

MEMBERS PRESENT: Chairman Stewart
Vice Chairman Sader
Mr. Thompson
Ms. Foley
Mr. Beyer
Mr. Price
Mr. Chaney
Mr. Malone
Mrs. Cafferata
Ms. Ham
Mr. Banner

MEMBERS ABSENT: None

GUESTS PRESENT: Dean Alley, National Rifle Association
Larry Ryckman, AP
Assemblyman R. E. Robinson
Chris Broderick, Las Vegas Review Journal
Don Downey, KLAS-TV
Kevin Reeves, UNR Intern (Sader)
Colleen Dolan, UNR Intern (Stewart)
Chris Woodyard, LV Sun
Larry Kitzenberger, LV Metro Police Dept.
Lee Adler, Gazette
Assemblyman Nicholas Horn, District 15

Chairman Stewart called the meeting to order at 8:07 a.m. and informed the Committee they would hear AJR 6 first.

AJR 6/60: Proposes to amend the Nevada constitution to confer the right upon private citizens to keep and bear arms.

Chairman Stewart noted that since this bill proposed a constitutional amendment it had to be passed by two legislatures; it passed the last session with some amendments and it now has to confront this session.

Assemblyman Robinson outlined for the Committee members why this resolution had been submitted: Nevada is one of the few states whose constitution does not provide in some manner or another for the possession of firearms. He noted that the resolution, as originally introduced, had a few objections to it, and the current bill is as amended following input from police and other law enforcement officers who were concerned as to whether this bill would allow people to carry concealed weapons. The proposed version of this bill would in no way inhibit the right of the State to control possession of firearms through registration, prohibitions against felons having guns, etc. It simply allows an additional protection to the individual who owns firearms to possess them. He added that the provisions in the Federal constitution do not guarantee that some State may not

pass very restrictive laws or laws prohibiting the possession of firearms; e.g., New York's Sullivan Act makes the possession of a handgun almost impossible. Citing the murder of John Lennon, wherein the murderer had a permit for the gun used to kill Lennon, Mr. Robinson noted that even the laws that grant a right to carry a weapon only with a permit don't prevent a person from using a legal weapon to commit a crime. He also cited a television news broadcast picturing the silhouette of a hand firing a gun while reporting a knife murder as being a typical example of how guns are often inappropriately connected with murder and other crimes. He added that all the laws to the contrary, guns are still obtainable by those who wish to use them in the commission of a crime; yet those who wish to have guns for sporting reasons or for personal protection are sometimes prevented from having these weapons. He further noted that there are innumerable instances where the very presence of a weapon in a home or business prevented a crime, and reasoned that if the criminal is able to illegally have handguns, the rest of society ought to be able to legally have them to protect themselves. Mr. Robinson ended his presentation by noting that this resolution passed the last session unanimously in both houses, that he felt confident that if this Committee passed the bill to the floor it would pass and pass in the Senate, and that it would certainly be passed by the public if placed on the ballot.

Next to testify was Mr. Alley, representing the National Rifle Association. Mr. Alley stated that the NRA was interested in this bill because it goes to the basic roots of our constitution and the precepts of our way of life. He noted that currently only thirteen States in the Union do not have this type of proposal in their constitution, and that for a State to have or seek such a proposal is an indication that they want to uphold this same right nationally and within their State. Thus, the NRA believes the proposal to be based on a premise of law. He said two States are working on this proposal, Nevada and New Hampshire. He added the NRA is very much concerned with safety and the proper handling of firearms, and the need to make people aware that this right can be easily lost, and that through the proper education process it may be possible to reduce some crime.

As there was no further testimony on AJR 6/60, Chairman Stewart closed the hearing on this resolution and announced the Committee would now hear testimony on AJR 30/60.

AJR 30/60: Proposes to amend the Nevada constitution by prohibiting commutation of sentences of death and life imprisonment without possibility of parole to sentences which would allow parole.

Chairman Stewart stated this was another constitutional amendment passed by the last session of the Legislature.

Assemblyman Nick Horn, who introduced this bill in the last legislative session, was present to testify in its favor. He reiterated that this bill had been passed by the last session

of the Legislature, and that in order for a constitutional amendment to go to the voters it has to go through two sessions of the Legislature in identical format. Thus, if either AJR 30/60 or the resolution heard previous to it were to be changed in any way, then the whole process would have to start over again. He noted that AJR 30/60 basically corrects one of the real deceptions in the law with a constitutional amendment. That deception is that whenever someone receives a life-without-the-possibility-of-parole sentence, that sentence can be altered or commuted so that the sentence is changed to life with the possibility of parole, and then the Parole Board, in turn, grants parole. He then noted that in order to receive a life-without-the-possibility-of-parole sentence, a person must be convicted of murder in the first degree--and these are major capital crimes, capital murder or murder in which the District Attorney considers it to be in the first degree; kidnapping in the first degree, i.e., kidnapping where substantial bodily harm or subsequent detention and confinement or attempted escape and substantial bodily harm results; sexual assault--any person who commits sexual assault where bodily harm to the victim results; destroying or attempting to destroy with dynamite, nitro glycerine, gun powder, or other high explosives any dwelling, building or car wherein there is reason to believe is a person at the time; or be a habitual criminal, one who is continually convicted time and time again of felonies. Mr. Horn opined that the average person believes the criminal who receives a sentence of life without the possibility of parole, or a death penalty, will be taken from society and placed in an institution so that they will not prey again on society during that criminal's lifetime.

