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Washington State
Supreme Court

No. 97689-9

SUPREME COURT OF THE
STATE OF WASHINGTON

BROOKS' MOTION FOR DISCRETIONARY
REVIEW RAP 13.5A

IN RE: PERS. RESTRAINT
PETITION OF: CARL ALONZO BROOKS
PRP. No. 79757-3-1

BROOKS' REPLY TO INDETER-
MINATE SENTENCE REVIEW
BOARD'S ANSWER

CARL BROOKS #259045
COYOTE RIDGE CORRECTION CENTER
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PETITIONER PRO SE

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SUPREME COURT STATE OF WASHINGTON

CARL ALONZO BROOKS, Petitioner- v. Indeterminate SENTENCE REVIEW Board, (ISRB) Respondent.	No. 97689-9 PRP. No 79757-3-1 Brooks' Reply To Indeterminate SENTENCE REVIEW Board Answer

BROOKS' REPLY

1. The ISRB's Answer to my (Pet. Brooks) motion for Discretionary REVIEW argument that ISRB or legislature denial of equal protection happened where RCW 9.94A.730 enactment in light of Miller v. Alabama, 567 U.S. 460, 132 S.ct. 2455, 183 LEd2d 407 (2012) is a statutory classification that violates equal protection Clause

Cause it (denial of retroactivity) fails to further a legitimate State interest. SEE Mot. FOR Discret. Review pp. 17-18, para. 22 and 23.

2. Equal Protection Violation occurs when impermissible distinctions are drawn between two members of the same class, id. pp. 17-18, citing Duffy v. Dept. of Social & Health Services, 90 Wn2d 673, at 677, 585 P.2d 470 (1978).

3. Clearly, the ISRB did not file any answer to my (Pet. Brooks) argument that the Legislature's Silence by RCW 9.94A.730 (2014) enactment therefore requires Retroactive application to me (Pet. Brooks) as a Pre-SRA Juvenile because in State v. Weatherwax, this state high Court announced that Silence by any State Legislative enactment "Requires us to interpret the Statute strictly in favor of the defendant." id. at 154-55, 392 P.3d

1055 (2017); SEE also, Brooks' mot. Discret. Review at pp. 22-23

4. To that end, also my (Pet. Brooks) motion pointed out that "states may not, without violating the equal protection clause of the United States Constitution construct arbitrary classifications." SEE Brooks mot. for Discret. Review at p. 14, citing Hsieh v. Civil Serv. Comm., 79 Wn.2d 529 at 530, 488 P.2d 516 (1971).

5. There is clear suspect classification where the record shows the rape victim described about 90-seconds (ninety-seconds) of robbery-motivated rape behavior against me (Pet. Brooks) as a 17-year old minor (or juvenile), while in the case of my adult co-defendant (Ozie Whitfield) who was 20-years old, during the Jan 27th 1978 rapes on the same 35-year old female victim, who wrote the January 28, 1978 police report No. 78-32647, which described about 40-minutes of

sexual motivated Rape behavior against my (Pet. Brooks') adult Co-defendant (ozie whitfield) SEE Appendix 2 (includes verbatim copy).

6. The ISRB's Answer tries to make a sex offender Treatment Program Case against me (Pet. Brooks') the juvenile Robbery-motivated suspect-defendant, and is silent on what, if any, kind of sex offender Treatment Program ozie whitfield was subjected to, so this ISRB silence is ambiguous, and by Rule of lenity, requires this State high Court to hold the ISRB to the same standards as announced in State v. Weatherwax, supra, that is, the ISRB did not subject the adult, sex motivated ozie whitfield to SOTP, so it can't arbitrarily subject me (Pet. Brooks) Robbery-motivated juvenile, as is evidenced by

by the rape victim's statement that - "He unzipped or lowered his pants, but didn't undress. He forced me to have sexual intercourse with him and oral sex. This all didn't take much time." SEE Appendix 2, at p. 2 of verbatim lines 1-3;

7. In adult codefendant Ozie Whitfield rapes on her, Maureen Bekemeyer stated - in part,

"Suspect #2 who took me to same side of road as the car... forced me to undress... forced me to have sexual intercourse with him. He asked me if I had ever fucked a nigger before, I said no. He asked if I liked it. I didn't reply, so he asked me again, more insistently, so I said, yess. He then made me perform oral sex on him and he made me french kiss him." SEE Appendix 2, p 2 (verbatim) at lines 7-14; Compare with Appendix 3

8. Here, I (Pet. Brooks) point out another arbitrary discrimination between me and Ozie Whitfield where in 1993 ISRB History/

Comments, shows ISRB stating, in part, that - "He and his crime partner took her to a park where Brooks robbed her and raped her."
SEE APPENDIX 4, p. 2 (underlined text)

9. Clearly by the Police Report & Maureen Suspect # 2 is Ozie Whitfield, and Suspect # 2, accord Maureen Police Report is the one who threw things from her purse, out the window of her car as she drove. APPENDIX 2, p. 1 (verbatim) lines 16-18

10. Therefore, the ISRB made a false and vexatious and slander of only me (Pet. Brooks), while never even alleging robbery against Ozie Whitfield, in fact the entire 3-page 1993 Decision never even mentions Ozie Whitfield's name. APPENDIX 4 (3-pages)

11. Also, the ISRB 1993 Decision arbitrarily states "The [RCW 9.95] .052 [Report] is POOR based on his criminal record and the fact

that he is a untreated sex offender." SEE APPENDIX 4, at P. 3 (underlined text)

12. That statement in light of the record herein APPENDIX 2 rape victim Maureen Bekemeyer's Police Report, and abovemention Paragraphs 5, 6 and 7, which shows my (Pet. Brooks') juvenile behavior a 90-seconds of Robbery motivated, when compared to Ozie Whitfield's over 40-minutes of sexually motivated rape. SEE This Reply at pp. 3, 4 & 5.

