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No. 97689-9

THE SUPREME COURT OF THE STATE OF WASHINGTON

In re the Personal Restraint of:

CARL BROOKS

Petitioner

SUPPLEMENTAL BRIEF OF PETITIONER

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A. Introduction

In 1978, Carl Brooks was sentenced to a 90-year minimum term for crimes he committed when he was 17 years old. He is now almost 60 years old and will not be eligible for release from prison until he is 105 years old under the Indeterminate Sentence Review Board's (ISRB) interpretation of his sentence.

The United State Supreme Court cautioned it would only be the rare child who receives the harshest adult sentence. This Court made clear these protections apply to children serving virtual life sentences either as a result of a single sentence or multiple consecutive terms. This Court has ruled that sentences requiring a child to die in prison violate Article I, section 14. This Court has insisted courts consider the personal characteristics of youthfulness whenever sentencing a child under adult sentencing laws. Both courts have demanded that past sentences imposed on children must afford the person the chance to leave prison during their lifetime.

The Legislature has also responded, providing in RCW 9.94A.730 a means for release of any person sentenced as a child after serving 20 years.

The ISRB's refusal to apply this Legislative remedy to Mr. Brooks ignores the legislature's intent. In the absence of any opportunity to leave prion in his lifetime, Mr. Brooks' sentence is unconstitutional.

B. Issues Presented

The Eighth Amendment and Article I, section 14, require sentencing courts consider the mitigating qualities of youthfulness whenever sentencing a child as an adult. Where a court sentences a child to a lengthy term without consideration of their youthfulness states must either resentence the person or afford them some meaningful opportunity for release from prison. The Legislature enacted RCW 9,94A.730 to provide just such an opportunity for release. The ISRB refuses to apply the statute to Mr. Brooks. The ISRB does not dispute his current sentence, imposed when he was a child, will require Mr. Brooks to die in prison. The ISRB simply insists the legislature did not intend to remedy unconstitutional sentences imposed before 1984.

(1) Does RCW 9.94A.730, the "*Miller*-fix," all to sentences which violate Miller?

(2) If RCW 9.94A.730 does not apply to Mr. Brooks, does his 90-year minimum term sentence violate the Eighth Amendment and Article I, section 14 where there is no possibility of his release from prison?

C. Summary of the Case

In January, 1978, Carl Brooks, a 17 year-old Black teen-ager, was charged with eight crimes including robbery, kidnapping, murder, and rape. Appendix at 3. Mr. Brooks acted with an older co-defendant. Many of the alleged victims were white.

Just four months after being charged, Mr. Brooks accepted responsibility and pleaded guilty. Appendix at 4-6. The only reduction in charges was a decrease in a first degree murder charge to second degree murder. *Id*. at 3. The remaining seven counts were unchanged. Mr. Brooks quickly accepted this plea arrangement even though each of the eight counts carried a sentence of 20 years to life in prison, and knowing that the prosecutor would recommend consecutive terms. *Id*. at 5. In short, as child, Mr. Brooks pleaded guilty knowing he would likely die in prison.

Prior to 1984, the trial court was required to impose a sentence equal to the maximum term set by statute and it determined whether sentences should be served consecutively. *In re the Matter of Sinka*, 92 Wn.2d 555, 560, 599 P.2d 1275(1979). The Board of Prison Terms and Parole then set the minimum terms. *Id.* Individuals are eligible to earn credit up to one-third off each sentence for good behavior. RCW 9.95A.110, Laws 1955, ch. 133 sec. 12.

Without any discretion to impose anything other than maximum sentence, the trial court imposed the maximum sentence on each count. Appendix at 7. The court ordered the sentences on Counts 1, 5, 6, 7 and 8 be served concurrently to one another but consecutive to the sentences on Counts 2, 3, and 4. *Id*. Additionally, the trial court ordered the sentences on Counts 2, 3 and 4 to be served consecutively to one another and to the five concurrent sentences. *Id*. This results in a minimum sentence of 90 years with a maximum of life.

The parole board then set Mr. Brooks's minimum sentences on the individual counts that he would consecutively serve. Appendix at 8.

As a part of the Sentencing Reform Act, the legislature enacted RCW 9.95.009 which directed the ISRB, successor to the parole board, to set minimum terms for existing sentences in light of the purposes of the SRA. In 1987, the ISRB reviewed Mr. Brooks's sentences and while it modified individual sentences it left in place the basic structure of original sentence, four consecutive blocks, with a resulting minimum term totaling 90 years. Appendix at 9-11.

Mr. Brooks was paroled from his initial block in 1992. He is currently serving the second block.[1] When he is paroled from that sentence

[1] ISRB documents from 1987 indicate this second block is a 25-year minimum term. Department of Corrections documents, however, indicate this second sentence block is a term of 45 years, 6 months. Appendix at 25-26.

he will then begin serving the third then the fourth sentence, with minimum terms of 25 and 20 yeas respectively.

In 2018, the ISRB determined Mr. Brooks was not parolable from his current sentence under the criteria of RCW 9.95.009 and RCW 9.95.100. Appendix at 12. The ISRB specifically refused to apply the "Miller-fix," finding it does not apply to Mr. Brooks. Appendix at 16.

Mr. Brooks will not be eligible to leave prison until he is at least 105 years-old.

D. Argument

1. Where a person is serving a lengthy adult sentence for crimes they committed as a child, the Eighth Amendment and Article I, section 14 require the State to provide a meaningful opportunity for release based solely upon rehabilitation.

When a sentencing scheme is applied to a child in the same fashion as an older offender, the scheme is "the same in name only." *Miller v. Alabama*, 567 U.S. 460, 475, 132 S. Ct. 2455 183 L. Ed. 2d 407 (2012) (Internal citations and ellipses omitted.) Most children are not as culpable as an adult. *Id*. at 471-72. Instead, it is only the rare and truly irredeemable child who is as culpable as an adult. *Graham v. Florida*, 560 U.S. 48, 72-73, 130 S. Ct. 2011, 176 L. Ed. 2d 825 (2010). "[W]e think appropriate occasions for sentencing juveniles to this harshest possible penalty will be uncommon." *Miller*, 567 U.S. at 479. The harshest sentences are

appropriate only for "the rare juvenile offender who exhibits such irretrievable depravity that rehabilitation is **impossible** . . . ." *Montgomery v. Louisiana*, ___ U.S. ___, 136 S. Ct. 718, 733, 193 L. Ed. 2d 599 (2016) (Emphasis added.) That recognition is consistent with what *Miller* itself said; ". . .

Miller requires that whenever a court sentences a child as an adult, the court must consider "mitigating circumstances associated with the youth." *State v. Houston-Sconiers*, 188 Wn.2d 1, 21, 391 P.3d 409, 420 (2017). The trial court had no opportunity to do that in Mr. Brooks's case. The court was required to impose the maximum sentence for each offense. The parole board then set the minimum term. *Sinka*, 92 Wn.2d at 560.

This Court has made clear *Miller's* protections apply equally to life sentences and their equivalent, such as where multiple consecutive terms amount to an effective life term. *State v. Ramos*, 187 Wn.2d 420, 439-40; 387 P.3d 650, *cert. denied*, __U.S.__, 138 S. Ct. 467 (2017)). While *Miller* did not categorically bar life sentences for all children, this Court recognized Article I, section 14 prohibits imposition of sentences which require the child to die in prison. *State v. Bassett*, 192 Wn.2d 67, 91, 328 P.3d 343 (2018). "What the State must do, [is give children convicted as adults] some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation." *Graham*, 560 U.S. at 75. Mr.

Brooks's "hope for some years of life outside prison walls must be restored." *Montgomery*, 136 S. Ct. at 737.

Mr. Brook's sentence, with its 90-year minimum term does not offer Mr. Brooks any opportunity for release during his lifetime. But the ISRB contends *Miller* is inapplicable because each of Mr. Brooks's sentences allow him to be paroled. Answer at 10, 14. The ISRB insists Mr. Brooks was paroled from his first group of sentences in 1992. Answer at 14**.** But this "parole" was only an administrative notation, merely permitting him to begin serving a second part of the sentence imposed. When he is "paroled" from the current portion of his sentence he will then begin serving the third and fourth portions of his sentence which carry a combined minimum term of 45 years.

Graham does not say merely that the state must provide some record-keeping process it terms "parole." Rather the person sentenced as child has the right to a "meaningful opportunity for release." 560 U.S. at 75 (Emphasis added).