Mr. Horn pointed out that when this resolution was heard before the Senate Judiciary Committee last session, the Washoe County District Attorney testified in support of this measure. Mr. Horn then quoted Mr. Dunlap's testimony as noted on page 2 of the minutes of the 15 May 1979 Senate Judiciary Committee meeting, EXHIBIT A.

Next Mr. Horn cited several instances where sentences have been converted, quoting from Exhibit E of the 6 February 1979 Assembly Judiciary Committee meeting minutes. (See EXHIBIT B.) He noted specifically that, taking the cases of Richard Joseph Dembke and Richard Ralph Riley, the difference between a sentence of life without the possibility of parole and one of life with the possibility of parole is in one instance you are out in five years and the other you are free in thirteen years. Mr. Horn also quoted several instances of sentence commutation as listed in EXHIBIT C, "Results - Nevada Board of Pardons". From these examples, Mr. Horn drew the conclusion that it was necessary to consider whether a sentence of life without parole should actually mean that, or should we play games with the criminal and society and continue to try to fool and baffle them. Mr. Horn stated he was under the impression that only a constitutional amendment could correct this deception.

Mr. Horn went on to describe those steps through which this bill had already passed: last session's Assembly Judiciary

Committee sponsored it because it occurred after the thirtieth day; both the Committee and the Assembly passed the bill; and it went to the Senate Judiciary Committee, who softened it by adding a provision which would allow the law to stipulate conditions whereby an individual can receive the possibility of parole. Basically, what this does is allow the Legislature, in its wisdom, to build in certain conditions, such as in NRS 200.400 (see EXHIBIT D), if it so desires. When those conditions are built into the law, the Parole Board and the Board of Pardons can then adjust the sentence. This provides for those special circumstances where the condition or ray of hope can be given, under certain circumstances, to individuals who commit crimes.

Mr. Horn said that the original intent of the bill was to prevent commutation of a sentence from life without to life with, which allows the Parole Board or Pardons Board to reduce the sentence and then commute it so that the criminal is back on the street in ten to thirteen years.

Mr. Horn ended his testimony by reiterating he hopes we will stop playing games with society; that if a person commits a murder or a crime that is worthy of receiving life without the possibility of parole, that it in fact means life without the possibility of parole; that society and the criminal will no longer be fooled; and once and for all we can let the criminal know that if they commit a first degree murder or a kidnapping or a sexual assault that is worthy of such a penalty, they will receive it.

Mr. Sader asked about the fiscal impact of this bill upon the prison system. Mr. Horn felt it to be minor and pointed out there was no note on this during the last session. He further stated that this probably involved approximately one dozen cases a year; i.e., people who have come before the Pardons Board, had their sentences commuted, and then been granted parole by the Parole Board.

Mr. Sader then asked whether the prison people had testified on this bill last year, to which Mr. Horn replied they had testified against it. He referred the Committee to Mr. Wolff's testimony, as contained on page 3 of EXHIBIT A. He added that the District Attorneys had been in favor of the bill.

Mr. Stewart stated that, if he recalled correctly, Mr. Wolff had been against the bill and that the amendment to the bill was a result of his testimony before the Senate; however, he hesitated to speak for Mr. Wolff.

Mr. Horn noted that the original version of the bill had been very tough and very rigid, stating that if an individual committed a crime where it was likely that the possibility of parole...end of discussion--it's life without the possibility of parole. The Senate believed there might be certain instances where those sentences ought to be adjusted, and that this should be built into the law so that under those circumstances and

and in those situations the sentences can be converted. Thus, the Senate amended the bill, and the Assembly concurred with the amendment, realizing such situations could arise. Thus the Senate version is the one currently being considered.

Mr. Chaney asked what the difference was between this bill and the current law governing this matter. Chairman Stewart explained that under current law there are no conditions nor stipulations upon which the Pardon Board can commute a sentence; they can do it in any circumstance. AJR 30/60 places the responsibility upon the Legislature to indicate those conditions and circumstances under which a sentence can be commuted from life without parole to life with parole.

Mr. Chaney then raised the point that passage of the bill is not the end of the issue; once the bill is passed, the Legislature must then stipulate the conditions and/or circumstances under which a sentence can be commuted. Mr. Chaney wondered if this was giving the Legislature power which should belong to the judges; after all, the judges are much more involved in a case and are therefore in a much better position to decide what sentence should be given. Additionally, Mr. Chaney said too much involvement by the Legislature in determining sentence could result in "administrative courts". Mr. Horn explained that the current laws do have a certain degree of flexibility which has been built in by the Legislature. He cited NRS 200.030 (see EXHIBIT D), which offers several options for punishment of first degree murder.

Chairman Stewart then noted that currently, if a criminal is sentenced to life without parole, the Pardon Board may still grant pardon after the individual has served a certain period of time, say twenty years, and this is a decision of the Pardon Board. This bill would give this decision to the Legislature, which would not allow pardon except under specific circumstances.

