

**BENJAMIN LAGUER W40280**  
**REVIEW HEARING**  
**APRIL 22, 2010 @ 10 AM**

**SUPPLEMENTAL SUMMARY REPORT**

**CASE SUMMARY:**

Benjamin Laguer is scheduled to appear before the Massachusetts Parole Board for a review hearing on April 22, 2010. This is Mr. Laguer's fourth appearance before the Board.

On February 17, 1984, Mr. Laguer was found guilty, after a trial by jury, in Worcester Superior Court of Aggravated Rape and received a life sentence. He was also convicted of one count of Robbery and one count of Breaking and Entering, and received 12 to 15 years, to run concurrent with his life sentence on each count<sup>1</sup>. The victim of these offenses was **Lennice Plante**, 59 years old

The effective date of his sentence is July 16, 1983, creating a parole eligibility date of July 15, 1998.

Mr. Laguer is currently incarcerated at NCCI-Gardner.

On April 5, 1985, while his first direct appeal was pending, Mr. Laguer filed his first motion for a new trial. The motion was later denied. On July 24, 1985, the Appeals Court affirmed the conviction, Commonwealth v. Laguer 20 Mass. App. Ct. 965, 396 Mass. 1103 (1985). On October 15, 1985 Mr. Laguer filed a second motion for a new trial. On December 31, 1986, he filed his third motion for a new trial. On March 27, 1987, a fourth motion for a new trial was filed and on September 27, 1987, a joint motion was filed to obtain the defendant's blood type. On December 11, 1987, Mr. Laguer filed a fifth new trial motion and a federal magistrate recommended summary dismissal of defendant's habeas corpus petition. On November 8, 1988 the U.S. District Court for Massachusetts dismissed the petition. Laguer v. Bender, Civil Action No. 86-1237-WF, 1988. On February 24, 1989, he filed a sixth new trial motion, which raised a jury bias claim based on an affidavit signed by Juror Nowick alleging that jurors made ethnic slurs during deliberation. On remand, after a full evidentiary hearing, the judge denied the claim of jury bias. Mr. Laguer appealed and the Appeals Court affirmed the decision and the SJC denied further review. Commonwealth v. Laguer, 410 Mass. 89 (1991), 36 Mass App. Ct. 310, 313, 315, rev. denied, 418 Mass. 1103 (1994). On May 22, 1997, Mr. Laguer filed a seventh new trial motion on which the judge refused to act. A motion to reconsider was denied and Mr. Laguer appealed. On January 19, 1999, the Appeals Court affirmed the refusal to act, Commonwealth v. Laguer, 46 Mass. R. Ct 1108, rev denied, 429 Mass. 1103 (1999). The SJC denied further review.

---

<sup>1</sup> The concurrent 12-15 year sentences are expired.

On January 12, 2000, Mr. Laguer filed a "Motion for An Order Authorizing DNA Testing" of items from the victim's rape kit. The results "showed that defendant's DNA profile, which occurs in fewer than 1 on 100 million people, matched the male DNA profile found in 'pooled sperm' taken from the victim.

On February 11, 2003, the defendant filed his eighth new trial motion. On September 22, 2004, the judge denied the motion without a hearing and issued a memorandum of decision and further denied a motion to reconsider. The defendant appealed and the Appeals Court affirmed the denials. Commonwealth v. Laguer 65 Mass. App. Ct. 612, 623 (2006). On March 23, 2006, Mr. Laguer filed for further appellate review which the SJC allowed. The order denying the motion for a new trial was affirmed. See Commonwealth v. Laguer 448 Mass. 585 (2007).

### **PAROLE BOARD VOTES:**

Initial Hearing: June 29, 1998

Board Vote: Results of hearing invalidated because of an administrative error of not having full board present.

Review Hearing: April 5, 2000

Board Vote: Parole Denied, review in 5 years (eff. 1998). Convicted sex offender not in treatment. Inmate's account of his involvement in governing offense lacks credibility. Continues to be at risk to re-offend.

Review Hearing: June 12, 2003

Board Vote: Parole denied, Review in 5 years. Despite his achievements relative to institutional programming, Mr. Laguer takes no responsibility for a rape for which he was convicted. He has not attended any programming to address the nature of this offense. Given the fact that this crime was an extremely violent and vicious rape of a victim over an eight hour period the Board is of the opinion that he is at risk to the community.