In denying Mr. Brooks even this administrative "parole," the ISRB points to his past infractions as a justification. But among these "serious infractions" on which the ISRB has relied, is a suicide attempt in 2010 and his efforts to resist staff intervention. Appendix at 22. Rather than justify further incarceration, his efforts to take his own life illustrate

the pernicious and fundamental evil of sentencing children to die in prison; it robs them of hope. While the ISRB would seize upon Mr. Brooks's response to that despair to justify its actions, it instead underscores *Montgomery's* demand for the restoration of at least the hope of someday leaving prison. *Montgomery*, 136 S. Ct. at 737.

Mr. Brooks's sentence denies him any opportunity to leave prison during his lifetime. *Graham* and *Miller* require more than merely the chance to begin serving the next in a line of consecutive sentences that will keep him confined until he dies. As *Bassett* recognized, the point of these cases was to "abandon[] the practice of putting child offenders in prison for their entire lives." 192 Wn.2d at 86.

Because it requires him to die in prison for crimes committed as a child, Mr. Brooks sentence violates the Eighth Amendment and Article I, section 14 unless he is afforded a meaningful opportunity for release during his lifetime. The legislature enacted RCW 9.94A.730 to provide him that opportunity.

2. *The Legislature enacted RCW 9.94A.730 to remedy sentences such as Mr. Brooks's that do not afford a meaningful opportunity to leave prison.*

To meet the demands of *Graham* and *Miller*, the Legislature enacted RCW 9.94A.730, the *Miller*-fix. That statute provides:

> Notwithstanding any other provision of this chapter, any person convicted of one or more crimes committed prior to the person's eighteenth birthday may petition the indeterminate sentence review board for early release after serving no less than twenty years of total confinement, provided the person has not been convicted for any crime committed subsequent to the person's eighteenth birthday, the person has not committed a disqualifying serious infraction as defined by the department in the twelve months prior to filing the petition for early release, and the current sentence was not imposed under RCW 10.95.030 or 9.94A.507.

Importantly, RCW 9.94A.730 requires a presumption of release for children. The statute directs 'the board shall order the person released under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the person will commit new criminal law violations if released." RCW 9.94A.730(3).

Rather than presume release, the "parole" hearings ISRB has provided Mr. Brooks require him to prove "meritorious effort in rehabilitation." RCW 9.95.045. Even then, the ISRB has complete discretion to deny release. RCW 9.95.009; RCW 9.95.100. This is fundamentally different than the presumption of release under RCW 9,94A.730. *In re the Personal Restraint of Brashear*, 6 Wn. App. 2d 279, 282 n.2, 430 P.3d 710 (2018).

Beyond the presumption of release, and unlike RCW 9.95.100, RCW 9.94A.730 does not permit the ISRB to rely upon the facts of Mr. Brooks's crime or the amount of time served. *Brashear*, 6 Wn. App. 2d at 287. Yet it is clear from the collection of ISRB Decisions the attached to its answer, the board's parole have been decision are driven primarily by the facts of the crimes.

RCW 9.94A.730 creates two exceptions to its release provisions, sentences imposed under RCW 9.94A.507 and RCW 10.95.030. Neither statute applies here. RCW 9.94A.507 pertains to sentences for certain sex offenses committed after 2001. RCW 10.95.030 refers to sentences for aggravated first degree murder for which a court must impose a minimum term of no less than 25 years at which point they are eligible for release. Other than those two exceptions the legislature intended the statute to provide the meaningful opportunity for release for all other sentence as *Graham* requires.

a. The Legislature intended RCW 9.94.730 to apply broadly to most children sentenced as adults to lengthy sentences.

If the language of a statute is unambiguous, it alone controls. *State v. Roggenkamp*, 153 Wn.2d 614, 621, 106 P.3d 196 (2005). This Court "[d]etermine[s] legislative intent from the statute's plain language, considering the text of the provision in question, the context of the statute

in which the provision is found, related provisions, amendments to the provision, and the statutory scheme as a whole." *State v. Conover*, 183 Wn.2d 706, 711, 355 P.3d 1093 (2015) (internal quotations and citations omitted).

RCW 9.94A.730 makes clear it is intended to apply to "any" person sentenced as a child with the exception of sentences imposed under two specified statutes. There is no language in RCW 9.94A.730 limiting its application to sentences imposed after 1984. There is nothing that narrows its reach to only sentences imposed under chapter 9.94A. In fact, the legislature was clear which sentences were excluded: sentences for (1) aggravated first degree murder (RCW 10.95.030), and (2) certain sex offenses (RCW 9.94A.507). Those express exclusions are important as they illustrate (a) the legislature otherwise intended the statute to apply to all other sentences, and (b) the legislature understood the statute would otherwise applies to sentence imposed under provisions other than chapter 9.94A..

When construing a statute "'expressio unius est exclusio alterius'—the express inclusion of specific items in a class impliedly excludes other such items that are not mentioned." *State v. Linville*, 191 Wn.2d 513, 520, 423 P.3d 842 (2018). The fact that RCW 9.94A.730(1) expressly excludes sentences under chapter 10.95 but does not mention

sentences under chapter 9.95 means it does not exclude the later class of sentence. If the Legislature intended to prevent application of RCW 9.94.730 to other sentences, such as those imposed under former chapter 9.95 it could have readily said so. *See State v. Slattum*, 173 Wn. App. 640, 656, 295 P.3d 788(2013).

The Court of Appeals reasoned that because Mr. Brooks was not sentenced under chapter 9.94A, the *Miller*-fix could not apply to him. Had the Legislature intended 9.94A.730 to apply only to sentences imposed under chapter 9.94A, there was no reason to expressly exclude sentences imposed under chapter 10.95 from its provisions. "A court must not interpret a statute in any way that renders any portion meaningless or superfluous." *State v. K.L.B.*, 180 Wn.2d 735, 742, 328 P.3d 886 (2014). Thus, the statute's two express exclusions establish the Legislature's intent for RCW 9.94A.730 to apply to all other sentences including those imposed under provisions other than chapter 9.94A.

The *Miller*-fix, RCW 9.94A.730, applies to Mr. Brooks's sentence.

b. The Legislature did not exclude children convicted prior to 1984 from its efforts to remedy the unconstitutional sentences they received.

The ISRB insists RCW 9.94A.730 may only apply to sentences imposed under the "SRA"; that is sentences for crimes committed after 1984. Answer at 4 (citing RCW 9.94A.905). RCW 9.94A.905 only

provides "the sentences required under this chapter shall be prescribed in each sentence which occurs for a felony committed after June 30, 1984." While it requires sentences for post-1984 offenses be determined pursuant to chapter 9.94A, the statute says nothing about application of the provisions of the chapter in other scenarios or to sentences imposed under other statutory authority.

Again, if the provisions of RCW 9.94A.730 could only apply to sentences imposed under chapter 9.94A there was no reason for the legislature to expressly exclude sentences under RCW 10.95.030. The fact that Legislature included that express exemption defeats the ISRB's claim.

In fact, there are numerous instances in which provisions of chapter 9.94A apply to sentences imposed under other statutory schemes. Title 9, Title 46 and Title 69 contain sentencing provisions for firearm, driving and drug felonies respectively. Those sentences are also subject to the provisions of chapter 9.94A. *See e.g. State v. McFarland*, 189 Wn.2d 47, 53-55, 399 P.3d 1106 (2018) (concluding provision for consecutive firearm sentences in RCW 9.41.040 did not preclude consideration of mitigating factors found in RCW 9.94.535 to impose concurrent term); *State v. Cyr*, 195 Wn.2d 492, 503-04, 461 P.3d 360 (2020) (provisions of both chapter 9.94A and chapter 69.50 combine to determine the proper standard range sentence for a person convicted of a second drug offense).

The determination of whether RCW 9.94A.730 applies to Mr. Brooks neither begins nor ends with the fact that he was not initially sentenced under the provisions of chapter 9.94A.

Further, the ISRB's contention that RCW 9.94A.730 only applies to sentences under the SRA is both inaccurate and imprecise.

First, the ISRB's contention that RCW 9.94A.730 is limited to sentences imposed under chapter 9.94A is inaccurate as it the statue expressly excludes sentences under RCW 9.94A.507.

Second, the claim is imprecise as the term "SRA" may refer to two distinct things. Chapter 9.94A is colloquially known as the sentencing reform act. RCW 9.94A.020. But the actual legislative act, the Sentencing Reform Act of 1981, Laws 1981, ch. 137, did more than simply enact that chapter. The 1981 Act also created statutes such as RCW 9.95.009 which created the ISRB and directed it to consider the purposes of the SRA when determining the length of confinement for those who committed offenses prior to 1984. Laws 1981, ch. 137, § 24. Indeed, it was under RCW 9.95.009, a part of the SRA, that the ISRB established the minimum terms and consecutive sentence structure that Mr. Brooks is presently serving. Appendix at 10-11. The ISRB's most recent decision cites that very statute as a basis to deny him review. *Id. at 12.* Thus, Mr. Brooks's sentence is governed by the SRA, albeit not the sentencing grid.