Mr. Banner then suggested that the Legislature might set up a rule of conduct. This ray of hope could help prevent problems, for if you lock someone up without any hope of release whatsoever it could result in long term management problems. The Senate's amendment then has the Legislature, representing the people, making those decisions; and the Legislature will have to go back and answer to the electorate. And the Senate's amendment allows for this ray of hope.

Mr. Beyer then asked if the list of crimes cited by Mr. Horn as allowing a sentence of life without parole also provided for a sentence of life with parole. Again Mr. Horn cited NRS 200.030 (see EXHIBIT D) which lists those crimes for which the judge has the option of life with or without parole sentences. Mr. Beyer then asked what would prevent the court from circumventing AJR 30/60 by continually issuing a sentence of life with parole. Mr. Horn admitted to this loophole, but noted that at least one other loophole has been closed; i.e., if the person is sentenced to life without parole, they will be locked up permanently and will not be paroled after a certain amount of time.

Mr. Chaney suggested that another aspect of this problem and its solution might be to place a minimum amount of time which would have to be served upon a sentence of life with parole; e.g., an individual would have to serve twenty years prior to being eligible for parole.

Mr. Beyer noted that whereas right now a judge might be inclined to sentence a person to life without parole, this amendment might lead to a tendency for sentences of life with parole.

At this point Mr. Sader explained to the Committee that in the case of a capital crime the jury recommends sentence. As Mr. Horn indicated that those crimes previously cited were capital crimes, it would be up to the jury to decide on the sentence.

Mr. Horn reiterated that there are currently two loopholes to the issue of a life-without-parole sentence, and this current resolution is an attempt to close one of them: life without the possibility of parole should not permit parole after several years.

Ms. Ham then asked if a convicted felon who had no hope of parole would be a great danger within the prison, possibly killing a guard, etc. Mr. Horn felt Warden Wolff would be in a better position to answer this question, but he would prefer to have such an individual in prison than on the street; he would also prefer dealing with such a problem at the institution level rather than within society.

As there was no further testimony on AJR 30/60, Chairman Stewart noted that the Committee would take the matter under advisement and discuss it further during a future work session. He further noted that joint Senate/Assembly consideration of legislation affecting the Gaming Control Agencies had been postponed and would be scheduled at a later date.

As there was no further business the meeting was adjourned at 8:45 a.m.

Respectfully submitted,

Pamela B. Sleeper

Pamela B. Sleeper
Assembly Attache

Senate Committee on

Date: May 15, 1979Page: 2

- 5) His office contacted 41 other states and found that their major concern was that the decision would require the courts of sister states to treat other states as private litigants.
- 6) The Hall decision could be read as possibly being inconsistent with the 10th Amendment, which reserves certain rights to the states that are not expressly delegated.

Assemblyman Jim Banner, District 11, testified in opposition to this measure. He stated that people no longer believe in the theory that "the king can do no wrong." He felt that sovereign immunity was becoming a thing of the past.

Senator Sloan moved to report AJR 29 out of committee with a "do pass" recommendation.

Seconded by Senator Dodge.

Motion carried unanimously. Senators Ford and Hernstadt were absent from the vote.

AJR 30 Proposes to amend Nevada constitution by prohibiting commutation of sentences of death and life imprisonment without possibility of parole to sentences which would allow parole.

Cal Dunlap, Washoe County District Attorney, testified in support of this measure. He stated that the term "without possibility of parole" is a fiction. Persons serving "life without" actually serve between 13 and 14 years. He stated that the jury is not informed to what the results of their sentencing will be. He believed that they and the public at large, would be outraged if they knew the actual results.

Senator Close asked if it wouldn't be easier to change the law to provide that sentences of certain crimes could not be commuted or to describe precisely what the sentence means rather than changing the constitution. He felt that "life without" was a misnomer.

Senator Raggio responded that the only reference the courts can make in their instructions to the jury is that it is subject to executive clemency. You cannot, by statute, say that these sentences cannot be commuted because that is embodied in a constitutional provision.

Senator Close stated that he was suggesting that "life without" was a misnomer and that the language could be changed so that in describing the penalty, it would be "life without possibility of commutation."

Senator Sloan responded that you would then have "truth in sentencing" but that it doesn't get to the underlying problem of keeping them in prison for over 14 years.

Charles L. Wolff, Director, Department of Prisons, testified in opposition to this measure. He stated that he did not believe that the death penalty would be made available and that if society was going to permit life, they should also allow for hope.

He stated people who do time, have a change in their thinking, which is sometimes dramatic.

He further stated that he believed that the Parole and Pardons Board was fair and equitable both with the concerns of society and the individuals involved.

Senator Dodge stated that he was satisfied that the public supports this concept. He believed that people should have to pay the penalty for these acts.

He further stated that he supported Senator Close's suggestion which would allow for legislative direction in the commutation of sentences.

Senator Raggio concurred and suggested an amendment such as "A sentence of death or life without may not be commuted to a sentence that would allow parole except as may be provided by law."

Senator Dodge moved to report AJR 30 out of committee with an "amend and do pass" recommendation.

Seconded by Senator Ashworth.

Motion carried unanimously. Senators Ford and Hernstadt were absent from the vote.

AB 396 Requires gift of clothing and increases amount of money which may be given to an offender upon release.

Charles L. Wolff, Director, and Mike Medema, Department of Prisons, testified in support of this measure. Mr. Wolff stated that this does not mean that every individual would be receiving these upon release from prison.