Review Hearing: 2008 Postpone at Inmate's Request

Board Vote: Postponement granted March 4, 2008

### **OFFICIAL VERSION:**

*(Taken in part from Leominster Police Department Investigation Report dated July 13, 1983 at 5:10 a.m.)*

On July 13, 1983, Leominster Police were dispatched to the Waterways Apartments. in reference to a woman screaming for help. Upon arrival Detective Monahan along with Officers Mazzeralla, Raymond and DiPerri, were met in the roadway by a Mr. Benoit, the building maintenance man. Mr. Benoit stated that he was woken up by his brother who lives in Building A informing him that a woman yelling for help. Officers went into the building with the maintenance man and heard a woman yelling; the officers followed the yelling and arrived at Apartment # 2. While standing outside the apartment door, officers could hear the voice yelling from inside the apartment. Officers knocked on the door and

announced themselves as police officers. A female responded that she could not come to the door because she was tied up. Mr. Benoit then used his pass key to let the officers into the apartment. Upon entering the hallway of the apartment, officers heard the woman stating "please hurry, I am tied up and he raped me." In the living room, officers observed a woman lying on the floor, her face was all bloodied and swollen, her ankles were tied and her hands were tied behind her back. The woman was completely naked and was crying "please untie me they hurt." Detective Monahan went to the woman's feet and tried to untie the cord from around her feet (the cord from a hair dryer). As Detective Monahan was unable to do so he used a knife to cut the cord. It was noted that the cord was tied so tight that the woman's feet were turning blue due to the lack of circulation. Detective Monahan then went to untie the woman's hands which were bound behind her and she was lying on top of them. Officer Diperri helped hold the woman up while Detective Monahan cut the cords from her hands (the cord off the telephone). It was noted that this cord too were tied so tight that it was cutting off the circulation to the woman's hands and left a ½ inch indentation in her wrists.

After the woman was untied, officers observed that she had black and blues on the right half of her face and dried blood in her nose and mouth area, she was sweaty and lying in a puddle of urine. She was very emotional and was not talking very clear. She asked for a glass of water and responded to an inquiring as to how long she had been tied up. At first she stated a couple of days and then she stated that had been there about 10 minutes before the officers got there, she further stated that the man that did this just left about 10 minutes prior. When asked if she knew who the person was, she stated no. She then stated "it was terrible he beat me and raped me several times and after he was done he took the rings off my fingers. I had two of them on my left hand. He asked me for my money and I told him I had none he then punched me in the face and I fell to the floor and then he raped me over and over."

Statement of Dr. Siegal at the hospital after examination:

The woman identified as Lennice Plante 05/09/24 was in fact raped. She had contusions of the face, neck, shoulder and stomach and there was evidence that she was raped vaginally, and orally. Ms. Plante did state to Dr. Siegal that he had raped her anally also. Dr. Siegal stated that in his medical opinion Ms. Plante was raped and it was not self abuse. There was evidence of semen in the vagina and throat. Ms. Plante did state to the doctor that she had been raped from 9 p.m. on the 12<sup>th</sup> to 5 a.m. on the 13<sup>th</sup> and that the assailant gagged her and put a plastic bag over her head and stated that he would kill her if she told the police and if she told anybody what he looked like. In the exam there was evidence of abrasion to the vagina and there was blood in the vagina, and right hand.

Officer Carrigan and Detective Monahan did have a brief discussion with the victim and she indicated that she was not going to tell us what he looked like because he said he would come back and kill her and he stated it would be a slow death. Officers were able to get the following scant description of the assailant: a black male, very short and small in build.

On July 14, 1983, Ms. Plante was able to provide the following information to the Leominster Police:

On July 12, 1983, she got into her night clothes and was preparing to go to bed as she normally goes to bed around 9:00 p.m. and was having a cup of tea prior to going to sleep.

She stated that all of a sudden this black guy comes into the apartment totally nude expect for a pair of high white socks. He then pulled the light out and picked her up out of the chair and threw her to the ground and began punching her telling her that he hated her.

He told her that he would murder her if she yelled out. She stated that he kept on spreading her legs and in fact she thought that he was going to pull her hips out of their sockets.

She stated he mutilated her body all night by continuously raping her in her vagina and putting his penis up her rectum and making her suck his penis and all the while she thought he was going to kill her after it was over. She stated that she did not think a man could do this so much as he never stopped he just continued raping her over and over again and he put a garbage bag over her head she believes was white, stuffed something in her mouth and she kept on gagging on her own blood.

She stated that he had an awful odor on his breath that she could not describe.

**INMATE'S VERSION:**

*(Interviewed by Alicia Lapomardo on March 26, 2010 at NCCI-Gardner)*

Mr. Laguer maintains that he is innocent and that he did not rape nor beat Lennice Plante. Mr. Laguer gave the following account of his actions in the days prior and after the assault on Lennice Plante:

Benjamin Laguer was released from the Army on June 28, 1983. He left Kansas and returned to Leominster, Massachusetts where his family was living. He stayed at his father's apartment (Waterways Apartments, Apartment # 101), after getting the keys from his sister, because his father was away in Puerto Rico. He spent his time reconnecting with old friends and planning for his future, which included an application for continuing his education at Fitchburg State College. Mr. Laguer stayed at his father's apartment a majority of the nights but some nights he spent at his sister's place.

Mr. Laguer reports that he did not personally know anyone in the building although he knew of the maintenance man Dennis Benoit and Lennice Plante from passing in the hall. Mr. Laguer notes that on two occasions as he was entering his apartment he noticed that Ms. Plante's keys were in her door. He informed her of the same and she responded that she knew and thanked him. On another occasion he helped her bring up a cart of groceries. On another occasion, he again noticed that her keys were in her door and he knocked on her door to inform her. When she answered and he informed her of where

her keys were, she responded that she knew and seemed rather annoyed. Mr. Laguer advises that these occasions were the only interactions that he had with Lennice Plante.