13. This is conscious shocking since as explained in BOYSEN V. HERZOG, U.S. Dist. LEXIS 147765 at Para. 5 & 6 (9th CIR. 2014) ~~that~~ -

In Portney two men were charged with two felonies with sentence enhancements... 43 Wn. App. at 458-59. One man promised to plead guilty and testify, and in return the state dropped the sentence enhancements, and one of the felony charges. 43

Wn. App. at 459. The trial ... forbade the defense from inquiring into the witness's lighter sentence. 43 Wn. App. at 459. On Appeal, we held that blocking the defendant's cross-examination on the length of the witness's sentence violated the Confrontation Clause; explaining: Such cross-examination is the Price the State must Pay for admission of a co-defendant's testimony to that Plea. The jury needs to have full information about the witness's guilty Plea in order to intelligently evaluate his testimony about the crimes allegedly committed with the defendant. Portney, 43 Wn. App. at 461.

14. A copy of Ozie Whitfield's guilty Plea, regarding the rapes States — on January 27, 1978 I, along with Carl Brooks who was arm with a gun, forced Maureen Beckemeyer to drive us in her Vehicle (a 1970 Mercedes). Money

and credit cards were taken from her by means of force. Maureen Bekemeyer states that I had intercourse with her and I am satisfied that I would be found guilty at trial; this intercourse was preceeded by the use of a gun against her. we then locked her and her son in the trunk of her vehicle and drove them to where we left the car. SEE APPENDIX 5, P. 3, para. 14.

15. Ozie Whitfield's guilty Plea, Judgment and sentence and ISRB (Board of Prison Terms & Paroles) Record shows Whitfield was sentenced to life maximum on five counts which includes count II rape and count III kidnap which are relevant to ISRB Answer, and on those (ct. II rape & ct. III kidnap) the judgement recommend 15-minimum be set by ISRB, and Prosecutor recommend 20-years minimum; and the Board,

fixed 20-years concurrently for ozie whitfield. SEE APPendix 5, at P. 5; SEE Also, APPendix 6; and APPendix 7 (2-Pages).

16. At no time does the ISRB's fixing of ozie whitfield minimum term did the ISRB even mention if whether or not whitfield would need sex offender treatment Prior to Parole release. SEE APPENDIX 7 (2-Pages)

17. Therefore, when the ISRB transfer the Counts I, V, VI, VII + VIII in 1993, so I (Pet. Brooks) stated to serve the Count III Kidnap 25-years Consecutive sentence, the ISRB arbitrarily stated - "The .052 is Poor based on the fact that he is an untreated sex offender." This, therefore, is deliberate indifference. SEE APPendix 4, at P. 3 (underlined text)

18. In State V. Brown, WN. APP. LEXIS 1858 (1997) it was announced that The denial of a defendant's

right to cross-examine a witness adequately as to relevant matters tending to show bias or motive will violate the Sixth Amendment right of Confrontation. citing State v. Buss 76 Wn. App. 780, 788-89, 887 P.2d 920 (1995). This concern is especially acute when the witness has pled guilty and is testifying against a codefendant. citing State v. Portnoy, 43 Wn. App. 455, 718 P.2d 805, review denied 106 Wn.2d 1013 (1986).

19. Therefore, the ISRB's Answer, regards to Equal Protection rights, must be looked or viewed as a denial of my (Pet Brooks) equal right to cross-examine the Ozie Whitfield guilty plea regards to rape and kidnap counts II and III, since deliberate indifference is conduct engaged in for very purpose of causing harm because (1) the official is aware of fact that not

reviewing, hearing and determining merits of Maureen Bekemeyer's Police Report as favorable to my behavior as robbery motivated and ozie whitfield's behavior was sexually motivated subjects me (Pet. Brooks) to slanderous false juvenile leader of adult, and false sex motivation label. SEE Henton v. Ramsey, 528 F. Supp. 2d 1058, 1063 (9th Cir. 2007).

20. The ISRB also violates the Rule announced in Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 LEd2d 215 (1963) because the ISRB Answer denies equal Protection against infliction of Cruel and unusual Punishment because the ISRB argues the right to treat me (Pet. Brooks) harsher, while also withholding favorable Maureen Bekemeyer Police Report that shows Miller v. Alabama, supra, parole Release should be granted in my (Pet. Brooks)

Case since RCW 9.94A.730 Miller fix legislation is silent on this issue of equal Protection denial by so called rational basis is not denied, according to ISRB Answer RCW 9.94A.730 Miller fix

"Board determined that Brooks was not yet a suitable candidate for Parole because he had not yet completed treatment." SEE ISRB Answer at p. 14 (Appendix 8, p. 14 underlined text)

21. Also, the ISRB Answer Pretends that I (Pet. Brooks) was Parole released by stating—

"The Board considered Brooks for Parole (and Paroled him)"...

SEE APPENDIX 8, p. 14 (underlined text)

22. The real language the ISRB used was—

"The full Board authorizes transfer of time start from Counts I, V, VI, VII + VIII to count III"

SEE Appendix 4, P. 1 (underlined text)

23. Therefore, ISRB is arbitrary and deliberately indifferent which is by U.S. Supreme Rule cruel and unusual punishment. SEE Johnson v. California, 543 U.S. 499, 511, 160 LEd2d 949, 125 S.Ct. 1141 (2005) - We judge violations of that [eighth] Amendment under the deliberate indifference standard.

SEE Also, Furman v. Georgia, 408 U.S. 238, 249, 33 LEd2d 346, 92 S.Ct. 2726 (1972) stating - A Penalty should be considered unusually imposed if it is administered arbitrarily or discriminatorily.

24. Therefore, since Ozie Whitfield's sex motivated over 40-minutes of rape on Maureen Bekemeyer was not label as sex offender in need of treatment (Appendix 7; SEE also Appendix 3; and All the 12 total Appendixes to ISRB ANSWER) then Compare my Pet.

Brooks') Robbery-motivated 90-seconds behavior (APPENDIX 2 P. 2, lines 1-3 namely - "This all didn't take much time.")

