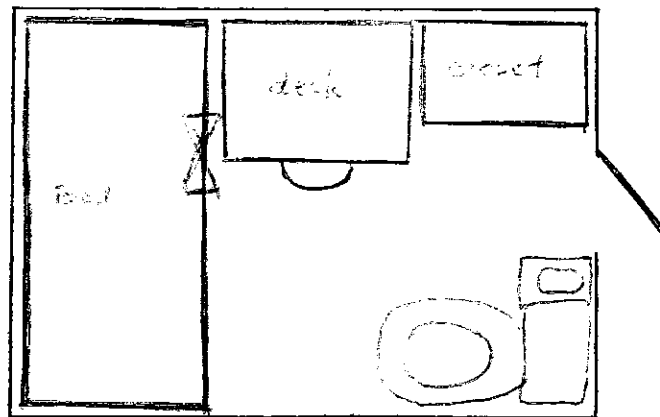
a Judicially Imposed Minimum because I was angry and rude when I arrived in prison 25 years ago. And I was! Had you been convicted of a crime you didn't commit, you'd be paid too!

I will not attempt to excuse my behavior. But I also will not let Ms. Cooney's embellishment of my "incarceration history" stand uncontested.

DISCIPLINARY ACTIONS :

Oregon 3-20-85 = I did not tell the officer, "You just play fuckin' God." I called her an idiot. Not something she wanted documented for all eternity (which very often is the real reason for most of these disciplinary reports).

In this case, the bed in question had a drawer which pulled out on "tracks" welded under the bed. The cell was set up by this design :



X was the offending drawer. Believe me, it was more of a nuisance to me than to anyone

else. Everytime I needed to open the drawer, I had to move the desk.

On March 20th, the officer was doing her inspection. She called me to the room and ordered me to turn the bed around because the desk blocked her access to the drawer. I tried to explain if I turned the bed around, the drawer would be facing the wall. The officer began yelling at me, saying I needed to learn to take orders and she would be the one to teach me.

I latter 5 minutes of being berated; and I'm NOT exaggerating the 5 minutes I finally told her, "You're an idiot and I can't think of anything you could teach me that I'd need to know."

No, it wasn't nice, but THAT is the truth. Neither her intelligence nor her spirit in any way spoke of The Creator and I'd never tell her that.

4-22-85 = I've no doubt the "note" I wrote still exists. So I'm going to tell you exactly what it says:

a girl here
asked me to
ask you for
H. I told
her you

weren't like
that. But she
wasn't stop
asking me to
write to you

where Ms. Cooney gets all that other stuff is a mystery. In 1985 "cocaine" barely existed in California. And not at all in Oregon. Heroin and Speed (they didn't even call it "meth" back then). Syringes were/are not necessary

because the girls melt the heroin in water and snort it. I don't know who lied to Mr. Conroy, but someone should have at least researched the drug trafficking world in Oregon back in 1985 so the lie could have been better tailored.

The reason the hearing officer gave me 3 months (the max) was because I wouldn't tell him who the girl was who asked me to write the letter (note).

6-5-85 = The male inmate, to whom the above-mentioned "note" was delivered (six weeks earlier) was approved to accompany me to the Board hearing. In 1985, that hearing was (by law) called a "visit". That male inmate sent me the "procedure" that allowed us one kiss coming and one kiss leaving. Neither of us broke the rules, and the male officer did not write-up the male inmate.

New
Jersey

1-25-88 = I have no idea what this "refused to work" was. According to the WORK HISTORY, I wasn't even assigned to a job until February. And not even New Jersey DOC can tell you what this is.

I can tell you Superintendent Robert Walton agreed to receive me as an Interstate Transferee; and he left January 1, 1988 (he'd received me November 23, 1987). Charlotte Blackwell took his place and she did NOT want me in HER prison. She asked the N.J. Director of Corrections to

return me to Oregon and his answer to her was, "No. She isn't a problem and until she is, she is staying." I learned this from the staff who were saying worse about Blackwell behind her back than I said to the officer in Oregon to her face.

Perhaps that mysterious disciplinary report was the beginning of Charlotte's drive to evict me from HER prison. And her Director still said I wasn't "bad enough."

5-17-89 = Robert Seaver wanted to marry me. I wouldn't marry him. Oh, what the heck. You deserve more than that. In 1987, John Budke (aka: John Stephens) wanted me to sign a Power of Attorney over to him so he could contract with Motown for "a movie." I refused. I didn't want a movie made.

In August 1988, Robert Seaver wrote to me. He wanted my P. O. A. so he could contract "for me" to do a movie. I refused. I didn't want a movie made.

In March 1989, Seaver moved to New Jersey. Said he wanted to marry me. As I've tried to tell you, I may not take organized classes, but I study humans. Didn't seem to me that Seaver loved me so much as he loved the idea of making money "selling" me. I refused to marry him. He walked out of the visit and

two hours later I was taken to Ad Sey, accused (by Seaver) of "planning to escape".

what this report (to Mr. Cooney) reflects to tell you is Seaver FAILED the polygraph when he said I planned to escape. And the New Jersey prosecutor refused to charge me with "planning to escape" because (in his words TO ME AND THEM) there is no evidence and no reason to believe I planned to escape.