Finally, the ISRB has pointed to the language "Notwithstanding any other provision of this chapter" in RCW 9.94A.730 as limiting the statute to sentences imposed under chapter 9.94A. Answer at 6. It does not. Instead, this language was necessary to avoid application of the otherwise mandatory provisions of that chapter for sentences imposed under its terms. There was no reason for the Legislature to include similar language referring to chapter 9.95 as that chapter does not contain mandatory minimum sentencing provisions that would otherwise frustrate application of RCW 9.4A.730.

Based upon the plain language of the statute and its clear intent, Mr. Brooks is eligible to petition for release under RCW 9.94A.730.

c. The ISRB's interpretation of RCW 9.94A.730 casts grave constitutional doubt on the statute.

This Court construes statutes to avoid doubt as to their constitutionality. *Utter v. Building Indus. Ass'n of Washington*, 182 Wn.2d 398, 434, 341 P.3d 953 (2015).

Under the Equal Protection Clause, persons similarly situated with respect to the legitimate purpose of the law must receive like treatment. *Bush v. Gore*, 531 U.S. 98, 104-05, 121 S. Ct. 525, 148 L. Ed. 2d 388 (2000); *City of Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432, 439, 105 S. Ct. 3249, 87 L. Ed .2d 313 (1985).

There is no rational basis to enact a statute that remedies unconstitutional sentences imposed after July 1, 1984, while ignoring those imposed before. It is clear *Miller* applies to sentences imposed even before it was decided. *Montgomery*, 136 S. Ct. at 734. Mr. Montgomery committed his crime in 1963. It is also clear, states must either provide resentencing or a meaningful opportunity for release from prison. *Id*. 736. Knowing what *Miller* and *Montgomery* demand, it would be wholly irrational for the legislature to arbitrarily deny such relief to those whose crimes were committed prior to July 1984. It is more even more irrational in light of the fact that the legislature, also in response to *Miller*, afforded review for the far-more serious offense of aggravated first degree murder, albeit no sooner than twenty-five years, after sentencing without any limitation on when the offense was committed. RCW 10.95.035.

The ISRB contends that those who committed their offenses prior to 1984 are not similarly situated as they are entitled to parole. Answer at 10. But parole does not allow Mr. Brooks any hope that he will leave prison as *Montgomery* required. Instead, parole as applied by the ISRB only allows him to begin serving the next in a string of sentences imposed under the same cause number. Unlike the release provisions of RCW 9.94.730 there is no presumption of release for Mr. Brooks. Although not an equal protection case, *Montgomery* illustrates children who receive

lengthy sentences without consideration of their youthfulness are similarly situated regardless of what year they committed their offense.

The ISRB's construction of RCW 9.94A.730 creates constitutional doubt and must be rejected. *Utter*, 182 Wn.2d at 434,

3. If RCW 9.94A.730 does not apply to Mr. Brooks's sentence, his sentence is unconstitutional.

In enacting RCW 9.94A.730, the Legislature heeded *Miller* and *Graham's* caution that the harshest sentences may be imposed only rarely on children and the State must provide all other children a meaningful opportunity for release in their lifetime. The ISRB would have this Court conclude the Legislature interpreted *Graham's* limitation to the "rare" child to instead allow those harsh sentences for "the rare child and any child sentenced in Washington prior to 1984."

The plain language of RCW 9.94A.730 makes clear the statute's reach is not so artificially limited. But even if the State's claim were true, it simply means Mr. Brooks's sentence is unconstitutional and he is entitled to a new sentencing hearing.

In response to *Miller*, states have two options: resentence the individual or afford some other avenue meaningful avenue for release. *Montgomery*, 136 S. Ct. at 736; *State v. Scott*, 196 Wn.2d 961, 969-71, 385 P.3d 783 (2016). Mr. Brooks's current sentence does not provide him

an opportunity to leave prison. If RCW 9.94A.730, the *Miller*-fix, did not fix his unconstitutional sentence, Mr. Brooks is entitled to a new sentencing hearing for the trial court to impose a sentence that considers the attributes of his youthfulness at the time of his offense.

4. *Mr. Brooks is entitled to relief*.

Aside from denying Mr. Brooks's petition based upon its misinterpretation of RCW 9.94.730, the Court of Appeals also wrongly concluded his petition was successive as he a previously filed a personal restraint petition.

The present petition challenges the ISRB's 2018 refusal to apply RCW 9.94A.730 not the original sentence imposed. Mr. Brooks has not previously filed a petition challenging that decision and thus the present petition is not successive. The Board's refusal to apply the statute violates the Eighth Amendment, Article I, section 14, and RCW 9.94A.730. Thus, Mr. Brooks is entitled to relief under RAP 16.4(b)(6).

If the petition is deemed a challenge to his sentence. *Miller,* its progeny, and the enactment of RCW 9.94A.730 are a material intervening change in the law establishing good cause under RAP 16.4. *See In re Personal Restraint of Lavery*, 154 Wn.2d 249, 261, 111 P.3d 837 (2005). *Montgomery* has said *Miller* applies retroactively and he has no other adequate remedy. *See State v. Scott*, 190 Wn.2d 586, 592, 416 P.3d 1182

(2018). Contrary, to the ISRB's contention in its Answer no rule required Mr. Brooks to file the present petition within one year of *Miller*. *See* RCW 10.73.090 Thus he is entitled to relief under RAP 16.4(c)(4).

E. Conclusion

The ISRB's refusal to apply the legislative remedy to Mr. Brooks's unconstitutional sentence renders his restraint unlawful. He is entitled to relief and this Court should grant his petition.

Respectfully submitted this 11th day of September, 2020.

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FILED
8/20/2019
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

In the Matter of the Personal Restraint of:	)	No. 79757-3-I
CARL ALONZO BROOKS,	)	ORDER DISMISSING PERSONAL RESTRAINT PETITION
Petitioner.	)	

In 1978, Carl Brooks pleaded guilty to three counts of first degree robbery, one count of first degree rape, one count of first degree kidnapping, one count of first degree assault, one count of second degree murder, and one count of first degree burglary, all while armed with a deadly weapon. The trial court sentenced him to a maximum term of life imprisonment. Since his incarceration, the Indeterminate Sentence Review Board has imposed minimum terms consistent with the recommendations of the sentencing judge and the prosecuting attorney and with the guidelines of the Sentencing Reform Act. See RCW 9.95.009(2). Over the years, Brooks has filed numerous personal restraint petitions challenging his 1978 judgment and sentence and the subsequent Board decisions.

In his current petition, Brooks appears to argue that he is entitled to petition for release under a statutory provision enacted in 2014 in response to evolving jurisprudence regarding juvenile sentencing, RCW 9.94A.730. See Laws of 2014, ch. 130, § 10. Brooks contends that the Board abused its discretion by refusing to apply the “Miller fix” statute and by considering disciplinary infractions that occurred

more than a year before his most recent parolability hearing. But because Brooks committed his offenses prior to the effective date of the Sentencing Reform Act of 1981 (SRA), the provisions of the SRA, including RCW 9.94A.730, do not apply. See RCW 9.94A.905.

Brooks's sentence is governed by the former indeterminate sentencing provisions of RCW 9.95. He received a sentence that was within the court's discretion to impose under those provisions. See In re Ayers, 105 Wn.2d 161, 162, 713 P.2d 88 (1986). Also, according to the documents Brooks has supplied in support of his petition, the Board most recently considered his parolability under RCW 9.95.100 in December 2018 and added 60 months to his minimum term.

Because Brooks's claim is time-barred, successive, and he makes no showing that he is entitled to relief, the petition must be dismissed. Now, therefore, it is hereby

ORDERED that the personal restraint petition is dismissed under RAP 16.11(b).

Mann, A.C.J.