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<u>NAME</u>	<u>CRIME</u>	<u>SENTENCE</u>	<u>DATE TERM BEGAN</u>	<u>DATE RELEASED</u>
Juan Ramos	Burglary	5 years	3/7/78	12/13/78*
Guy Lane Edwards	Robbery	7 1/2 years	3/11/78	12/12/78
Kermit Knox	Possession of Firearm by Ex-Felon	6 years	12/22/77	12/13/78*
Larry O'Neal Franklin	Attempted Burglary	4 years	6/8/78	12/7/78
Edward Cross	Second Degree Murder	Life	4/26/74	12/5/78
Sidney Fuller	Burglary	5 years	1/5/78	12/4/78*
Byron Reber	Forgery; Possession of a Controlled Substance	10 years°	9/17/76	11/21/78*
Michael Parent	Robbery; Grand Larceny	15 years°	3/28/75	11/8/78
Tony Newton	Battery with Intent to Commit Mayhem; Battery with Use of Deadly Weapon During Commission of Crime	10 years°	1/30/76	11/14/78*
James Chorney	Possession of Controlled Substance (Two Counts)	5 years°	2/26/78	11/6/78*
Michael Mitchell	Battery with Intent to Commit Rape	8 years	3/4/77	11/6/78*
Charles Huntley	Voluntary Manslaughter	10 years	10/10/76	11/6/78*
Richard Joseph Dembke	First Degree Murder	Life Without Possibility of Parole	10/28/65	10/19/78
Pat Neal	Burglary	6 years	2/10/78	11/1/78*
Stanley Wilson	Murder	Life Without Possibility of Parole	6/19/69	10/25/78
Paul Brinkman	Burglary; Robbery	10 years°	9/15/77	10/24/78*
Michael Messmer	Lewdness with Minor	10 years	8/21/76	10/19/78*
Gregory Lee Smith	Attempted Robbery	6 years	3/16/77	10/11/78
Benny Jackson	Battery with Use of a Deadly Weapon	9 years	5/13/77	10/10/78*
Henry Furman	Voluntary Manslaughter	10 years	3/12/76	6/23/78
Mark Wallace Waldie	Robbery	7 1/2 years	5/26/77	9/22/78
Terry Dodd	Robbery; Larceny from the Person	10 years°	11/76	9/18/78*

*almost
13 yrs*

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<u>NAME</u>	<u>CRIME</u>	<u>SENTENCE</u>	<u>DATE TERM BEGAN</u>	<u>DATE RELEASED</u>
Bradley Brophy	Burglary and Possible Probation Violation	10 years°	10/9/75	9/15/78
Richard Meredith	Voluntary Manslaughter	10 years	6/15/77	9/14/78
Donnell Cosey	Robbery with Use of a Deadly Weapon in Commission of a Crime	6 years°	10/22/76	8/29/78
Walter Lawrence Dalie	Robbery with Use of Deadly Weapon	6 years°	2/16/77	8/25/78
Richard Ralph Riley	IFCA; Rape; Robbery	Life with Possibility of Parole°	10/10/73	8/23/78
Richard George Owen	Sale of Controlled Substance	9 years	5/11/77	8/21/78
Albert Reed	Burglary	4 years	11/3/77	5/24/78
Jackey Owens	Possession of a Stolen Vehicle	8 years	3/11/77	5/17/78
Gim Lan Lew	Second Degree Murder	20 years	12/14/73	5/19/78
Michael Zeldin	Burglary	10 years	10/1/76	5/4/78
Roy O'Brian	Robbery	12 years	1/27/75	5/8/78
Charles E. Mitchell	Robbery	10 years	2/23/76	4/27/78
Theresa Davis	Robbery	6 years	6/15/77	4/3/78

less than 5 yrs.

*Not Actual Date of Release; Rather Date Notice of Release Was Received by Clark County.

°Additional Sentence Was Imposed to Run Concurrent with Shown Sentence.

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RESULTS - NEVADA BOARD OF PARDONS

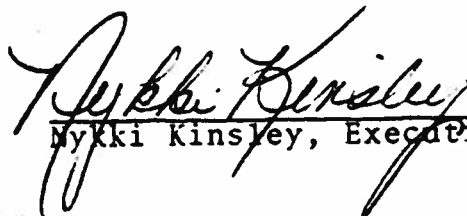
OCTOBER 7, 1980

1. BERRY, Melvin - No action taken. Administration to arrange for transfer to Vacaville Medical Center for treatment
2. ~~GEARY, Melvin - Action taken to commute sentence from "Life Without Possibility of Parole" to "Life With Parole"~~
3. FISH, Irwin - request for immediate parole eligibility denied.
4. LEADERS, Larry - request for reduction of sentence denied.
5. MORENO, Fernando - sentences commuted to: 15 years cs 15 years; all remaining sentences commuted to time served. These two 15 year sentences are to remain separate and not to be considered as one sentence regardless of any court decisions on computing time
6. STEWART, James - made immediately eligible for consideration by the Parole Board
7. VIPPERMAN, Frank - request for pardon denied
8. CULPEPPER, Calvin - request for immediate parole eligibility denied
9. KELL, Scott - made immediately eligible for consideration by the Parole Board

COMMUNITY CASES (Pardon or Right to Carry Firearms):

10. BOWERS, Thomas - no action pending personal appearance
11. D'ARPA, Danny - Pardon granted with right to carry firearms
12. MULDOWNEY, Robert - Pardon granted
13. WILLIAMS, Joby - right to possess hunting rifles - no handguns / Grante
14. WORRELL, Fredric - Pardon granted.