25. The Rule is that An Agency violates the United States Constitution and acts arbitrary and capricious by violations of Substantive Due Process. SEE Danielson V. Seattle, 45 Wn. App. 235, 244, 724 P. 2d 1116 (1986); citing Goodisman V. Lytle, 724 F. 2d 818, 820-21 (9th Cir. 1984)

26. Also, the ISRB Answer never considered or argued against my (Pet Brooks) motion OR PRP Fundamental Rights issues with the State legislatures' silence on RCW 9.94A.730 Retroactivity, Silence regards me as Pre-SRA Juvenile being subjected to ISRB life without Possibility OF Parole Release. The strict Scrutiny test applies when legislative Classification affects fundamental Rights. SEE

State v. Smith, 93 Wn.2d 329, 336, 610 P.2d 872 (1980).
— A claim of cruel and unusual punishment could not be considered until his minimum term had been set by the Board of Prison Terms and Paroles. The defendant must show the punishment which he [received] (suffers) by reason of the sentences imposed is cruel and unusual. SEE State v. Smith, supra, 93 Wn2d at 342.

27. In Gregg v. Georgia, 428 U.S. 153, 174-75, 49 LEd2d 859, 96 Sct. 2909 (1976) announced that — we may not require the legislature to select the least severe penalty possible so long as the penalty selected is not cruelly inhumane or disproportionate to the crime involved.

28. Therefore, the ISRB Answer must be seen as speculation and conjecture where ISRB disregards rape victim's Police Report evidence

favoring a finding that my (Pet. Brooks) behavior was robbery-motivated and Ozie Whitfield was sex motivated, yet ISRB fixed 50-years for Ct. II rape and Ct. III kidnap against me, but only fix 20-minimum against Ozie Whitfield. SEE APPENDIX 4 and APPENDIX 7.

29. An abuse of discretion may be found where the ISRB bases its decision on speculation and conjecture. SEE In re Pers. Restraint of Dyer, 175 Wn.2d 186, at 196 (2012).

30. An Equal Protection violation may be established by showing that similarly situated individuals were intentionally treated differently without a rational relationship to a legitimate state purpose. Village of Willowbrook v. Olech, 528 U.S. 562, 564, 120 S.Ct. 1073, 145 L.Ed.2d 1060 (2000); SEE also, Peterson v. Hagen, 56 Wn.2d 48, 53, 351 P.2d at 160 (1960).

31. A Court must undertake an exact analysis of Circumstances before any abuse of Power is Condemned as Conscience Shocking. SEE County of Sacramento v. LEWIS, 523 U.S. 833, 850, 118 S.Ct. 1708, 140 LEd2d 1043 (1998).

32. By this state high Court it was announced that - In order to abuse its discretion in determining the length of an exceptional Sentence above the standard range, the trial court must rely on an impermissible reason or impose a sentence which is so long that, in light of the record, it shocks the Conscience of the reviewing Court. SEE State v. Ross, 71 Wn. App. 556, 571-72, 861 P.2d 473, review denied 123 Wn.2d 1019 (1994)

33. In re: Pers. Restraint of Dyer, 164 Wn2d 274, 307, 189 P.3d 762 (2007) similarly, regards to ISRB minimum terms about the standard SRA or Pre-SRA

exceptional minimums, like mine (Pet. Brooks) that's above both SRA and Pre-SRA Indeterminate law standard 5-year mandatory Ranges; LN re Dyer, explains that - the test for whether a Particular action shocks the Conscience must be appropriately tailored to the factual Context at hand and must be determined by balancing liberty interest against the relevant state interests. id. at 307, 189 P.3d 762 (2007)

34. Therefore, this state high Court can believe that my (Pet. Brooks) Part in the rape on maureen Bekemeyer, although central merely because I (Pet. Brooks) went, or was the first one to rape Maureen, was actually ancillary (or subordinate) to that of ozie whitfield, who had used his adult (20-year old) age to Peer Pressure me (Pet. Brooks) while I was a minor (17-years old); also, in maureen's own Police Report

My (Pet. Brooks) behavior was Robbery-motivated 90-Seconds oral and Vagina only rapes; while ozie whitfield behavior was sexually-motivated over 35-40-minutes, and in addition to oral and Vaginal rapes, whitfield forced maureen to French kiss with him and answer sexually explicit questions designed to enhance ozie's sexual appetite; and because the Presentence Report alleges maureen was determined by Group Health Hospital to have contracted Gonorrhea as a result of the rapes. APPENDIX 2 (verbatim at P. 2, lines 1-16; APPENDIX 3, lns. 19-21.

ozie whitfield's conduct rationally can be found to be more dangerous, and more likely to be a high risk to reoffend.

35. Additionally, the Frye Doctrine and Rule of state and federal decisions on Scientific expert opinion testimony shows

that gonorrhea is contracted by anal rapes, four or more times, therefore only ozie whitfield's over 40-minutes of raping Maureen shows only whitfield had time, opportunity and sexual motivated behavior it took to infect Maureen with the Gonorrhea. SEE Merick Manual of Diagnosis & Therapy, Chapter 202, Sec. 15, pp. 1704-1705 (20th Edition 2018) (explaining that anal sex causes gonorrhea to the receptive female) SEE also, Davis v. United States, 865 F.2d 164, at 167 (8th Cir. 1988); and United States v. Amaral, 488 F.2d 1148, at 1152 (9th Cir. 1973) (explaining that it take four Rapes to cause a 60 to 80-Percent chance that Victim Contracts gonorrhea.)

36. In this manner, it's cruel and unusual by Equal Protection Clause Violations that ISRB applied the sex offender Treatment Program Classification

in conscience shocking style, which the ISRB in Dyer, supra was found to violate by ISRB use of conjecture and speculation, rather than objective facts. In re: Dyer, supra 164 Wn2d at 280.

37. This meets the Eighth Amendment violation herein since ISRB is depriving me (Pet. Brooks) of humane, evolving standard of decency of Miller v. Alabama, supra, and deprivation meets the objective point, since ISRB denies that minimal parole release Miller v. Alabama requires ISRB to grant me (Pet. Brooks), and ISRB acts deliberately indifferent, since I (Pet. Brooks) am mentally distressed and suffering the SOTP label without rational basis for denial of assessment or justification where co defendant Ozie Whitfield was not label by SOTP Classification and

Mandatory Participation in Prison. SEE Hoptowit v. Ray, 682 F.2d 1237, 1258 (9th Cir. 1982); SEE also, Brooks' Motion for Discretionary Review, at pp. 16-17.