Acting Chief Judge

STATEMENT OF PROSECUTING ATTORNEY AND SENTENCING JUDGE

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON, Plaintiff, v. CARL ALONZO BROOKS, AND OZIE DAVIS WHITFIELD, AND EACH OF THEM, Defendant.	NO. 8 4 7 4 4 Charge: Robbery in the First Degree, Counts I, VI and VII (RCW 9A.56.200, Class "A") Rape in the First Degree, Count II (RCW 9.79.170) Kidnaping in the First Degree, Count III (RCW 9A.40.020(1)(a)(b)(d), Class "A" felony) Murder in the First Degree, Count IV (RCW 9A.32.030) Assault in the First Degree, Count V (RCW 9A.36.010(1)(a), Class "A" felony); Burglary in the First Degree, Count VIII (RCW 9A.52.020), Class "A" felony; (while armed with a deadly weapon, and a firearm, as to all counts)

Pleaded guilty: May 11, 1978 to all counts, as charged, with the exception of Count IV, to which he entered a plea of guilty to an amended charge: "Murder in the Second Degree," (RCW 9A.32.050(1)(b), also with deadly weapon and firearm allegations.

Sentenced: 19 May 1978

To a term of not more than life

In such penal institution or correctional facility as the Secretary of the Department of Social and Health Services shall deem appropriate.

Sentencing Judge: William C. Goodloe

life as to each of cts II, III & VII consecutively

Minimum term recommended by the Sentencing Judge life and 8 consecutive terms years.

Minimum term recommended by Prosecuting Attorney life and 8 consecutive terms years.

CHRISTOPHER T. BAYLEY
Prosecuting Attorney

By [signature]
Deputy Prosecuting Attorney

Approved this 19 day of May, 1978.

Sentencing Judge: Wm C Goodloe

Copy received this _____ day of _____, 1978.

Attorney for defendant: [signature]
John L. Austin

Dictated by: Joanne Y. Maida

Received by King County Clerk_____Date_____

FILED
KING COUNTY, WASHINGTON
MAY 11 1978
SUPERIOR COURT CLERK
BY DEBORAH BARRETTE
DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON, Plaintiff, vs. Carl Alonzo Brooks, Defendant. 26 [illegible]	NO. 84744 STATEMENT OF DEFENDANT ON PLEA OF GUILTY

1. My true name is Carl Alonzo Brooks.

2. My age is 18.

3. My lawyer is [illegible].

4. The court has told me that I am charged with the crimes of Rob 1°-Ct. I; Rape 1°-Ct. II; Kidnaping 1°-Ct. III; Murder 1°-Ct. IV; Assault 1°-Ct. V; Robbery 1°-Ct. VI; Robbery 1°-Ct. VII; Burglary 1°-Ct. VIII (all Counts) the maximum sentence for which is not less than 20 years to life imprisonment on each of the Eight counts.

5. The court has told me that:

(a) I have the right to have counsel (a lawyer) and that if I cannot afford to pay for counsel, one will be provided at no expense to me.

(b) I have the right to a trial by jury.

(c) I have the right to hear and question witnesses who testify against me.

(d) I have the right to have witnesses testify for me. These witnesses can be made to appear at no expense to me.

(e) The charge must be proven beyond a reasonable doubt.

(f) I have the right to appeal.

(g) By entering a plea of guilty, I give up the rights listed in (b) through (f) and I will be sentenced on the basis of my plea.

6. I plead Guilty to the crimes of Robbery 1°-Ct. I; Rape 1°-Ct. II; Kidnaping 1°-Ct. III; Murder 1°-Ct. IV; Assault 1°-Ct. V; Robbery 1°-Ct. VI; Robbery 1°-Ct. VII; Burglary 1°-Ct. VIII (all Counts) as charged in the information, a copy of which I have received.

7. I make this plea freely and voluntarily.

8. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

9. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

10. I have been told the Prosecuting Attorney will take the following action and make the following recommendation to the court: [illegible] Count II from Murder 1° to Murder 2°. Recommend life imprisonment on each count and each sentence be to be concurrent.

11. I have been told and fully understand that the court does not have to follow the Prosecuting Attorney's recommendation as to sentence. The court is completely free to give me any sentence it sees fit no matter what the Prosecuting Attorney recommends.

12. The court has told me that if I am sentenced to prison the judge must sentence me to the minimum term required by the law, which in this case is 20 years. The minimum term of sentence is set by the board of Prison Terms and Paroles. The judge and prosecuting Attorney may recommend a minimum sentence to the Board but the Board does not have to follow their recommendations. I have been further advised that the crime with which I am charged carries a mandatory minimum of 5 years, if not applicable, this sentence shall be stricken and initialed by the defendant and the judge.

13. I understand that if I am on probation or parole, a plea of guilty to the present charge will be sufficient grounds for a judge or the parole board to revoke my probation or parole.

14. The court has asked me to state briefly in my own words what I did that resulted in my being charged with the crime in the information. This is my statement: [illegible] have read or have had read to me all of the numbered sections above (1 through 13) and have received a copy of "Statement of Defendant on Plea of Guilty". I have no further questions to ask of the court.

Carl Brooks
Carl L. Brooks

The foregoing statement was read by or read to the defendant and signed by the defendant in the presence of his attorney _____, Prosecuting Attorney _____ and the undersigned Judge in open court.

DATED this 11 day of May, 1978.

JUDGE

9/77

In the Superi Court of the Sta of Washington
For the County of King

THE STATE OF WASHINGTON Plaintiff,

vs.

CARL ALONZO BROOKS,

, Defendant

No. 8 4 7 4 4

Judgment and Sentence

CERTIFIED COPY

The Prosecuting Attorney with the defendant CARL ALONZO BROOKS and counsel John L. Austin, III came into Court. The defendant was duly informed by the Court of the nature of the information amended found against him for the crime of ROBBERY IN THE FIRST DEGREE, COUNTS I, VI AND VII; RAPE IN THE FIRST DEGREE, COUNT II; KIDNAPING IN THE FIRST DEGREE, COUNT III: MURDER IN THE SECOND DEGREE, COUNT IV; ASSAULT IN THE FIRST DEGREE, COUNT V; AND BURGLARY IN THE FIRST DEGREE, COUNT VIII (WHILE ARMED WITH A DEADLY WEAPON, AND A FIREARM, AS TO EACH OF THE EIGHT COUNTS).

~~committed on or about the day of 19~~, to which information amended the defendant entered a plea of "guilty on the 11 th day of May, 1978, to all eight counts as charged.

The defendant was then asked if he had any legal cause to show why judgment should not be pronounced against him, to which he replied he had none.

And no sufficient cause being shown or appearing to the Court, the Court renders its judgment:

That whereas the said defendant having duly pleaded "guilty" in this Court of the crime of ROBBERY IN THE FIRST DEGREE, COUNTS I, VI AND VII; RAPE IN THE FIRST DEGREE COUNT II; KIDNAPING IN THE FIRST DEGREE, COUNT III; MURDER IN THE SECOND DEGREE, COUNT IV; ASSAULT IN THE FIRST DEGREE, COUNT V; AND BURGLARY IN THE FIRST DEGREE, COUNT VIII; (WHILE ARMED WITH A DEADLY WEAPON, AND A FIREARM, AS TO EACH COUNT, PURSUANT TO RCW 9.95.040 and 9.41.025) it is therefore ORDERED, ADJUDGED and DECREED that the said defendant is guilty of the crime of ROBBERY IN THE FIRST DEGREE, COUNTS I, VI AND VII (RCW 9A.56.200); RAPE IN THE FIRST DEGREE, COUNT II (RCW 9.79.170); KIDNAPING IN THE FIRST DEGREE, COUNT III (RCW 9A.40.020(1)(a)(b)(d); MURDER IN THE SECOND DEGREE, COUNT IV (RCW 9A.32.050(1)(b); ASSAULT IN THE FIRST DEGREE, COUNT V (RCW 9A.36.010(1)(a); AND BURGLARY IN THE FIRST DEGREE, COUNT VIII(9A.52.02 (WHILE ARMED WITH A DEADLY WEAPON, AND A FIREARM, AS TO ALL COUNTS) and that he be sentenced to imprisonment in such penal institution or correction facility, under the jurisdiction and supervision of the Department of Social and Health Services, Division of Institutions, as the Secretary of the Department of Social and Health Services shall deem appropriate pursuant to the provisions of RCW 72.13.120, for a maximum term of not more than Life on Each Count, Cts III, II + IV Consecutive years, and a minimum term to be fixed by the Board of Prison Terms and Paroles.

The defendant is hereby remanded to the custody of the Sheriff of King County to be by him detained until called for by the transportation officers of the Department of Social and Health Services, Division of Institutions, authorized to conduct him to the Washington Corrections Center.