FOR THE BOARD OF PARDONS



Nykkie Kinsley, Executive Secretary

RESULTS - PARDONS BOARD MEETING

APRIL 29, 1980

ANDERSON, LEON	APPLICATION FOR COMMUTATION DENIED
** AVILA, JOHN	IMMED. PAROLE ELIGIBILITY - MAY AGENDA
BEAN, THOMAS	APPLICATION FOR COMMUTATION DENIED
FOSS, FRANK	IMMED. PAROLE ELIGIBILITY - JUNE AGENDA
** HILL, JAY DONALD	IMMED. PAROLE ELIGIBILITY - MAY AGENDA
OSBORN, ROY	APPLICATION FOR COMMUTATION DENIED
SALI, ALI	APPLICATION FOR COMMUTATION DENIED
SCHWORAK, GEORGE *	APPLICATION FOR COMMUTATION DENIED
** SHELLNBARGER, MIKE	IMMEDIATE PAROLE ELIGIBILITY - MAY AGENDA
WEBB, DOUGLAS	IMMEDIATE PAROLE ELIGIBILITY ON ALL THREE CS SENTENCES - JUNE AGENDA

COMMUNITY CASES

APPROVED PARDON	BULLIS, JOHN
"	"
"	CARTER, LLOYD
"	"
"	COLE, DENNIS
"	"
"	EVILSISOR, HARRY
"	"
"	MILLER, WM. HENRY
"	"
"	WILLIAMS, JOBY

* THE PAROLE BOARD WILL CONSIDER A BOARD ADVANCEMENT, UPON REQUEST FROM MR. SCHWORAK. PSYCHOLOGICAL WORKUPS ARE TO BE PREPARED ON THIS CASE.

** PLEASE NOTE THAT THE 30-DAY REQUIREMENT FOR NOTIFICATION WAS WAIVED ON THESE CASES AND THEY WILL APPEAR BEFORE THE BOARD OF PAROLE COMMISSIONERS DURING THE MAY PAROLE HEARINGS, - MAY 8, 1980

NEVADA BOARD OF PARDONS - FALL 1979

OCTOBER 16, 1979

SUPREME COURT CHAMBERS
CARSON CITY, NV

8:00 AM

8:00 AM	HILL, Jay Donald	Defer action until spring meeting
8:30	MCCURLEY, Donna	Approved commuting sentence to "Life with Parole"
9:00	MORFORD, Lester	Denied commuting to Life With Parole
9:30	OWENS, Bobby Ray	Denied immediate parole eligibility
10:00	SUMMERS, Jack	Denied commuting to Life With Parole
10:30	DAWSON, William	Denied immediate parole eligibility
11:00	MARSHALL, Roland	Approved immediate parole eligibility
11:30	MATTHEWS, Dwight	Denied reduction of sentence to 20 years
1:00	VIPPERMAN, Frank	Vacated due to appeal in progress
1:30	MIRIN, William	Approved immediate parole eligibility
2:00	SCOTT, Albert O'Neal	Approved making sentences concurrent
2:30	MACK, James	Approved making Clark County jail sentence concurrent with Federal sentence

C O M M U N I T Y C A S E S

SMITH, Monty	Pardon granted
DAVIS, Lionel	Pardon granted
BULLIS, John	Defer action on request for Pardon until spring meeting. Can be heard in absentia

NEVADA BOARD OF PARDONS

SPECIAL HEARING AGENDA

SUPREME COURT CHAMBERS
CARSON CITY, NV

9:00 A.M.
AUGUST 25, 1979

9:00 AM BISHOP, Jesse Walter
Motion Failed

1-150

NEVADA BOARD OF PARDONS -- SPRING 1979
SUPREME COURT CHAMBERS
CARSON CITY, NEVADA
APRIL 19, 1979

PHILLIPS, Neil	IMMEDIATE PAROLE ELIGIBILITY
SCHRECK, Jan	DENIED
WILLIAMS, Rosa	DENIED
WADDELL, Don	IMMEDIATE PAROLE ELIGIBILITY
JOHNSON, Joe	GRANTED PAROLE ELIGIBILITY AFTER SERVING FIVE CALENDAR YEARS
OSBORN, Roy	DENIED
MOSER, Ed	GRANTED PAROLE ELIGIBILITY AFTER SERVING FIVE CALENDAR YEARS
COOPER, Ralph	DENIED
TURPEN, Dennis	DENIED
CHURCH, William	DENIED

COMMUNITY CASES

HEMSLEY, Wilbert	PARDON GRANTED
ROGERS, Dorothy	PARDON GRANTED
ROLOFF, Robert	PARDON GRANTED
SHORT, Joseph	PARDON GRANTED
BRADY, David	PARDON GRANTED

