

EXHIBIT "A"

The Commonwealth of Massachusetts Executive Office of Public Safety

Parole Board

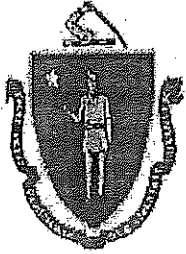
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RECORD OF DECISION

In The Matter of

BENJAMIN LAGUER
W-40280

TYPE OF HEARING: Review Hearing

DATE OF HEARING: April 22, 2010

DATE OF DECISION: May 20, 2010

PARTICIPATING BOARD MEMBERS: Mark Conrad, Candace Kochin, Pamela Lombardini, Thomas F. Merigan, Jr., Leticia Muñoz, Roger Michel, Cesar Archilla

DECISION OF THE BOARD: Denied. 5 y[ea]r Review.

Benjamin Laguer appeared before the Massachusetts Parole Board for a review hearing on April 22, 2010. This was Mr. Laguer's fourth appearance before the Board.

On February 17, 1984, Mr. Laguer was sentenced to life in prison with the possibility of parole for aggravated rape, G.L. c.265, section 22. At the same time, he received concurrent sentences (now expired) of twelve to fifteen years for breaking and entering with the intent to commit a felony, G.L. c.266, section 16 and unarmed robbery, G.L. c.266, section 19. Mr. Laguer timely filed a direct appeal which was later consolidated with a motion for new trial. Both were resolved in *Commonwealth v. Laguer*, 20 Mass. App. Ct. 965 (1985). Thereafter, Mr. Laguer filed seven additional motions for new trial and a federal habeas corpus petition. All were either denied or dismissed (citations omitted). At his hearing before the Board, Mr. Laguer stated his intention to file a ninth motion for new trial. He is currently incarcerated at MCI Gardner (NCCI).

The facts underlying Mr. Laguer's convictions are as follows: On the evening of July 12, 1983, the defendant entered the apartment of his neighbor, 59 year-old Lennice Plante, and beat, robbed and brutally raped her – vaginally, anally and orally – over a period of several hours. He then threatened to kill her if she told anyone about the attack, tied her up and left.

Eventually, Ms. Plante was able to summon assistance. Ms. Plante was taken to the hospital for treatment. A physical examination revealed numerous injuries consistent with the type of violent rapes described by Ms. Plante. During the examination semen was recovered from both her throat and vagina. Subsequently, Ms. Plante identified Mr. Laguer as her assailant, and he was taken into custody on July 15, 1983.

Significant evidence linked Mr. Laguer to the attack, including: (1) Ms. Plante's eyewitness identification (which must be accorded significant weight in view of her ample opportunity to observe her attacker and her prior familiarity with Mr. Laguer); (2) DNA evidence linking Mr. Laguer to biological material recovered from the crime scene; (3) testimony regarding scratches on the defendant's back at the time of his arrest; (4) the fact that the clothing worn by Mr. Laguer at the time of his arrest matched Ms. Plante's description of the clothing worn by her attacker; and (5) consciousness of guilt evidence in the form of Mr. Laguer's admission that he had submitted the saliva of another man when asked to provide a saliva sample for laboratory testing. Notwithstanding the foregoing, Mr. Laguer has always maintained that he did not attack Ms. Plante, blaming his conviction on a combination of poor police investigative work, trial errors, and a racially biased jury. However, all of these claims were reviewed in the aforementioned appeal and motions for new trial and rejected.

Unfortunately, in large part due to Mr. Laguer's insistence that he is innocent, he has not engaged in any significant sex offender treatment. Indeed, since his last parole hearing in 2003, Mr. Laguer admittedly has not been involved in any significant rehabilitative programming of any kind; rather, he has focused all of his energy on his appellate efforts. While this may be a reasonable strategy in view of Mr. Laguer's manifest strong belief in his innocence, it also precludes the Parole Board from undertaking any meaningful inquiry into the question of Mr. Laguer's suitability for community supervision.


Another impediment to parole is Mr. Laguer's troubling disciplinary history, including four serious disciplinary reports in the past fifteen months, six since his last hearing before the Board, and approximately thirty during his time in prison. Many of these are for serious offenses such as fighting or possession of contraband. Especially troubling is his most recent disciplinary report, less than a year ago, for possession of a large number of pornographic images. This is the second time since his last hearing that Mr. Laguer has been charged with possession of pornography. In view of his governing offense, such violations are especially concerning for the Board.

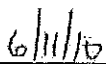
Finally, the Board was troubled by Mr. Laguer's conduct during the hearing. In the Board's opinion he was both combative and evasive during his appearance, particularly when he was subjected to questioning. The Board also observed that, in a number of instances, Mr. Laguer was manifestly deceptive in his responses. In the Board's view, these negative personality traits would make community supervision of Mr. Laguer difficult if not impossible.

After careful consideration and following an exhaustive review of the large body of documentary evidence supplied by all interested parties in this case, the Board has determined that, at this time, Mr. Laguer's release on parole is not consistent with the demands of public safety. His failure to take responsibility for his actions in spite of significant inculpatory evidence was but one factor informing our decision. As important were Mr. Laguer's willful failure to make productive use of the wide range of rehabilitative programming opportunities available to him in prison, his overall poor disciplinary record, the combative demeanor and dishonesty he evinced at his hearing, and his prior record, including his military record. Parole is denied.

- Board Member 1: Concur.
- Board Member 2: Concur with final vote.
- Board Member 3: Concur with final vote.
- Board Member 4: Concur with above vote.
- Board Member 5: Concur.
- Board Member 6: Concur.
- Board Member 7: Concur.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing.


Executive Director


Date