DONE IN OPEN COURT this 19th day of May, 1978

Judge

Presented by:

Deputy Prosecuting Attorney

BOARD OF PRISON TERMS AND PAROLES

Olympia, Washington

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Name: *BROOKS, Carl* Number: *259045* Institution: *WSP* Type of Meeting: *Admission* Date: *September 29, 1978* Members: *GWJ & PW*	DECISION AND REASONS

Board Decision:

King Co. #84744 - Robbery, Count I, VI & VII, Assault,First, Count V, Burglary First, Count VIII - all armed with a deadly weapon, minimum term TWENTY (20) YEARS - five years mandatory. Minimum term on Kidnapping First, Count III, while armed with a deadly weapon, TWENTY-FIVE (25) YEARS - five years mandatory. Rape, Count II while armed with a Deadly Weapon, minimum term TWENTY - FIVE (25) YEARS. Murder Second,

Reasons for Decision:

Count IV while armed with a Deadly Weapon, minimum term TWENTY (20) YEARS. This is a total minimum term of ninety years, all the causes are to run Consecutively.

Regarding Robbery, Count I,VI & VII, Assault, Count V and Burglary, Count VIII , these are concurrent to each other. Regarding the Rape First, Count II, there is a three year non-waivable mandatory. Reschedule 5-80 progress.

The crimes are well out-lined in the Prosecutor's statement, they are too horrendous in detail to discuss. The reason for the long minimum terms is that we feel this person should never be returned to the streets.

GWJ:ah

cc: Institution
Resident
File

STATE OF WASHINGTON
INDETERMINATE SENTENCE REVIEW BOARD

OLYMPIA, WASHINGTON

BROOKS, CARL A.	:NAME	
259045	:NUMBER	
ISRB	:INSTITUTION	DECISIONS
1400 PROGRESS REVIEW	:TYPE OF MEETING	AND
6/24/87	:DATE	REASONS
KA & RT	:PANEL MEMBERS	
BOX 77	:DOCKET NUMBER	

BOARD DECISION:

THE BOARD PANEL TAKES THE FOLLOWING ACTION: COUNT 1, MAINTAIN THE MINIMUM TERM AT 240 MONTHS. COUNT 2, MAINTAIN THE MINIMUM TERM AT 300 MONTHS. COUNT 3, MAINTAIN THE MINIMUM TERM AT 300 MONTHS. COUNT 4 AND 5, MAINTAIN THE MINIMUM TERMS AT 240 MONTHS EACH. COUNT 6, MAINTAIN THE MINIMUM TERM AT 240 MONTHS. COUNT 7, REDUCE THE MINIMUM TERM TO 122 MONTHS. COUNT 8, REDUCE THE MINIMUM TERM TO 95 MONTHS. THE NEXT ACTION WOULD BE AN ADMINISTRATIVE PROGRESS REVIEW IN 6/89.

REASONS:

MR. BROOKS HAS AN EXTENSIVE CRIMINAL HISTORY OF ROBBERY AND VIOLENT AND ASSAULTIVE ACTS INCLUDING RAPE AND MURDER. THESE 8 CAUSES COVER 4 SEPARATE INCIDENTS OF RAPE, KIDNAPPING, AND ROBBERY. COUNTS 1, 2, AND 3 INVOLVED ABDUCTING A WOMAN WITH HER 7 YEAR OLD SON IN HER CAR, TAKING HER PURSE, THEN RAPING THE WOMAN TWICE, ONCE BY EACH CO-DEFENDANT AND FORCING HER TO PERFORM ORAL SEX BY MR. BROOKS WHILE THE CO-DEFENDANT HELD THE CHILD AT GUN-POINT. BOTH WERE THEN LOCKED IN THE TRUNK AND THE DEFENDANT TOOK HER GROCERIES AND LEFT THEM LOCKED IN THE TRUNK, ABANDONING THE CAR. THE ORDEAL LASTED SOME 3 HOURS AND THE VICTIM CONTRACTED GONORRHEA. COUNTS 4 AND 5 INVOLVED A MURDER AND ASSAULT IN WHICH A PURSE SNATCHING THAT WENT AWRY. THE VICTIM'S HUSBAND WAS A SEMI-RETIRED POLICE OFFICER AND, WHEN HIS WIFE WAS ACOSTED IN THEIR DARK GARAGE, HE CONFRONTED THE TWO CO-DEFENDANTS AND DREW HIS WEAPON AND ANNOUNCED POLICE. MR. BROOKS WAS USING HIS WIFE AS A SHIELD AND FIRED AT HIM AND THE POLICE OFFICER RETURNED THE FIRE AND SHOT HIS WIFE. SEVERAL SHOTS WERE EXCHANGED AND BROOKS EMPTIED HIS GUN AND FLED. THE POLICE OFFICER RECEIVED TWO SERIOUS CHEST WOUNDS AND WAS IN INTENSIVE CARE FOR QUITE A-WHILE. HIS OWN WIFE WAS KILLED BY HIM WHEN HE WAS FIRING AT MR. BROOKS. MR. BROOKS GOT AWAY WITH THE PURSE. THE ROBBERY, COUNT 6, WAS AGGRAVAT-

(CONTINUED ON NEXT PAGE)

CC: INSTITUTION
RESIDENT
FILE

PB 213

RECEIVED
JUL 29 1987
WASHINGTON STATE PENITENTIARY

STATE OF WASHINGTON
INDETERMINATE SENTENCE REVIEW BOARD
NOTIFICATION OF SRA SCORING UNDER SHB 1400 REVIEW

PURSUANT TO BOARD POLICY AND SUBSTITUTE HOUSE BILL 1400 A REVIEW OF THIS INMATES MINIMUM TERM AND SENTENCING REFORM ACT GUIDELINES HAS BEEN MADE. SHB 1400 REQUIRES THE BOARD TO CONSIDER THE FOLLOWING IN THIS REVIEW:

1. THE PURPOSES, STANDARDS AND RANGES OF THE SRA,
2. THE RECOMMENDATIONS OF THE SENTENCING JUDGE AND PROSECUTOR, AND
3. THE SENTENCING AND DISPOSITION PRACTICES OF THE OLD INDETERMINATE SENTENCING SYSTEM.

THE SRA SCORING ON ALL COMMITTMENT OFFENSES FOLLOWS:

NAME: BROOKS, CARL
259045

CO	CAUSE#	OFFENSE	SL	OS	SRA RANGE	JAIL	ADJ RANGE	JDGE RECO	PA RECO	MAN
17	84744	ROB 1 CT 1	9	6	101-126	109	979-122	LIFE	LIFE	60
17	84744	RAPE 1ST CT 2	10	0	75-92	0	75-92	LIFE	LIFE	60
17	84744	KIDNAP 1 CT 3	10	0	75-92	0	75-92	LIFE	LIFE	60
17	84744	MURD 2 CT 4	12	0	123-164	0	123-164	LIFE	LIFE	60

BOARD DECISION

[ ] MAINTAIN ON CURRENT SCHEDULE.

[ ] SUBMIT PAROLE PLANS ASAP.

[ ] SCHEDULE PAROLABILITY (.100) HEARING ASAP.

[X] REDETERMINE MINIMUM TERMS.

CAUSE#	OFFENSE	NEW MIN TERM	NEXT BOARD ACTION
84744	ROB 1 CT 1	AFFIRM 240 MO	6/89 ADMINISTRATIVE PROGRESS REVIEW.
84744	RAPE 1 CT 2	AFFIRM 300 MO	
84744	KIDNAP 1 CT 3	AFFIRM 300 MO	
84744	MURDER 2 CT 4	AFFIRM 240 MO	

BOARD PANEL: RT & KA

RT:KP
7/16/87

RECEIVED
JUL 29 1987
WASHINGTON STATE PENITENTIARY

STATE OF WASHINGTON
INDETERMINATE SENTENCE REVIEW BOARD
NOTIFICATION OF SRA SCORING UNDER SHB 1400 REVIEW

PURSUANT TO BOARD POLICY AND SUBSTITUTE HOUSE BILL 1400 A REVIEW OF THIS INMATES MINIMUM TERM AND SENTENCING REFORM ACT GUIDELINES HAS BEEN MADE. SHB 1400 REQUIRES THE BOARD TO CONSIDER THE FOLLOWING IN THIS REVIEW:

1. THE PURPOSES, STANDARDS AND RANGES OF THE SRA,
2. THE RECOMMENDATIONS OF THE SENTENCING JUDGE AND PROSECUTOR, AND
3. THE SENTENCING AND DISPOSITION PRACTICES OF THE OLD INDETERMINATE SENTENCING SYSTEM.