38. By RAP 13.4(b)(3) this Petition for Review can be granted by this state high Court because it contains a significant question of law under the Constitution of the state of Washington or of the United States Constitution is involved. RAP 13.4(b)(3); SEE also Johnson v. California, supra; & Furman v. Georgia, supra; Gregg v. Georgia, supra; State v. Smith, supra.

39. The Rule deeply Rooted in this state high court, just like the federal, is that "we will infer a consequence from an established Circumstance. SEE Brucker v. Matson, 18 Wn.2d 35 at 382, 139 P.2d 277 (1943).

Conclusion

Wherefore, this state supreme court should grant REVIEW and order ISRB to Parole Release with conditions by the United States Supreme Court's Miller v. Alabama, supra Rule.

I Carl Brooks, declare under penalty of Perjury, laws of the state and United States that the foregoing is true and correct.

Respectfully Submitted 26th day March 2020

Carl Alonzo Brooks

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Petitioner Pro se

APPENDIX 1

FILED
SUPREME COURT
STATE OF WASHINGTON
1/6/2020
BY SUSAN L. CARLSON
CLERK

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In the Matter of the Personal Restraint of: CARL ALONZO BROOKS, Petitioner.	No. 97689-9 Court of Appeals No. 79757-3-I RULING

Carl Brooks is currently serving an indeterminate prison sentence on his guilty plea to several serious crimes he committed in 1978, when he was 17 years old. He has been paroled on several of his convictions, and he is currently serving his sentence on a conviction for first degree kidnapping. For that crime, he was sentenced to a minimum term of 25 years and a maximum term of life. Mr. Brooks began serving that sentence in September 1991, and though more than 25 years have passed since then, the Indeterminate Sentence Review Board has extended his minimum term, most recently adding five years in 2018. If he is ever paroled from that sentence, Mr. Brooks still faces a consecutive term of 25 years to life for a first degree rape conviction and a further consecutive term of 20 years to life for a second degree murder conviction.

In March 2019 Mr. Brooks filed a personal restraint petition in Division One of the Court of Appeals, arguing that he is entitled to petition the board for early release under the "*Miller*-fix"[1] statute, RCW 9.94A.730, a position the board rejected at

[1] Based on *Miller v. Alabama*, 567 U.S. 460, 132 S. Ct. 2455, 183 L. Ed. 2d 407 (2012).

Mr. Brooks's last parolability hearing. Because the statute is part of the Sentencing Reform Act (SRA), the acting chief judge determined it is inapplicable to Mr. Brooks as a pre-SRA offender and therefore dismissed his petition. Mr. Brooks now seeks this court's discretionary review. RAP 16.14(c).

The Court of Appeals did not ask the board to respond to Mr. Brooks's petition, and therefore no respondent has been designated and the board has not answered Mr. Brooks's motion for discretionary review. I conclude that an answer from the board may be helpful in considering this motion for discretionary review. The Indeterminate Sentence Review Board is therefore designated respondent and is directed to file an answer to Mr. Brooks's motion for discretionary review. Without limiting the board's discussion, the board should at least address whether Mr. Brooks may petition for relief under RCW 9.94A.730, and if not, whether the absence of opportunity to seek relief under that statute raises constitutional concerns. The board shall file its answer by March 6, 2020. Mr. Brooks may file a reply not later than May 6, 2020.

Walter M. Burtz
DEPUTY COMMISSIONER

January 6, 2020

APPENDIX 2

SEATTLE POLICE DEPARTMENT Incident No. 78-32647
01-28-78 time: 1300 Place: Station
Verbatim Statement of: Maureen P. Bekemeyer:

I was returning from grocery shopping at Safeway in U. Village shortly before six. I stopped the car, left it running in front of the garage door and got out and opened the garage door, which was closed but unlocked. I got back in the car and drove it into the garage. Before I could get out of the car, a man opened my car door and pointed a gun at my neck, and told me to move over. At the same time another man climbed into the back seat (suspect #2). Suspect #1 indicated he couldn't drive my car, so switched places with me again. He sat in the front seat next to the window beside my son Colin. Suspect #2 who remained in the back-seat, gave most of the directions as to where I was to go. He directed me up Pike, one block south on 37th to Cherry and then west on Cherry to 35th. At that point, I wound my way through Leschi area to a corner near Leschi school. I then drove down to Lake Washington Blvd. leading south. As I drove through a wooded area (600) block, Suspect #2 began throwing things out of my purse. Right before he threw things out he asked me why I didn't have any money. I replied that I never carried money, that I wrote checks. Suspect #1 checked my pockets to see if I had any money in them. As we drove through a very deserted area of Lake Washington Blvd, Suspect #2 seemed to know exactly where he wanted me to stop. He had me back up and then pull in on the west side of the road not too far from a big tree. After I stopped the car, suspect #1, reached across the seat to me and started unbuttoning my blouse. When I realized what he wanted to do I told him I didn't want to be raped in front of Colin. So suspect #1 got out of the car with me, carrying the gun while Suspect #2 stayed in the car with Colin. Suspect #1 took me across the road and down into a small hollow where he told me to undress. When I wasn't fast enough for him, he ripped several buttons off my skirt and pulled it off. After I was completely undressed, he told me to lie down in

the leaves. He unzipped or lowered his pants, but didn't undress. He forced me to have sexual intercourse with him and oral sex. This all didn't take much time. He then instructed me to get up and get dressed, but he didn't give me enough time, so I left my hose, shoes, underpants and maybe my skirt in the underbrush. He pulled me back to the car. He got in, gave the gun to Suspect #2, who then took me to the same side of the road that the car was on and forced me to undress again. He then forced me to have sexual intercourse with him. He asked me "if I had ever fucked a nigger before," I said "no." He asked me "if I liked it." I didn't reply, so he asked me again, more insistently, so I said, "yees." He then made me perform oral sex on him and he made me french kiss him. He then pulled me back to the car. He made sure I had my blouse on so I would look presentable when I drove. Between rapes when I was brought back to the car, I realized they suspect #1 had broken my rear view mirror and glass was scattered around even on Colin, who was laying on the floor of the front seat, passenger side of the car.