Seaver returned to Oregon 5-17-89 (two days after his lie + failed polygraph) and Ann Rule's movie (produced by MOTOWN) aired 11-12-89. According to the Seattle Times, her movie was being filmed May - August 1989.

which way you wanna go with the odds that Budke and Seaver sold "the Diane Downs escape story" to MOTOWN?

I had an appeal pending (Post Conviction Relief) and no motive to escape in 1989.

5-9-91 = My Post Conviction Hearing (appeal) was scheduled in Oregon for June 23, 1991. I'd waited FOUR YEARS for that hearing. I didn't need to escape from N.J. when I was headed to Oregon. Furthermore, the officers in N.J. wore "NAVY BLUE POLYESTER". How does "light blue, denim" exceed the

Report = DENIM) even half-way resemble NAVY BLUE POLYESTER?! And why didn't that jumpsuit bother anyone for the three years it was in my property? Why didn't they accuse me of "it" back in 1989 when Seaver went to Hollywood? Literally!

Because this was Blackwell's last chance to convince her Director Of Corrections that I was "too much trouble." So, I returned to Oregon under the sensational cloud of "big, bad, escape risk", 6-13-91.

Oregon
7-31-91 = You can't say it comes as any real surprise that a month later a little, old (well, middle-age) woman named Sandra Poole saw all kinds of escape plans hovering around me.

Come on! I'd just had a Post Conviction Hearing 6-23 to 6-25. I was waiting for a Court Decision that literally should have effected my immediate release. Would any of you be drawing "prison floor plans"?!?

Of all the felonies on the Law Books, "escape from prison" is the only one that indicates a healthy attitude about society. 80% of all parolees are dying to get back to prison. I've had cellies whose recidivism "score" is 17 times in 18 years!! These women are "programmed" to be prisoners.

If you are looking for a parole-success-story, 4 out of 5 aren't even contenders. If you truly want to know what sort of prisoner won't come back to prison, your first clue is the prisoner who thinks more about being on the outside of this place than being "well programmed" or "adjusted" HERE.

I am NOT ashamed of my escape. At least I don't want to be here and will do everything I need to do so I don't come back,

But I'll be dogged if I lay down and let people falsely accuse me of things I haven't done so THEY can make names for themselves . . . so they will be remembered! And in your heart of hearts, you know I'm telling it straight.

Washington 8-30-91 + 3-23-93 = Nineteen months in Washington and not one hint of "escape." I have a saying for troublesome inmates who can't get along in any cell or unit. I say, "No matter where you go, there you are."

So why do we suppose I lived 19-months in Washington and NO ONE saw the specter of "escape" hovering around me? I don't change colors. If I did, I'm sure this letter would be less offensive. I'm just not a politician. What you see is what you get.

4-9-94 = And here we go again. Except this one has a little bit of a twist to it. Officer Ybarra sexually assaulted me and the girls on the tier witnessed it. They raised a hue and cry. Officer Ybarra, in order to prove to his superiors that he didn't like me, set out to prove he hated me.

California

He wrote a disciplinary report that I had removed the caulking from the 3" wide (no joke) window in order to escape. And I thought I was fat.

At the hearing I asked the Lt. to examine the "repair orders" submitted in March (when I moved in). I'd told Officer Molina the caulking and she put in a Work Order the day I moved in. That's why there is no CDC 115 (disciplinary report). I was found "NOT GUILTY". What I don't understand is why that bogus report is still in the "Confidential" part of my C-File.

5-24-94 = I love this one. "An incident occurred between other inmates." "An officer shot a baton round approximately 3 yards in front of Brown..."

Review the VIDEO TAPE. That officer hit me with that round. X-rays reveal the head of the femur was broken off, leading to the damage of the other knee (which had to bear the

weight and stress of both legs for 10 years after surgery was done to repair the torn ligament a month ago.

7-21-95 = Almost all true. Except I don't know who Davis was. And I certainly didn't have the pull to get officers removed from unit. Heck, I couldn't even keep officers from shooting me (twice = I was shot first on 1-18-94) or writing petty grievances into MAJOR RULE INFRACTIONS.

6-25-98 = Refused To Work. Major Rule Violation (for me).

11-7-98 = Possession of a strand of my own hair. Not even forbidden in CDC. The black girls keep their hair for superstitions and religious reasons. But it was a MAJOR RULE VIOLATION FOR ME.

8-21-06 = Refused To Work. Another Major Rule violation.

By now you have to admit if I had ever committed or threatened a violence against inmates or staff, SOMEONE would have reported it.

And that is the ONLY thing that governs the detention and release of "dangerous offenders" WITHIN THE MATRIX guidelines.

But even that window closed January 9, 2002. Now OAR 255-35-020 (2)(d) says the Board can't hold me past a Judicially Imposed Minimum. And Judge Foote had no authority to change a Class A Felony from a Statutory 20 year sentence to an unauthorized 30 year sentence. The Sentencing Court could have imposed a 20 year minimum and no more. That made my maximum out-date 2004.

Mr. Conroy's report tried to represent my attitude toward "demerol." Dr. Williams' questionnaire already presented the subject. Perhaps it will help if I attach three pages for your consideration.

My hand is sore and I need to get this out to be copied tonight, so I'll close. I hope I've shed some light on the subjects. You've certainly gotten more out of me than any pen pal who has tried to get next to me.

I'll see you (will I see you?) in two weeks.

Sincerely,

Bill

Elizabeth Diane Downs W49707

VSPW P1-22-1L

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