THE SRA SCORING ON ALL COMMITTMENT OFFENSES FOLLOWS:

NAME: BROOKS, CARL A.
259045

CO	CAUSE#	OFFENSE	SL	OS	SRA RANGE	JAIL	ADJ RANGE	JDGE RECO	PA RECO	MAX
17	84744	ASSLT 1 CT 5	11	0	62-82	109	58-73	LIFE	LIFE	60
17	84744	ROB 1 CT 6	9	6	101-126	109	97-122	LIFE	LIFE	60
17	84744	ROB 1 CT 7	9	6	101-126	109	97-122	LIFE	LIFE	60
17	84744	BURG 1 CT 8	7	6	81-99	109	77-95	LIFE	LIFE	60

BOARD DECISION

[ ] MAINTAIN ON CURRENT SCHEDULE.

[ ] SUBMIT PAROLE PLANS ASAP.

[ ] SCHEDULE PAROLABILITY (.100) HEARING ASAP.

[X] REDETERMINE MINIMUM TERMS.

CAUSE#	OFFENSE	NEW MIN TERM	NEXT BOARD ACTION
84744	ASSLT 1 CT 5	AFFIRM 240 MO	6/89 ADMINISTRATIVE PROGRESS REVIEW.
84744	ROB 1 CT 6	AFFIRM 240 MO	
84744	ROB 1 CT 7	122 MONTHS	
84744	BURG 1 CT 8	95 MONTHS	

BOARD PANEL: RT & KA

RT:KP
7/16/87

STATE OF WASHINGTON

DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD

P.O. BOX 40907, OLYMPIA, WA 98504-0907

DECISION AND REASONS

NAME:	Brooks, Carl
DOC #:	259045
FACILITY:	Washington State Penitentiary
DATE OF HEARING:	November 13, 2018
TYPE OF HEARING	.100
PANEL MEMBERS:	Lori Ramsdell-Gilkey and Jeff Patnode
FINAL DECISION DATE:	December 3, 2018

This matter came before the above named Board Members of the Indeterminate Sentence Review Board (ISRB or the Board) for a .100 hearing in accordance with RCW 9.95.100. In preparation for the hearing, the Board reviewed Mr. Brooks' ISRB file. Mr. Brooks appeared in person and declined to be represented by an Attorney. Testimony was provided by Department of Corrections (DOC) Classification Counselor (CC) Tyler Tompkins.

The sentencing Judge and Prosecutor both recommended Life at the time of sentencing.

LAST BOARD DECISION:

At the September 24, 2013 hearing, the Board found Mr. Brooks not parolable and added 90 months to his minimum term.

CURRENT BOARD DECISION:

Based on the requirements of RCW 9.95.009(3) and RCW 9.95.100 and the totality of evidence and information considered by the Board, the Board finds that Mr. Brooks is not parolable and adds 60 months to his minimum term.

NEXT ACTION:

Schedule a .100 hearing approximately 120 days prior to his earned release date (ERD). A new psychological report will not be necessary.

REASONS FOR DECISION:

This was a deferred decision following a full Board discussion, using a structured decision-making framework that takes into consideration; the statistical estimate of risk, criminal history, parole/release history, ability to control behavior, responsivity to programming, demonstrated offender change, release planning, discordant information, and other case specific factors. Based on the requirements of RCW 9.95.100, the Board finds Mr. Brooks not parolable for the following reasons:

- **Risk Level III sex offender**
- **Has not completed risk related offender programming**
- **Continues to incur serious infractions and negative behavioral observations**
- **Recent psychological assessment and actuarial tools indicate a high risk for re-offense**

RECOMMENDATIONS:

Demonstrate consistent positive prison behavior. Participate in offense related offender programming as it becomes available, to include completion of the Sex Offender Treatment and Assessment Program (SOTAP) when eligible and Bridges to Life.

JURISDICTION:

Carl Brooks is currently serving confinement on a May 19, 1978 conviction of Count III, Kidnapping in the First Degree in King County under Cause #84744. His initial duration of confinement was set by the Board at 25 years. The standard range of the Sentencing Reform Act at the time was 75 to 92 months. His maximum term is Life. He began serving time on this count on September 20, 1991 and has served approximately 27 years on this count.

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Under this same Cause number he was also convicted of Counts I, VI and VII, Robbery in the First Degree while armed with a Deadly Weapon; Count V, Assault in the First Degree While Armed

with a Deadly Weapon; and Count VIII, Burglary in the First Degree While Armed with a Deadly Weapon. He began serving time on these offenses on May 19, 1978 and paroled from all of these on September 20, 1991 to begin serving Count III above.

In addition, Mr. Brooks was convicted of Count II, Rape in the First Degree While Armed with a Deadly Weapon and Count IV, Murder in the Second Degree, While Armed with a Deadly Weapon. The minimum term on Count II is currently set at 25 years and 20 years on Count IV. These two counts are to be served consecutive.

OFFENSE DESCRIPTION:

File materials describe the underlying offenses as follows: Counts I, II and III - The victims of the Robbery in the First Degree were a woman and her 7 year old son who were returning to their home after shopping. Mr. Brooks (age 17) and his crime partner (age 19) ordered the woman to drive around while he went through her purse, throwing the contents out the window. She was then ordered to drive them to a park where Mr. Brooks drug her from the car, raped her at gunpoint, and then drug her back to the car where his partner raped her. After forcing her to drive around, she and her son were placed on the floor in the back seat of the car and covered up with a coat. They were both finally put in the trunk and left. A passerby heard them yelling and opened the trunk. The woman contracted gonorrhea as a result of these rapes.

Counts IV and V involved an older husband and wife returning home after an evening out. The man was a retired law enforcement officer who had a gun. After retrieving a coat from the car, he saw that Mr. Brooks had grabbed his wife and was holding a gun to her. Mr. Brooks opened fire and a gunfight ensued until both were out of ammunition. Mr. Brooks then fled the scene. During this time the man was shot in the chest, and his wife was killed. Later testing showed that it was bullets fired from the husband's gun that killed his wife. The records describe that Mr. Brooks was using the wife as a shield. The man was in critical condition for some time but lived.

Count VI occurred January 29, 1978, only three hours after the previously described horrific shooting. Mr. Brooks and his crime partner carjacked a woman and forced her to drive them around, while trying to steal the transaction number for her bank card. Mr. Brooks stole her jewelry and $4.00 she had in her purse and she was eventually let go.

Counts VII and VIII occurred on January 30, 1978 when a woman returned to her home to find Mr. Brooks in her residence. He held a gun to her head and demanded credit cards and transaction numbers. He assaulted and kicked her in the head then tied her up with electrical cords. No crime partner was involved in this offense.

PRIOR CRIMINAL / RISK RELATED CONDUCT:

Mr. Brooks' juvenile criminal history includes the following: Strong Armed Robbery in 1973, Larceny in 1974, Assault and loitering in 1975, Assault Third degree and Burglary in 1976 and Auto Theft in 1977. He was remanded from Juvenile to Adult Court for the current convictions.

PROGRESS/BEHAVIOR:

Classification Counselor Tyler Tompkins testified that Mr. Brooks is currently employed as a Unit Custodian and is apparently doing well. He has incurred two serious infractions since his last ISRB hearing. These are Sexual Harassment and Refusing a Cell Assignment. The sexual harassment involved him telling a female staff that she was a beautiful woman. In today's hearing he stated the female staff person was dressed inappropriately. When further questioning was attempted about this behavior he stated, "I'm going to plead the fifth". (He reportedly stated this woman looked like a prostitute.) The Refusing a Cell Assignment infraction involved him refusing to accept a cell assignment upon his transfer to Coyote Ridge Corrections Center. When the ISRB attempted to discuss this with him he again, 'Plead the 5th'. He has received negative behavioral observations from staff as well. It appears his interactions can be fairly negative and he becomes loud when he doesn't get his way.

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Mr. Brooks did not appear to be interested in discussing his behavior in prison at all. He chose to focus on his legal issues which he described as the "Miller Fix" and the "Blakely Fix". He appears to believe that since he was a juvenile at the time of his offense he is supposed to be able to "petition" the Board for release. He was advised that the Board cannot do this as he is not eligible for the "Miller" fix. He also seems to believe that as a "Miller" case we cannot consider any serious infractions more than 12 months old. This is incorrect, even for true Juvenile Board cases.

Mr. Brooks then stated that he wanted the Board to consider what he believed to be "mitigating" circumstances such as his claim that his adult crime partner basically "defrauded" him into "contributing to his own delinquency as a minor" by threatening the victim in order to get her to engage in sexual intercourse with Mr. Brooks. In addition he stated that because his Dad was a military veteran some sort of liaison should have been appointed to him as a juvenile prior to his sentencing. He expressed displeasure in the fact that his co-defendant received a lesser sentence and released from prison some time ago. He fails to note that his co-defendant had no prior criminal history and had more positive behavior while in prison.