I was then instructed to drive back the way we had came until we came to Massachucetts where we turned left and went up a steep hill 32nd I think. We then drove to 31st and Jackson 31st & Yesler. We then drove through the Leschi area in which I remember traffic dividers. I am relatively certain we crossed Cherry & drove through some alleys (without lights on) until we stopped about mid-block. Suspect #2 got out to get gloves I think, so he could drive. The two of them had had some discussion about this. Also, at some point suspect #2 mentioned trying to get some money for. We waited for suspect #2 to return. He returned approaching from the front of the car from down the alley.

Colin and I were then put on the floor of the back seat & my head was covered up with my coat. Suspect #2 tried to drive my car. He didn't understand the manual transmission & killed the engine many times, shifted into the wrong gears etc. We then drove around aimlessly. the car radio was turned

up so I couldn't hear their conversation. My feeling is that we couldn't have driven too far because suspect #2 couldn't drive well & it didn't seem too long a time, say 10 min. At some point suspect #2 killed the engine & couldn't get it going. I heard a male voice ask if they needed help. It is my impression that we were pushed for a minute, but Colin and I were cautioned to stay down & keep quiet.

The car then stopped in a parking lot, perhaps in a park. My impression was of trees beside the lot. We were told to stay down while my grocery sacks were shifted from the trunk to the back seat (Suspect #2 had checked the trunk, I believe, when we stopped the 1st time. Colin and I were then put in the trunk and we were driven away. We drove for awhile and stopped someplace where my groceries were unloaded. I heard them carrying sacks. We then drove around again for a brief period of time. Finally, the car was stopped and we heard doors slam & silence. After 5 or 10 minutes we begin yelling & pounding. Finally a man heard us and pried open the trunk of the car & let us out.

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FILE NUMBER

SEATTLE POLICE DEPARTMENT

INCIDENT NUMBER 78-326447

1-23-78 TIME 1300 PLACE Station

EMENT OF: Maureen P. Bekemeyer

I was returning from grocery shopping at Safeway in U. Village shortly before six. I stopped the car (letting son Colin) left it running in front of the garage door and got out and opened the garage door which was closed but unlocked. I got back in the car and drove it into the garage. Before I could get out of the car, a man opened my car door, pointed a gun at my neck, and told me to move over. At the same time another man climbed into the back seat (suspect #2). Suspect #1 indicated he couldn't drive my car so switched places with me again. He sat in the front seat next to the window beside my son Colin. Suspect #2, who remained in the back seat, gave most of the direction as to where I was to go. He ~~took~~ directed me up Pike one block, south on 37th to Cherry and then west on Cherry to 35th. At that point I moved my way through Leschi area to a corner near Leschi school. I then drove down to Lake Washington Blvd heading south. As I drove through a wooded area (600 block), suspect #2 began throwing things out of my purse. Right before he threw things out he asked me why I didn't have any money. Implied that I never carried more that I write checks. Suspect #1 checked my coat pocket to see if I had any money in them. As we drove through a very desolated area of Lake Washington Blvd, suspect #2 seemed to know a place where he wanted me to stop. He told me to pull up and then pull in on the west side of the road

EMENT TAKEN BY: SIGNED:

NESS: WITNESS:

UNIT FILE NUMBER

SEATTLE POLICE DEPARTMENT

INCIDENT NUMBER 78-32647

DATE 1-28-78 TIME PLACE

STATEMENT OF: met us far from a big tree. After I stopped the car, suspect #1, reached across the seat to me and started unbuttoning my blouse. When I realized what he wanted to do, I told him I didn't want to be raped in front of Colin. So suspect #1 got out of the car with me, carrying the gun while suspect #2 stayed in the car with Colin. Suspect #1 took me across the road and down into a small hollow where he told me to undress. When I wasn't fast enough for him, he ripped several buttons off my shirt and pulled it off. After I was completely undressed, he told me to lie down on the leaves. He unzipped or loosened his pants but didn't undress. He forced me to have actual intercourse with him and oral sex. This all didn't take much time. He then instructed me to get up and get dressed, but he didn't give me enough time so I left my hose, shoes, underpants, and maybe my skirt in the underbrush. He pulled me back to the car. He gave the gun to suspect #2, who then took me to the same side of the road that the car was on and forced me to undress again. He then forced me to have actual intercourse with him. He asked me "if I had ever fucked a nigger before." I said "no." He asked me if I liked it. I didn't reply so he asked me again, more insistently, so I said "yes." He then made me perform oral sex on him and he made me French kiss him. He then pulled me back to the car. He made sure I had my blouse on so I wouldn't look presentable when I drove. Between rapes when I was brought back to the car, I realized my suspect #1 had broken my rear view mirror and glass was scattered

STATEMENT TAKEN BY: SIGNED:

WITNESS: WITNESS:

2

UNIT FILE NUMBER

SEATTLE POLICE DEPARTMENT

INCIDENT NUMBER

DATE TIME PLACE

STATEMENT OF: even on Colin, who was lying on the floor of the front seat passenger side of the car.

I was then instructed to drive back the way we had come until we came to Massachusetts where we turned left & went up a steep hill (32nd, I think.) We then drove to 31st and Jackson & 31st & Yesler. We then drove through the Leschi area in which I remember traffic diverters. I am relatively certain we crossed Cherry & drove through several alleys (without lights on) until we stopped about mid block. Suspect #2 got out to get gloves, I think, so he could drive. The two of them had had some discussion about this. Also at some point suspect #2 mentioned trying to get some money for [illegible]. We waited for suspect #2 to return. He returned approaching from the front of the car from down the alley.