Mr. Laguer recalled that on the evening of July 12, 1983 (Tuesday), he walked out to Litchfield Terrance to see an old girlfriend, Tina Pouliot, but she was not home. He then walked to the Plymouth Café, arriving a little after 10 p.m. He stayed at the bar exchanging Army stories and had two beers until about 1:30 a.m. when he walked the three blocks home. When he entered the apartment building he did not see or hear anything unusual. After going inside his apartment, he ate something and got ready for bed and went to sleep by 2 a.m., not hearing anything unusual.

The following morning (Wednesday) he woke up about 10 a.m. and left the apartment. As he walked outside, he encountered two women near the mailbox area of the apartment and notes that is when he first learned of what happened to Lennice Plante. He left the apartment building and went to his sister's so he could pick up some keys to give to the mechanic. Mr. Laguer advises that he basically went about his normal life until the police knocked on his door about 10 a.m. on July 15, 1983 (Friday). The police asked him if he knew anything about what had happened. He responded by asking if it was about the lady that got raped, since he was informed by the ladies near the mailbox about what had occurred. The police asked him if he would accompany them down to the station to answer some questions. At this time, Mr. Laguer indicated that he was wearing a jersey type t-shirt, his fatigue pants, socks and sneakers. He acknowledged that he answered their questions and submitted fingerprints and was photographed. A short time later the police told him that the victim had identified him as the perpetrator. He has been in custody since that time.

Mr. Laguer took his case to trial. The trial lasted approximately three days in which he testified in his own defense.

#### **UPDATES TO PERTINENT INFORMATION SINCE LAST PAROLE HEARING:**

##### **CRIMINAL HISTORY**

Mr. Laguer's criminal history consists of the governing crime and related offenses.

- See BOP/FBI Report
- No Open cases

## **MEDICAL AND MENTAL HEALTH**

On May 22, 1984, Mr. Laguer was found not to be a sexually dangerous person by Daniel Weiss, M.D. Mr. Laguer reports no history with mental health issues. He did sign a MHM Mental Health/Parole Contact Sheet and information obtained will be provided upon receipt.

Mr. Laguer reports that he has diabetes and high blood pressure. He also reports that doctors recently found some lesions on his liver which will require further diagnosis. Mr. Laguer refused to sign a UMASS Medical Parole Contact Sheet that would release his medical information.

## **SUBSTANCE ABUSE**

Mr. Laguer denies any substance abuse issues. He claims to have smoked marijuana and drank alcohol in the past but neither was ever an issue that interfered with his daily living. He has never received treatment for substance abuse in the community.

## **INSTITUTIONAL ADJUSTMENT**

Since Mr. Laguer's 2003 parole hearing, he has incurred the following six disciplinary reports: (1) On March 20, 2005, Mr. Laguer was involved in a physical altercation with another inmate. (2) On October 25, 2006, while at SBCC, Mr. Laguer was found to be in possession of pornography. (3) On March 13, 2009 he was found to be out of place. (4) On April 2, 2009, Mr. Laguer was issued a disciplinary report for his conduct on March 27, 2009 in which Mr. Laguer circumvented the telephone system and participated in a live radio broadcast. (5) On May 1, 2009, Mr. Laguer was found to be out of place. (6) On June 24, 2009, when he was found in possession of pornography and received a written reprimand.

## **INSTITUTIONAL PROGRAMMING**

According to his latest Classification Report, it is recommended that Mr. Laguer attend the Sex Offender Treatment Program, which he is non-compliant. During his parole hearing interview, Mr. Laguer acknowledged that he refuses to attend the program even though it is recommended.

Mr. Laguer has not been involved in programs since his last parole hearing in 2003. He maintains that he spends that majority of time working on his legal case and developing an appropriate parole plan.

**PAROLE PLANS:**

Mr. Laguer would like to parole directly to a home plan. He reports that he has several options available to him including residing with John Archer, a friend and longtime supporter who lives in Danvers, MA. He could also reside with John Silber in Brookline, another longtime supporter.

He would like to enroll in the Creative Writing program with Boston University and also pursue employment through Denner Pellegrino, LLP as a clerk. He does not believe that he needs counseling, including transitional counseling. He does not believe that he will face any big obstacles even after being released into the community after nearly 27 years. He believes that with all of his supporters there will always be someone there for him.

**HEARING SUPPORT:**

Mr. Laguer will be represented by Isaac Borenstien, Esq. at his parole hearing. He also expects State Representative Ellen Storey and Leslie Epstein from Boston University to attend his hearing as well as an additional 30 to 40 people from the community to attend his hearing in support.

**VICTIM SERVICES/OPPOSITION:**

According to the Victim Service Unit, there is one person expected to attend the hearing in opposition.

Assistant District Attorneys Sandra Huatanen and Michelle King from the Worcester County District Attorney's Office will attend the hearing in opposition of release.

*Report prepared by Alicia Lapomardo on April 12, 2010.*