When asked if he would be willing to participate in the Sex Offender Treatment and Assessment Program (SOTAP) he stated it was his understanding that he would not be eligible because he does not have any prior sex offenses. We explained that this was not accurate. Though the record indicates he was previously found not amenable the Board expects him to complete this program at some point during his incarceration if he is to be released.

Mr. Brooks was insistent that he is eligible to go to a halfway house situation and be allowed regular furloughs to go job seeking. When encouraged to participate in available programming he indicated doing his legal work is his program.

The Board advised him that we expect him to demonstrate positive behavior and participate in recommended programming. We are hopeful that Mr. Brooks can begin to see that improving his prison behavior and participating in offense related programming can be a positive thing for

him and he can still work to have his case reviewed by the Courts and changes made to his sentence and possible release dates. One does not negate the other. By the end of the hearing Mr. Brooks appeared more comfortable and open to suggestions.

LRG: ch
November 28, 2018
December 3, 2018
December 4, 2018
December 5, 2018

cc: Institution
Attorney
File

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STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

TO: Full Board

FROM: Lori Ramsdell-Gilkey (Christine)

RE: BROOKS, Carl 259045

Panel recommends: Not parolable, add 60 months to MT.

Next action: Schedule .100 120 days prior to PERD. A new psych eval will not be needed.

Agree	Disagree
Lori Ramsdell-Gilkey 12-3-2018 **Jeff Patnode 12-3-2018** **Elyse Balmert 12-3-2018** **Kecia Rongen 12-3-2018**	

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STATE OF WASHINGTON
INDETERMINATE SENTENCE REVIEW BOARD
PO BOX 40907 • Olympia, Washington 98504 • (360) 493-9266 FAX (360) 493-9287

DECISION AND REASONS

NAME:	BROOKS, Carl
NUMBER:	259045
INSTITUTION:	Washington State Penitentiary
TYPE OF MEETING:	.100 Hearing
DATE:	October 26, 2010
PANEL MEMBERS:	TS & LD
FINAL DECISION DATE:	November 2, 2010

This matter came before Tom Sahlberg and Lynne De Lano, who are members of the Indeterminate Sentence Review Board (ISRB or the Board), on the above date for a release hearing in accordance with the provisions of RCW 9.95.100. Mr. Brooks appeared in person for the hearing and refused to be represented by counsel. Testimony was provided by Department of Corrections (DOC) Classification Counselor (CC) Laura Paul.

BOARD DECISION:
This was a Deferred Decision. Based on the requirements of RCW 9.95.009(3) and RCW 9.95.100 and the totality of evidence and information considered, the Board finds that Mr. Brooks is not parolable and adds 60 months to his minimum term.

NEXT ACTION:
Schedule a .100 hearing approximately 120 days prior to his next PERD.

JURISDICTION:
Mr. Brooks is under the jurisdiction of the Board for a number of serious felonies in which several people were hurt and one died. He was sentenced under King County #84744 for multiple counts, some that run concurrently with each other and some that run consecutively. The first block of offenses was for convictions of Robbery in the First Degree (while armed) Counts I, VI and VII;

Assault in the First Degree (while armed) Count V; and Burglary in the First Degree (while armed) Count VIII. The statutory maximum sentence for all these counts is Life. The Sentencing Reform Act (SRA) guideline range for counts I, VI, and VII was adjusted to 97-122 months. The Prosecutor and Judge both recommended Life. The SRA adjusted guideline range for count V was 58-72 months, with the same recommendations from the Prosecutor and Judge. The SRA adjusted guideline range for count VIII was 77-95 months, with the same recommendations from the Prosecutor and the Judge. Due to the Deadly Weapon finding on all counts there was also a 5 year mandatory sentence imposed on all counts. All counts ran concurrently. The time start for these Counts is 5/19/78. Mr. Brooks was paroled/transferred from this block of counts to the next consecutive count on 9/20/1991.

The current Count is Kidnapping in the First Degree Count III (while armed), which was ordered to run consecutive to the first block of counts. The adjusted SRA guideline range is 75-92 months with a minimum term of 300 months. The recommendation of both the Judge and Prosecutor is Life. There is also a mandatory 5 year sentence for the Deadly Weapon finding. The time start on this count is 9/20/91. To date Mr. Brooks has served approximately 229 months on this offense, and 389 months total.

He has two additional consecutive counts to serve if he is paroled/transferred from Count III. They are Rape in the First Degree (while armed) Count II and Murder in the Second Degree (while armed) Count IV. These are consecutive to each other and also consecutive to Count III. The adjusted SRA guideline range for the Rape is 75-92 months. The Judge and Prosecutor recommended life. The SRA guideline range for the Rape is 123-164 months.

At the 1400 review the MT on Count VII was redetermined to 122 months; the minimum terms on Count I, V and VI were maintained at 240 months; Count VIII was redetermined to 95 months; Counts III and II were maintained at 25 years; and Count IV was maintained at 20 years.

NATURE OF INDEX OFFENSE(S):
File materials describe the underlying offenses as follows: Counts I, II and III - The victims of the Robbery in the First Degree were a woman and her 7 year old son who were returning to their home after shopping. Mr. Brooks and his crime partner ordered the woman to drive around while he went through her purse, throwing the contents out the window. She was then ordered to drive them to a park where Mr. Brooks drug her from the car, raped her at gunpoint, and then drug her back to the car where his partner raped her. After forcing her to drive around, she and her son were placed on the floor in the back seat of the car and covered up with a coat. They were both finally put in the trunk and left. A passerby heard them yelling and opened the trunk. The woman contracted gonorrhea as a result of these rapes.

Counts IV and V involved an older husband and wife returning home after an evening out. The man was a retired law enforcement officer who had a gun. After retrieving a coat from the car, he saw that Mr. Brooks had grabbed his wife and was holding a gun to her. Mr. Brooks opened fire and a gunfight ensued until both were out of ammunition. Mr. Brooks then fled the scene. During this time the man was shot in the chest, and his wife was killed. Later testing showed that it was bullets fired from the husband's gun that killed his wife. The records describe that Mr. Brooks was using the wife as a shield. The man was in critical condition for some time but lived.

Count VI occurred 1/29/78, only 3 hours after the previously described horrific shooting. Mr. Brooks and his crime partner carjacked a woman and forced her to drive them around, while trying to steal the transaction number for her bank card. Mr. Brooks stole her jewelry and $4 she had in her purse and she was eventually let go.

Counts VII and VIII occurred on 1/30/78 when a woman returned to her home to find Mr. Brooks in her residence. He held a gun to her head and demanded credit cards and transaction numbers. He assaulted and kicked her in the head then tied her up with electrical cords.

OTHER CRIMINAL CONDUCT:
Mr. Brooks' juvenile criminal history includes the following: Strong Armed Robbery in 1973,

Larceny in 1974, Assault and loitering in 1975, Assault 3rd degree and Burglary in 1976 and Auto Theft in 1977. He was remanded from Juvenile to Adult Court for the current convictions.

HISTORY/COMMENTS:
Mr. Brooks' hearing was scheduled to be on August 24, 2010, but was continued to review a new Psychological Report. At that time the Board encouraged him to reconsider his refusal of counsel. The last full hearing was held at MICC on October 21, 2008 when the Board found him not parolable and added 36 months to his minimum term, during which time he was to remain infraction free for at least 2 years. Since that hearing he incurred 2 serious infractions on April 14, 2010 which stem from Mr. Brooks trying to hang himself then physically resisting staff that responded and were trying to help him. He completed "Victim Awareness" and "Family Dynamics" on/about 3/1/2010. He is currently unemployed but in the past has worked as a custodian and in correctional industries.

EVIDENCE CONSIDERED:
In preparation for Mr. Brooks hearing and its decision in this case, the Board completed a review of his Department of Corrections (DOC) and ISRB files. The Board considered all information contained in those files, including but not limited to: the most recent DOC facility plan; information regarding institutional behavior and programming; any letters of support and/or concerns sent to the Board; the Pre-Sentence Investigation report; and the most recent and previous Psychological Evaluations. The Board also considered the testimony of the witnesses listed above.

REASONS:
Mr. Brooks presented the panel a lengthy discourse of what he believed were the only important matters the Board needed to consider. After listening respectfully to his entire presentation, he concluded with the mandate that the Board was required to release him and then refused to answer any questions related to other matters.