Colin and I were then put on the floor of the back seat & my head was covered up with my coat. Suspect #2 tried to drive my car. He did not understand the manual transmission & killed the engine many times, shifted into the wrong gears etc. We then drove around. Usually the radio volume was turned up so I couldn't hear their conversation. My feeling is that we couldn't have driven too far because suspect #2 couldn't drive well & it didn't seem too long a time, say 10 min. At some point suspect #2 killed the engine & couldn't get it going. I heard a male voice ask if they needed help. It is my impression that we were pushed for a minute but Colin & I were cautioned to stay down & keep quiet.

The car then stopped in a parking lot, perhaps in a park. My impression was of trees beside the lot. We were told to stay

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TATEMENT TAKEN BY SIGNED

WITNESS

3

UNIT FILE NUMBER

SEATTLE POLICE DEPARTMENT

INCIDENT NUMBER 78-32647

DATE 1-28-78 TIME PLACE

STATEMENT OF: down while my grocery sacks were shifted from the trunk to the back seat. (Suspect # 2 had checked the trunk, I believe, when we stopped the 1st time. Colin & I were then put in the trunk and we were driven away. We drove for awhile and stopped someplace where my groceries were unloaded. I heard them carrying ~~in~~ sacks. We then drove around again for a brief period of time. Finally the car was stopped and we heard doors slam & silence. After 5 or 10 minutes we began yelling & pounding. Finally a man heard us and pried open the trunk of the car & ~~left~~ let us out.

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STATEMENT TAKEN BY: SIGNED:

WITNESS: [illegible] 1292 WITNESS:

4

APPENDIX 3

MEMORANDUM TO SENTENCING JUDGE AND BOARD OF PRISON TERMS AND PAROLES

A copy of the second amended information charging the defendants Carl Alonzo Brooks and Ozie Davis Whitfield with the crimes of robbery in the first degree, rape in the first degree, kidnaping in the first degree, murder in the first degree, assault in the first degree, robbery in the first degree, robbery in the first degree and burglary in the first degree, counts I-VIII, to-wit: deadly weapon and a firearm as to all counts, is attached to this report. Also attached is the order permitting filing of the amended information as to Carl Alonzo Brooks only, amending count IV, murder in the first degree to murder in the second degree committed while armed with a deadly weapon and firearm. The defendant pled guilty to counts I-VIII on May 11, 1978 before the Honorable William C. Goodloe. Count IV was amended to murder in the second degree at the time of plea.

The defendant has remained in custody since his arrest on January 30, 1978. His bail is set at $100,000.

His codefendant Ozie Davis Whitfield is scheduled to be sentenced by Judge Shellan on May 16, 1978 at the time of this writing.

HISTORY OF CASE: (See attached map for location of crimes.)

BEKEMEYER INCIDENT (COUNTS I-III)

On January 27, 1978 at approximately 6 p.m. Maureen Bekemeyer and her seven year old son Colin were returning to their Madrona home after shopping at Safeway. Mrs. Bekemeyer pulled her car into the garage of the residence located at 1510 38th Avenue in Seattle. Before she could exit the vehicle, the defendant Carl Alonzo Brooks opened the driver's door,

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CHRISTOPHER T. BAYLEY
Prosecuting Attorney
W554 King County Courthouse
Seattle, Washington 98104
344-2550

EXHIBIT

shoved a gun at her neck and ordered her to move over. Ozie Whitfield climbed into the back seat. Brooks discovered that he could not drive the car, a 1970 Mercedes 220 (a stick shift), and ordered Mrs. Bekemeyer to exchange seats with him. He then took the front passenger seat and put Colin on the front floor board. Mrs. Bekemeyer was ordered to drive southbound on Lake Washington Boulevard past Leschi Park and Frink Park. In the 600 block of Lake Washington Boulevard, south of Frink Park, Whitfield threw the contents of Mrs. Bekemeyer's purse out the car window, commenting that she didn't have money. Mrs. Bekemeyer was ordered at gunpoint to drive to the 1900 block of Lake Washington Boulevard, Colman Park, and park the car.

Brooks started to unbutton her blouse. Realizing what Brooks wanted to do, she pleaded with him not to rape her in front of her son. Brooks then dragged Mrs. Bekemeyer from the car at gunpoint and left Colin in the vehicle with Whitfield. In the park Brooks ordered Mrs. Bekemeyer to undress. When she was not fast enough for him he ripped off her skirt. When she was completely naked he ordered her to lie down on the ground. He then unzipped his pants and had sexual intercourse with her and in addition ordered her to put her mouth on his penis. At his command she then got partially dressed but, in the defendant's hurry was forced to leave her stockings, shoes, panties and skirt in the area where she had been raped. Brooks dragged her back to the car where he then gave the gun to Whitfield and remained in the car with Colin as Whitfield took Mrs. Bekemeyer back to the park. Mrs. Bekemeyer was again ordered to undress and forced to have sexual intercourse with Whitfield. She was also ordered to put her mouth on his

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344-2550

penis and also to french kiss him. At his command she then hastily dressed herself and was dragged back to the car. She observed that, between rapes, her rear view mirror had been smashed and glass scattered over Colin who was still on the front floor board of the car.

Mrs. Bekemeyer was then ordered to drive northbound back to the Madrona area. The defendant lived at 910 30th Avenue just a few blocks south of the Bekemeyer residence. She drove through several alleys at the command of the defendant without headlights on and stopped near a yellow house, which is the defendant Brooks' home at 910 30th Avenue. Whitfield discussed with Brooks getting gloves so that Whitfield could drive the car. Whitfield exited and returned a short time later with the gloves. Mrs. Bekemeyer and Colin were then put on the floor of the back seat and covered up with her coat. Whitfield then tried to drive the car but Mrs. Bekemeyer had to tell him how to drive it. He killed the engine several times and shifted into the wrong gears. At one point the car stalled and the Bekemeyers were ordered to stay down as Brooks and Whitfield were assisted by an unknowing motorist for a short while. The radio was then turned up so that Mrs. Bekemeyer could not hear the conversation between Whitfield and Brooks.