NEVADA BOARD OF PARDONS - FALL 1978

A G E N D A

SUPREME COURT CHAMBERS
CARSON CITY, NV

8:00 AM
NOVEMBER 10, 1978

- 8:00 AM ~~PICKARD~~, George (Atty. Gregory Damm)✓
Grant immediate accessibility to Parole Board
- 8:30 ~~BAILS~~, Michael Terry (Atty. John Bartlett)✓
Grant immediate accessibility to Parole Board
- 9:00 ~~HILT~~, JAMES (Atty. James Buchanan)✓
Grant immediate accessibility to Parole Board
- 9:30 ~~HOOD~~, Ralph (Atty. John Bartlett)
Commute sentence to time served
- 10:00 ~~JACOBS~~, Dennis (Atty. Douglas Lohse)✓
Make sentence concurrent
- 10:30 ~~TURPIN~~, Thomas (Atty. Mike Ferris)✓
Grant immediate accessibility to Parole Board
- 11:00 ~~WADDELL~~, Don (Atty. Mike Mackedon)
Request denied
- 11:30 ~~GEER~~, Paul (Atty. David Abbatangelo)✓
Grant immediate accessibility to Parole Board
- 12:00 ~~THOMPSON~~, Charles (Atty. Robert Archie)✓
Grant immediate accessibility to Parole Board
- 12:30 ~~RADKUS~~, Janice (Atty. Charles Zeh)✓
Grant immediate accessibility to Parole Board

C O M M U N I T Y C A S E S

- ~~GARRA~~, Victor (Atty. Richard Glassner)
Request denied/Pardon
- ~~HEARON~~, George (Atty. John Bartlett)
Request granted/Pardon
- ~~KELLEY~~, Alden (Atty. Edward Everett Hale)
Request granted/Restore Civil Rights
- ~~NOLAN~~, Gerald H.
Granted Pardon and Waiver of Federal Firearms Control Act
- ~~SANDAU~~, Calvin (Atty. Roland Belanger)
Request granted/Pardon
- ~~SMITH~~, Monty
Request granted/Pardon
- ~~CROXALL~~, Willie
Request granted/Restore Civil Rights

NEVADA BOARD OF PARDONS - SPRING 1978

A_G_E_N_D_A

SUPREME COURT CHAMBERS
CARSON CITY, NEVADA

8:00 AM
APRIL 4, 1978

8:00 AM MOORE, ARTHUR-KENNETH JORDAN, ATTORNEY
Granted immediate parole eligibility

8:30 OVERTON, TONY-JOHN BARTLETT, ATTORNEY
Granted immediate parole eligibility

9:00 PHILLIPS, NEAL-JOHN BARTLETT, ATTORNEY
Request denied/Commutation to Life with parole

9:30 FISH, IRWIN-NON APPEARANCE-R. MAINOR, ATTORNEY
Request denied/Parole eligibility at 5 years

10:00 LARSEN, CHRISTOPHER-TERRY FRIEDMAN, ATTORNEY
Granted immediate parole eligibility on Murder sentence

C O M M U N I T Y C A S E S

1. AUSTIN, JAMES
Request granted/Pardon
2. BARTELHEIM, KEITH
Request granted/Full Pardon with use of Hunting weapons
3. HINES, JAMES
Restored Civil Rights/Further investigation before a Pardon
4. PICKARD, JAMES
Parole terminated/Civil rights restored
is granted
5. SANDAU, CALVIN
Request for Pardon is denied
6. SMITH, MONTY
No action/Return in Fall
7. WILES, WILLIAM
Denied Pardon for two years
8. WOERNER, ROBERT
Pardon granted

THE NEVADA BOARD OF PARDONS

FALL 1977

A G E N D A

8:30 A M
OCTOBER 26, 1977

CARSON CITY, NEVADA

OLD SUPREME COURT CHAMBERS
CAPITOL BUILDING

- 8:00 LARSEN, CHRISTOPHER-REPRESENTED BY TERRY FRIEDMAN, ATTORNEY
~~See in April 1978~~
- 8:30 BISHOP, Steven
~~Commutation to Time served granted~~
- 9:00 TURPIN, TOM-REPRESENTED BY REV. W. WYNN
~~Commutation to time served denied~~
- 9:30 LUJAN, ANTONIO-REPRESENTED BY JOHN BARTLETT, ATTORNEY
~~Immediate eligibility for parole consideration granted~~
- 10:00 HOWARD, TOM-REPRESENTED BY JOHN BARTLETT, ATTORNEY
~~Commutation of sentence from Life W/O to Life with granted~~
- 10:30 LANCASTER, LLOYD-REPRESENTED BY H. WALDMAN, ATTORNEY
~~Commutation of sentence from Life W/O to Life With granted~~
- 11:00 LEW, GIM-REPRESENTED BY K. JORDAN, ATTORNEY
~~Commutation of sentence to time served denied~~
- 11:30 LISCHKO, JOSEPH-REPRESENTED BY JOHN BARTLETT, ATTORNEY
Granted immediate Parole consideration/Requested Commutation to
time served and that was denied.
- 12:00 LUNCH
- 1:00 MOSER, EDWARD-REPRESENTED BY G. SHELLEY, ATTORNEY
Requested Parole eligibility and that was denied.
- 1:30 ROBINSON, ROOSEVELT-REPRESENTED BY J. POLAHA, ATTORNEY
Request to run cs sentence concurrent was approved
- 2:00 WADDELL, DON-REPRESENTED BY MR. MACKEDON, ATTORNEY
Request for parole consideration was denied w/o prejudice
- 2:30 WALKER, GEORGE-REPRESENTED BY MR. AHLWEDE, CLARK CO. P.D.
Requested parole eligibility/granted clemency-wait 16 years before
eligible for parole consideration
- CASES FROM THE COMMUNITY
- Berger, Fred Restored Civil Rights
Denison, Cleo Pardon granted
DiMaggio, Phillip-PERSONAL APPEARANCE Pardon granted/OK Firearms
Dodge, Leonard-PERSONAL APPEARANCE Civil Rights restored/No Pardon
Morris, David Pardon granted
Potter, Delwin-PERSONAL APPEARANCE Restored Civil Rights
Wheeler, Carl Pardon granted
Willson, Larry Pardon granted
Workman, Everett Fardon denied