The most recent Psychological Evaluation completed on 7/20/10 by Dr. Page describes 2 psychotic episodes; one in 1998 and the other following his recent suicide attempt. His risk to reoffend was described as; "difficult to gauge", his violence potential; "may be substantial" and his escape risk

as; "acceptably low". He was given diagnostic impressions of; Axis I: Psychosis NOS, now in full remission and, and Axis II: Antisocial Personality Disorder. A previous evaluation in 2008 by Dr. Pereira described him as a high risk to reoffend, high for psychopathy and moderately high for violence. During the interview for that report, Mr. Brooks described his crimes and indicated that he was smoking marijuana, drinking alcohol and taking Valium in excess during the period he committed his offenses. Information from a 1978 Psychiatric Report indicates that he reported being under the influence of a combination of alcohol, hallucinogens and other drugs on a daily basis for many months.

Mr. Brooks was encouraged to make legal arguments to the Court. He replied that in future hearings he would present them to the Board, as he did today and that he had no interest in discussing his personal attitudes or behaviors. It is unfortunately apparent that Mr. Brooks has chosen to insistently present legal matters during his hearing, and that he refuses the assistance of counsel, stating that attorneys refuse to present issues to the Board that he wants them to.

All things considered, Mr. Brooks has shown some improvement in his infraction record with the notable exception of attempting suicide and resisting staff in April. He has participated in some offender change programs, but refuses to consider participation in SOTP or CD treatment. As an untreated sex offender, admitted drug and alcohol abuser and convicted violent criminal he has shown little commitment to his own rehabilitation. Past records indicate that Mr. Brooks had been designated as a "Seriously Mentally Ill Offender" (SMIO). This has apparently been changed and Dr. Page did not deem him a candidate for Psychiatric referral. It is hoped that the full extent and nature of any mentally illness will be clarified prior to his next hearing.

TS:ch
October 29, 2010

CC: Institution
Mr. Brooks
File

STATE OF WASHINGTON
INDETERMINATE SENTENCE REVIEW BOARD
PO BOX 40907 • Olympia, Washington 98504 • (360) 493-9266 FAX (360) 493-9287

DATE: October 29, 2010

TO: Full Board

FROM: TS/LD (Christine)

RE: **Carl Brooks #259045**

Panel recommends:

Mr. Brooks be found not parolable and adds 60 months to his MT.

Next Action –Schedule .100 hrg. 120 days prior to next PERD.

AGREE	DISAGREE
TNS 10/28/10	
BRH 10/29/10	
DT 11-1-10	
LD 11-2-10	

Washington State Department of Corrections

Offender Management Network Information

DOC No.: 259045 Go

Selected DOC No.: 259045 BROOKS, Carl Alonzo

Home | Assignments | Offender | Facility | Search | Administration

Home > Offender > Sentence Information > View J & S - Prison

Return to Case Plan | Logged in as **Mandy Rose**

Sentence Information Menu

- View J & S – Prison
- View J & S – Field
- Conditions
- Earned Time
- Good Conduct Time
- Out Time
- Stoppage Time
- Problem J & S

Links

- OnBase
- CeField
- CePrison
- Policies
- Report Wizard

Inmate: BROOKS, Carl Alonzo (259045)

| Legal Face Sheet

Gender: Male | DOB: [redacted] | Age: 60 | Category: Regular Inmate | Body Status: Active Inmate

RLC: HV | Wrap-Around: No | Comm. Concern: No | Custody Level: Minimum 3 - Long Term Minimum | Location: CRCC — B / BA161L

ERD: 06/12/2052 | CC/CCO: Nunez, Aurelio

View J & S — Prison

Period Of Jurisdiction

Sentence Drilldown:

WEP Eligible Offender : No

Felony Firearm Registration : No

Display

Include Closed Causes Enable Scrolling

Details

ERD Calculations MaxEx Calculations StatMax Calculations

Graphical Sentence View

Cause	Count	Confinement Element	Consecutive Confinement	Status	Confinement Length	Time Start Date	ERD	MaxEx	Stat Max
Offender Overall				Active	90Y, 6M, 0D	05/19/1978	06/12/2052	Life	Life
AA–184744–King–PAR				Pending Field	19Y, 6M, 3D	05/19/1978	09/20/1991	Life	Life
	1– Robbery 1			Pending Field	19Y, 6M, 3D	05/19/1978	09/20/1991	Life	Life
		Base		–	19Y, 6M, 3D	05/19/1978	09/20/1991	08/02/1997	–
		Maximum Length		–	Life	05/19/1978		Life	–
	5– Assault 2			Pending Field	19Y, 6M, 3D	05/19/1978	01/30/1988*	01/30/1988*	01/30/1988
		Base		–	19Y, 6M, 3D	05/19/1978	01/30/1988*	01/30/1988*	–
		Maximum Length		–	Life	05/19/1978		Life	–
	6– Robbery 1			Pending Field	19Y, 6M, 3D	05/19/1978	09/20/1991	Life	Life
		Base		–	19Y, 6M, 3D	05/19/1978	09/20/1991	08/02/1997	–
		Maximum Length		–	Life	05/19/1978		Life	–
	7– Robbery 1			Pending Field	10Y, 2M, 0D	05/19/1978	01/29/1985	Life	Life
		Base		–	10Y, 2M, 0D	05/19/1978	01/29/1985	03/30/1988	–

Maximum Length		–	Life	05/19/1978		Life	–
○ 8– Burglary 1		Pending Field	7Y, 11M, 0D	05/19/1978	07/31/1983	Life	Life
Base		–	7Y, 11M, 0D	05/19/1978	07/31/1983	12/30/1985	–
Maximum Length		–	Life	05/19/1978		Life	–
◉ AB–184744–King–PAR [ISRB Minimum Term Adjustments]	AA–184744–King–PAR	Active	45Y, 6M, 0D	09/20/1991	06/14/2022	Life	Life
○ 3– Kidnapping 1		Active	45Y, 6M, 0D	09/20/1991	06/14/2022	Life	Life
Base		–	45Y, 6M, 0D	09/20/1991	06/14/2022	03/20/2037	–
Maximum Length		–	Life	09/20/1991		Life	–
○ AC–184744–King–PAR	AB–184744–King–PAR	Future	25Y, 0M, 0D	06/14/2022	02/12/2039	Life	Life
○ 2– Rape 1		Future	25Y, 0M, 0D	06/14/2022	02/12/2039	Life	Life
Base		–	25Y, 0M, 0D	06/14/2022	02/12/2039	06/13/2047	–
Maximum Length		–	Life	06/14/2022		Life	–
○ AD–184744–King–PAR	AC–184744–King–PAR	Future	20Y, 0M, 0D	02/12/2039	06/12/2052	Life	Life
○ 4– Murder 2		Future	20Y, 0M, 0D	02/12/2039	06/12/2052	Life	Life
Base		–	20Y, 0M, 0D	02/12/2039	06/12/2052	02/11/2059	–
Maximum Length		–	Life	02/12/2039		Life	–

Sanctions

Maintain: View | Update | Modify J & S | Cancel Modify | Delete | View J & S Versions

Create: Add Cause | Add Count | Copy Count

Action: Calculate | Analyze | Print

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

IN RE THE PERSONAL RESTRAINT PETITON OF	)	
	)	
	)	
CARL BROOKS,	)	NO. 97689-9
	)	
	)	
Petitioner.	)	

DECLARATION OF DOCUMENT FILING AND SERVICE

I, MARIA ARRANZA RILEY, STATE THAT ON THE 11TH DAY OF SEPTEMBER, 2020, I CAUSED THE ORIGINAL **BRIEF OF PETITIONER** TO BE FILED IN THE **COURT OF APPEALS – DIVISION ONE** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

[X] TIMOTHY LANG, AAG [tim.lang@atg.wa.gov] [correader@atg.wa.gov] OFFICE OF THE ATTORNEY GENERAL DEPARTMENT OF CORRECTIONS PO BOX 40116 OLYMPIA, WA 98504-0116	( ) ( ) (X)	U.S. MAIL HAND DELIVERY E-SERVICE VIA PORTAL

SIGNED IN SEATTLE, WASHINGTON THIS 11TH DAY OF SEPTEMBER, 2020.

X_____

Washington Appellate Project
1511 Third Avenue, Suite 610
Seattle, WA 98101
Telephone (206) 587-2711
Fax (206) 587-2710

WASHINGTON APPELLATE PROJECT

September 11, 2020 - 3:57 PM

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Filed with Court:	Supreme Court
Appellate Court Case Number:	97689-9
Appellate Court Case Title:	Personal Restraint Petition of Carl Alonzo Brooks

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