Subsequently, Whitfield parked the car and with Brooks' help opened the trunk of the car and removed the groceries therein, placing them in the back seat. They then ordered Mrs. Bekemeyer and Colin into the trunk and resumed driving again. The car made several brief stops at houses. At one point Mrs. Bekemeyer could hear her groceries being unloaded and taken into a house. After further driving, the

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car was finally abandoned. Mrs. Bekemeyer heard the car door slam, and then silence. After five to ten minutes she and Colin started screaming for help and were assisted by a citizen who found them in the car abandoned at the intersection of 13th and McClellan, a few blocks west of Whitfield's apartment located behind Sick's Stadium. After the citizen pried the trunk open, Mrs. Bekemeyer stood up and said that she and her son had been kidnapped and that she had been raped too. She said she was embarrassed and the citizen observed that she had only a raincoat over a slip and a disheveled blouse on. She had no stockings or shoes and her legs were muddy.

After three hours, the ordeal had finally ended. Police were immediately contacted and responded to the citizen's home. Mr. Bekemeyer took Colin home with him and Mrs. Bekemeyer retraced the crime route with Seattle police officers recovering her credit cards strewn in the 600 block of Lake Washington Boulevard and further recovering her stockings, shoes, panties and skirt in Colman Park in the 1900 block of Lake Washington Boulevard. She was then taken to Group Health Hospital where she was examined and later confirmed to have contacted gonorrhea as a result of the rapes. During the entire three hour incident Mrs. Bekemeyer remembered that Brooks had the gun at all times except when Whitfield took it during the second rape.

The Bekemeyer vehicle was dusted for prints and two matches were made with the palm print and a fingerprint of Brooks which were found in the trunk area of the car. Subsequently both Brooks and Whitfield confessed to the rape, robbery and kidnaping. Brooks said that he really only wanted Bekemeyer's money and blamed Whitfield for wanting to rape her. However, Brooks subsequently admitted raping Mrs. Bekemeyer but denied

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344-2550

the oral sex with her. He said it was Whitfield who put Mrs. Bekemeyer in the trunk and his fingerprints got on the trunk because he helped Whitfield close it. After they abandoned the car he said they both fled to Whitfield's apartment behind Sick's Stadium. Brooks made this confession after being advised that his fingerprints were lifted from Bekemeyer's car.

PAINTER INCIDENT, (COUNTS IV AND V)

Thirty hours after the Bekemeyer robbery, rape and kidnappings, on January 29, 1978 at approximately 12 midnight, Val and Ann Painter were returning to their home at 5015 South Snoqualmie Street in South Rainier Valley. They returned from a party to the home that they had lived in since 1941. Painter is a former police officer with 36 years of service. He retired from the Seattle Police Department in 1967 and immediately thereafter continued to work as a warrants officer for the Seattle Police Department. As such, Painter was required to carry a gun and up to this time did so at all times. Painter is 62 years old, as was Mrs. Painter.

The Painters pulled up in their car in front of their garage and parked it in the street. Mrs. Painter exited the car to turn on the light in the garage. Painter retrieved his coat from the back seat. He looked over the top of the car to see a young black male run to Mrs. Painter and fall in immediately behind her. The last thing he was to hear his wife say was to scream "Oh God, No, No, No!" Painter observed a revolver in Brooks' hand and knew that instead of a "simple" purse snatch their lives were now in danger. He then saw both his wife and Brooks fall back into the darkness of the garage. On the instincts of a police officer, Painter ran to the outside wall

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APPENDIX 4

STATE OF WASHINGTON

INDETERMINATE SENTENCE REVIEW BOARD

4317 Sixth Ave., S.E. • P.O. Box 40907 • Olympia, Washington 98504-0907 • (206) 493-9266

DECISION AND REASONS

RECEIVED
SEP 27 1993
McNeil Island C.C.
Records Office

NAME:	BROOKS, Carl
NUMBER:	259045
INSTITUTION:	MICC
TYPE OF MEETING:	.100
DATE:	September 7, 1993
PANEL MEMBERS:	DC/KA

BOARD DECISION:

The full Board authorizes transfer of time start from King County cause #84744, Counts I, V, VI, VII & VIII to King County cause #84744, Count III, which is a Kidnapping First Degree (While Armed), as of his Parole Eligibility Review Date (PERD), which was September 20, 1991.

NEXT ACTION:

Schedule an August 1995 Administrative Progress Review.

HISTORY/COMMENTS:

Mr. Brooks was one month short of 18 years old when he was involved with a serious number of felonies in which several people were hurt, one died and a great deal of misery occurred because of his actions. He was convicted of Robbery First Degree (While Armed), Counts I, VI & VII. He was given a life sentence on these. The Sentencing Reform Act (SRA) range for Counts VI & VII is adjusted to 97 to 122 months, the prosecutor and judge both recommended life and the mandatory was 60 months. He was also convicted, under the same cause number, of Count V, which was Assault First Degree (While Armed), the SRA guideline range is adjusted to 58 to 78 months with the same recommendations from the prosecutor and judge and the same mandatory. He was also convicted of Count VIII, Burglary First Degree (While Armed) with an SRA guideline range of 77 to 95 months, with the same recommendations from the judge and prosecutor and the same mandatory. As of his PERD, on September 20, 1991, he has served 160 months, so he has served in excess of the high end of the adjusted range. He will begin serving, as of September 20, 1991, on a Kidnapping First Degree (While Armed), Count III, which has an adjusted SRA guideline range of 75 to 92 months, with recommendations of life from both judge and prosecutor and a mandatory

CONTINUED (NEXT PAGE)