THE NEVADA BOARD OF PARDONS

SPRING 1977

A_G_E_N_D_A

8:00 A. M.
APRIL 22, 1977

CARSON CITY, NV.

OLD SUPREME COURT CHAMBER
CAPITOL BUILDING

8:00 SPILLERS, PIERCE - ATTORNEY DAVE DEAN
Commutation of Sentence granted

8:30 RAINSBERGER, JACK - ATTORNEY SAM LIONEL
Commutation to Life with Possibility of Parole granted

9:00 ~~CLARK, KATHRYN - - ATTORNEY JOHN BARTLETT~~
Commutation of sentence to time served granted/Released on Parole

9:30 BACON, ARMAND - - ATTORNEY KENT JORDAN
Commutation of sentence from Life W/O to Life with granted

10:00 ~~DUNN, RICHARD - - ATTORNEY JOHN BARTLETT~~
Granted immediate eligibility for Parole consideration

10:30 KOFOED, LESLIE - - ATTORNEY CLARK GUILD
Commutation of sentence to time served granted/Released on Parole

11:00 DAVIS, FREDRICK - ATTORNEY FRED ATCHISON (STATE PUBLIC DEFENDERS)
Commutation of sentence to time served granted/Released on Parole

11:30 MCSHERRY, ROBERT - ATTORNEY FRED ATCHISON
Commutation of sentence to time served granted/Released on Parole

CASES FROM THE COMMUNITY

EVANS, DANNY
Civil Rights Restored

GARNER, ROBERT
Pardon granted

MASON, AUDREY
Pardon granted

HARDIN, GARY
Pardon granted to own hunting weapons

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAULEGISLATIVE BUILDING
CAPITOL COMPLEX
CARRINGTON CITY, NEVADA 89701

LEGISLATIVE COMMISSION (702) 385-5827

NEDD ASHWORTH, Speaker
MURRAY F. STANLEY, Director

INTERIM FINANCE COMMITTEE (702) 385-5844

FRANK W. DAYKIN, Legislative Counsel
DONALD A. RHODES, Chief Deputy Research DirectorFRANK W. DAYKIN, Legislative Counsel
DONALD A. RHODES, Chief Deputy Research Director
LEGISLATIVE COUNSEL BUREAU (702) 385-5827

January 24, 1981

M E M O R A N D U M

TO: Assemblyman Nicholas Horn

FROM: Donald A. Rhodes, Chief Deputy Research Director

SUBJECT: Powers of the state board of pardons commissioners and the state board of parole commissioners to modify sentences of death, life without possibility of parole, or life with the possibility of parole.

Assemblyman Stewart has asked us to provide you with information about constitutional and statutory provisions which permit the parole and pardons boards to modify sentences of death or life with or without the possibility of parole.

This memorandum provides references to the constitutional and statutory provisions relating to this topic which I found by reviewing the Index to the NRS and by a "computer word search" of the NRS of the terms "life with or without parole." Any legal interpretation of the constitution or the NRS, of course, should be sought from Frank W. Daykin, legislative counsel.

Powers of the State Board of Pardons Commissioners and the State Board of Parole Commissioners

As you may know, the pardons board consists of the governor, justices of the supreme court, and attorney general. (See section 14 of article 5 of the constitution of the State of Nevada and NRS 213.010.) Section 14 of article V of the constitution specifies certain of the board's powers. It permits:

The governor, justices of the supreme court and attorney general, or a major part of them, of whom the governor shall be one, * * * (to) upon such

conditions and with such limitations and restrictions as they think proper, remit fines and forfeitures, commute punishments, and grant pardons, after convictions, in all cases, except treason and impeachments, subject to such regulations as may be provided by law relative to the manner of applying for pardons. * * *

It appears that, operating under this provision, the board can commute the sentences of death or life without possibility of parole to some lesser sentence such as life with possibility of parole.

Regarding the commutation of a death sentence by the board, subsection 1 of NRS 213.080, "Procedure when death penalty is commuted," says:

1. Whenever any punishment involving the death penalty is commuted, a statement in writing shall be made out and signed reciting:

- (a) The name of the person whose punishment is commuted.
- (b) The time and place where convicted.
- (c) The amount, kind and character of punishment substituted instead of the death penalty.
- (d) The place where the substituted punishment is to be served out or suffered.

