



The Commonwealth of Massachusetts  
Executive Office of Public Safety



PAROLE BOARD

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Chairman

**DECISION**

**IN THE MATTER OF  
BRIAN NAGLE  
W66353**

**TYPE OF HEARING:** Initial Hearing  
**DATE OF HEARING:** February 25, 2014  
**DATE OF DECISION:** September 30, 2014

**PARTICIPATING BOARD MEMBERS:** Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, Lucy Soto-Abbe, Josh Wall

**DECISION OF THE BOARD:** After careful consideration of all relevant facts, including the nature of the underlying offense, institutional record, the testimony of the inmate at the hearing, the views of the public as expressed at the hearing or in written submissions to the Board, we conclude by a unanimous vote that the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in five years from the date of this hearing.

**I. STATEMENT OF THE CASE**

On March 15, 1994, Brian Nagle pleaded guilty in Essex Superior Court to rape of a child and indecent assault and battery on a child under the age of 14, subsequent offense. He was sentenced to serve two concurrent life sentences. At the time of the plea, Nagle, a registered Level III sex offender, had two prior convictions for sexual assaults on children and a number of convictions for open and gross lewdness where the victims were children.

On May 14, 1998, the victim<sup>1</sup>, a six-year-old boy, went into the bathroom at a Burger King in Amesbury. Nagle was in the bathroom, standing by the sink. The victim went into a stall, and Nagle followed him inside before he could close the door. Nagle took down the child's pants, put the child's penis in his mouth, and put his mouth on the child's buttocks. Another

<sup>1</sup> Names of sexual assault victims are withheld pursuant to G.L. c. 265, § 24C.

patron saw Nagle standing behind the child in the stall and asked if he was the child's father. Nagle did not respond, but quickly left the bathroom and the restaurant. The witness and another patron pursued Nagle as he fled into nearby woods.

Nagle was apprehended shortly thereafter and positively identified by one of the patrons who had participated in the chase.

## **II. INSTITUTIONAL HISTORY**

Nagle has incurred 17 disciplinary reports during the 15 years that he has been incarcerated for the 1998 sexual assault. His offenses include possession of detailed schematics or diagrams of the institution where he was incarcerated, engaging in a physical altercation with another inmate, possession of controlled substances, disobeying orders, lying, and possession of unauthorized items. Nagle did not engage in positive programming during most of his incarceration. He was classified to the Residential Treatment Unit in 2011 for mental health programming. He has a poor history of participation in sex offender treatment. He did some limited treatment in 2007 but was terminated. He returned to treatment in 2009 and completed the Basic Concept phase. He entered a Primary Group in September 2010 but was terminated for poor attendance in January 2011. He was offered orientation in September 2012 but he declined to participate further in sex offender treatment. He stated at the hearing that he declined in order to remain in the Residential Treatment Unit. He has not worked until recently.

## **III. FEBRUARY 25, 2014, PAROLE HEARING**

Brian Nagle appeared for his initial parole hearing after serving 16 years of two concurrent life sentences for sexually assaulting a six-year-old-boy in a public bathroom. Attorney Joseph Amoroso represented Nagle and gave an opening statement. He also represented Nagle for the governing case. Nagle also gave an opening statement in which he said, "I am disgusted and angry by all the harm I caused. I had thinking distortions that the victims would not be harmed by my actions." Board Members asked Nagle about his upbringing, offending, prison experience, and rehabilitative efforts.

Nagle has had a difficult incarceration that was unproductive for many years. He was in the Disciplinary Detention Unit in 2006 for possession of pills. Attorney Amoroso noted that Nagle was "totally isolated for much of his incarceration." Nagle attributed that isolation to "harassment" due to the offenses he committed. He had very little program participation for the first 14 years of incarceration. Nagle said, "I don't take programs because I have a lot of problems and I get harassed. I could have gone to the CRA [Correctional Recovery Academy], but there are problems with harassment in the CRA and I didn't want those problems." Nagle has also had mental health problems. He said, "I never dealt with my issues: depression and anxiety." Nagle was housed in the Residential Treatment Unit in 2011 which gave him the opportunity for mental health treatment.

Sex offender treatment was not a priority for Nagle. He did, however, enter sex offender treatment in 2010 and was in the pre-treatment phase for two years. He reported that he "worked on triggers; mine are depression, anxiety, and isolation." He has not returned to sex offender treatment and has yet to enter core treatment. He suggested that he could be

paroled and receive treatment in the community. Board Members asked Nagle to consider the reality of that request. He acknowledged, "I suppose I have to complete core treatment to be paroled." A Board Member asked, "Would it be safe to have someone in the community before receiving sex offender treatment?" Nagle said, "No." He also said, "Core treatment would be good for me. I would learn how not to act out."

A Board Member asked Nagle how many children he had victimized. He said, "Three. I got caught every time. I never had any other thoughts to touch children." A Board Member pointed out, "You were caught indecently exposing yourself to children, so there are seven victims total that we know about."

Two family members, Nagle's mother and cousin, spoke in support of parole. Essex Assistant District Attorney Elin Graydon spoke in opposition to parole.

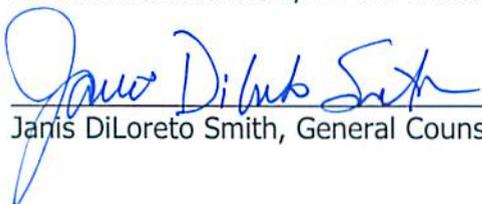
In closing, Nagle appeared to understand that he was not ready for parole and said, "I ask for a three year setback."

#### **IV. DECISION**

Brian Nagle is a serial sex offender against children. He is serving two concurrent life sentences because he raped a six-year-old boy in a public bathroom. His years of incarceration have included poor conduct, mental health problems, isolation, and years of inactivity. He reported that his triggers for abusing children are anxiety, depression, and isolation. These three conditions are still major factors in his life. Since 2010, he has taken much needed steps to address his mental health issues and has two years of sex offender treatment. He has not yet entered core treatment for sex offenders. Given his record of sexually assaulting children, Nagle cannot be rehabilitated without significantly more work and accomplishment.

The standard we apply in assessing candidates for parole is set out in 120 C.M.R. 300.04, which provides that, "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." Applying that appropriately high standard, it is the unanimous decision of the Parole Board that Nagle is not suitable for parole because he is not rehabilitated. He will be eligible for a review hearing in five years from the date of his hearing, during which time Mr. Nagle should return to sex offender treatment, address his mental health needs, and engage in other productive activities to assist in rehabilitation and reducing isolation.

*I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing. Pursuant to G.L. c. 127, § 130, I further certify that all voting Board Members have reviewed the applicant's entire criminal record. This signature does not indicate authorship of the decision.*

  
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Janis DiLoreto Smith, General Counsel

9/30/14  
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Date