The Parole Board

The state board of parole commissioners consists of three members appointed by the governor. (See NRS 213.108.) It:

* * * may release on parole a prisoner otherwise eligible for parole under NRS 213.107 to 213.160, inclusive, only if, from all information known to the board, it appears to the board:

- (a) That there is a reasonable probability that such prisoner will live and remain at liberty without violating the laws; and
- (b) That such release is not incompatible with the welfare of society. (See NRS 213.1099.)

NRS 213.120, which was amended during last session by your assembly bill 198, specifies that:

Except as otherwise limited by statute for certain specified offenses, a prisoner may be paroled when he has served:

1. One-third of the definite period of time for which he has been sentenced pursuant to NRS 176.033, less good time credits; or

2. One year,
whichever is longer.

It appears then, that the pardons board, except in certain circumstances, can commute a sentence to a lesser sentence. The parole board cannot commute a sentence. It can only grant parole after certain conditions are met. For example, the pardons board can commute an offender's sentence of life without possibility of parole to a sentence of life with possibility of parole. The parole board can then consider parole for this offender when, and if, the conditions for parole are met.

Eligibility for Parole When the Sentence of Life Without Possibility of Parole is Imposed

The following table summarizes NRS sections specifying certain penalties and shows the time which must be served before an offender may become eligible for parole if he has been sentenced to life with possibility of parole.

NRS Section

Summary of Provision

200.030

4. Every person convicted of murder of the second degree shall be punished:

(a) [REDACTED] * *

(b) Other [REDACTED]

the state prison for [REDACTED] If the penalty is fixed at life imprisonment with possibility of parole, eligibility for parole begins when a minimum of 10 years has been served.

200.030

5. Every person convicted of murder of the second degree shall be punished by imprisonment in the state prison for life or for a definite term of not less than 5 years. Under either sentence, eligibility for parole begins when a minimum of 5 years has been served.

200.320

[REDACTED] person convicted of kidnapping in the second degree shall be punished:

1. Where the kidnapped person suffers substantial bodily injury, the act of kidnapping or escape shall be punished by imprisonment in the state prison for life with the possibility of parole. Where the kidnapped person is not injured, the act of kidnapping or escape shall be punished by imprisonment in the state prison with the possibility of parole, eligibility for

which begins when a minimum of 10 years has been served, such sentence to be determined by the jury convicting the person so found guilty.

2. Where the kidnaped person suffers no substantial bodily harm by reason of such kidnaping, the person found guilty of such kidnaping shall be punished by imprisonment in the state prison for life or for a definite term of not less than 5 years. Under either sentence, eligibility for parole begins when a minimum of 5 years has been served.

200.366

2. ~~Any person who commits a sexual assault shall~~

(a) ~~If substantial bodily harm to to the victim results:~~

(1) ~~By imprisonment in the state prison for life, with possibility of~~

(2) By imprisonment in the state prison for life with possibility of parole, eligibility for which begins when a minimum of 10 years has been served.

200.400

3. Any person convicted of battery with intent to kill, commit sexual assault, mayhem, robbery or grand larceny shall be punished by imprisonment in the state prison for not less than two years nor more than 10 years, and may be further punished by a fine of not more than \$10,000, except that if a battery with intent to commit sexual assault is committed, and if the crime results in substantial bodily harm to the victim, the person convicted shall be punished by imprisonment in the state prison for life, with or without possibility of parole as determined by the verdict of the jury, or the judgment of the court if there is no jury.

4. ~~If the penalty is fixed at life imprisonment with the possibility of parole, eligibility for parole begins when a minimum of 10 years has been served.~~

202.270

1. Every person who destroys, or attempts to destroy, ~~any building, or any dwelling house, or any other building, knowing or having reason to believe that the same is intended for life~~ in the state prison with or without the possibility of parole, in the discretion of the jury, or of the court upon a plea of guilty.

(No minimum time required to be served for parole is specified.)

207.010

(T ~~_____~~)

2. Every person convicted in this state of any crime of which fraud or or intent to defraud is an element, or of petit larceny, or of any felony, who has previously been three times convicted, whether in this state or elsewhere, of any crime which under the the laws of the situs of the crime or of this state would amount to a felony, or who has previously been five times convicted, whether in this state or elsewhere, of petit larceny, or of any misdemeanor or gross misdemeanor of which fraud or intent to defraud is an element, shall be ~~imprisoned~~ by imprisonment in the state prison ~~for life with or without possibility of parole~~. If the penalty fixed by the court is life imprisonment with the possibility of parole, eligibility for parole begins when a minimum of 10 years has been served.

196.010

2. Treason is punishable by imprisonment in the state prison for a term of not less than 10 years which may extend to life.

(No minimum time which must be served to be eligible for parole is specified for the life sentence.)

Good Time Credits

Another factor which can effect a length of sentence is "good time credits." As provided by NRS 209.443, every offender who is sentenced to an institution of the department who has no serious infraction of the regulations of the institution, or laws of the state, recorded against him, and who performs in a faithful, orderly and peaceful manner the duties assigned to him, is required to be given certain good time credits which are listed in a schedule of credits.

The "total good time made" is required to be deducted from the maximum term imposed by the sentence and applies to parole eligibility as provided by law.

In addition to the credits for good behavior provided for in subsection 1 of NRS 209.443, the parole board may adopt regulations allowing credits for offenders whose diligence in labor or study merits such credits and for offenders who donate their blood for charitable purposes.

DAR:jlc