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of 60. After he finishes serving on the Kidnapping First Degree, he has a Rape First Degree, Count II to serve. The adjusted SRA guideline range is 75 to 92 months, with the judge and prosecutor both recommending life and a 60 month mandatory. After he finishes serving the Rape First Degree he has a Murder Second Degree (While Armed), Count IV, which has an SRA guideline range of 123 to 164 months. At a 1400 Review, he was given on Count VII 122 months and the minimum terms on Counts I, V, VI were left at 240 months. Count VII was redetermined to 95 months and Count III was maintained at 25 years, Count II was maintained at 25 years and Count IV was maintained at 20 years. Mr. Brooks is facing essentially, a lifetime in prison, due to the incredible harm that he caused as a young man. The crimes are outlined in the record and they involve brutality and lack of respect for human life. The Robbery First Degree was of a woman and her seven year old who were returning to their home after shopping. He and his crime partner took her to a park where Mr. Brooks robbed her and raped her and she was kidnapped and forced to drive around. Both she and her son were placed on the floor of the back seat and covered up with a coat and finally put in the trunk and left, whereafter they screamed and a citizen came and got them out of the trunk. His next set of crimes involved an older couple returning to their home. The man was a retired law enforcement officer and had a gun. He found Mr. Brooks had grabbed his wife, holding a revolver to her, and Mr. Brooks opened fire on the man. In the exchange of gun fire, the man was shot in the chest and he killed his wife while trying to shoot at Mr. Brooks. The record says that Mr. Brooks was using the wife as a shield. The man was in critical condition for some time, but he did live, even with two bullet wounds in his chest. Incredibly, only three hours later, as a woman returned to her home, Mr. Brooks and his partner pointed a gun at her through the drivers window, told her to roll it down, she unlocked the door, his crime partner got into the back seat and they rifled her purse for money and made her drive around, threatened to kill her, held a gun to her head and terrorized her for some period of time. Later on, 36 hours later, another victim was returning to her residence, she parked her car and got into her home, Mr. Brooks came out of the back bedroom and told her to shut up or he would blow her brains out. He grabbed her by the neck, got her transaction number for the bank, tied her up with telephone cord, fled in her car and threatened her for some period of time. This is in no way a total description of the entire criminality of the behavior of Mr. Brooks and his crime partner for

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BROOKS, Carl
259045

HISTORY AND COMMENTS CONTINUED - PAGE 3

a very short period of time. He was remanded to adult status and given a number of life sentences for this behavior.

REASONS:
Mr. Brooks has, for the past seven years, been programming very well, his infraction record has slowed down considerably and he is currently infraction free. He has been programming well, he has a psychological report that is fairly favorable concerning transferring to the next cause number. He has clearly served the SRA guideline range and the mandatory on the first series of counts and he has, according to the institution, been no trouble and grown up quite a bit and been productively involved.

FACTS RELIED UPON:
The .052 is "poor", based on his criminal record and the fact that he is an untreated sex offender. The psychological report was reviewed by Dr. Sloat in 1993; she believes that he has grown up quite a bit and is a much healthier person that he was when he came in and is certainly less impulsive. He has completed a number of courses, including Anger/Stress Management, a Parenting program, a GED and others. He is currently enrolled in a course called Disruption in the Family. He has letters of support from his work supervisors. Mr. Brooks was articulate today, outlining early abuse as a child and the fact that he was on drugs. He understands his sentence structure and is to be commended for his positive actions, despite a very long series of incarceration sentences to follow.

KA/rls
9/16/93

CC: INSTITUTION
RESIDENT
FILE

INMATE COPY

APPENDIX 5

CERTIFIED COPY

FILED
KING COUNTY, WASHINGTON
MAR - 6 1978
SUPERIOR COURT CLERK
BY LORETTA M. PYNE
DEPUTY

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

STATE OF WASHINGTON, Plaintiff, vs. Ozie D. Whitfield, Defendant.	NO. 84744 STATEMENT OF DEFENDANT ON PLEA OF GUILTY

1. My true name is Ozie D. Whitfield.

2. My age is twenty-one.

3. My lawyer is Byron H. Ward.

4. The Court has told me that I am charged with the following crimes:

Count I Robbery in the First Degree; Count II Rape in the First Degree; Count III Kidnapping in the First Degree; Count IV Murder in the Second Degree (Amended from Murder in the First Degree); Count V Robbery in the First Degree;

All of these crimes have a maximum sentence of life in prison and/or $10,000 fine.

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.

(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 plea guilty to the crimes listed in paragraph 4 above and I acknowledge receipt of a third Amended Information.

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 make a recommendation as set forth in the attachment. (incorporated herein by reference).

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 maximum term required by law which is not less than twenty years. The Court however may impose a maximum term of life in prison for each charge. The minimum term of sentence is set by the Board of Prison Terms and Paroles. The Judge and Prosecuting Attorney recommend a minimum sentence to the Board but the Board does not have to follow their recommendations. I have been further advised that each of the crimes with which I am charged requires that a mandatory minimum of five years be imposed by reason of the firearm deadly weapon allegation; if the Board waives the mandatory minimum five year period, however, I understand that

which cannot be suspended or waived and during this three year period I cannot be granted work release.

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 breifly in my own words what I did that resulted in my being charged with the crimes in the Information. On January 27, 1978 I, along with Carl Brooks who was armed with a gun, forced Maureen Beckemeyer to drive us in her vehicle (a 1970 Mercedes). Money and credit cards were taken from her by means of force. Maureen Beckemeyer states that I had intercourse with her and I am satisfied that I would be found guilty at trial; this intercourse was preceeded by the use of a gun against her. We then locked her and her son in the trunk of her vehicle and drove them to where we left the car.

On January 29, 1978 I was riding in a stolen vehicle with Carl Brooks. Brooks stopped the vehicle, exited the car and went to a couple standing on 37th Avenue. Carl and the man began shooting at each other. As a result of the shooting Ann Painter was fatally wounded. I knew Carl was going to commit a theft which I aided and abetted by my presence.

On January 29, 1978 Carl and I took a vehicle from Joanne Kelly and by means of force also tooke from her personal property.

15. I have read or have had read to me all of the numbered sections above (1 through 15) and have received a copy of "Statement of Defendant on Plea of Guilty". I have

no further questions to ask of the Court.

+Ozie D. Whitfield

The foregoing statement was read by or read to the Defendant and signed by the Defendant in the presence of his attorney Byron H. Ward, Prosecuting Attorney Mary Kay Barbin and the undersigned Judge in open Court.

DATED this 6 day of March, 1978.

Robert M. Elston
JUDGE

The Prosecuting Attorney hereby agrees, upon a plea of guilty to Count I, Count II, Count III, Count IV (Murder in the Second Degree) and ~~Count VI to dismiss~~ Count V and recommend that the Defendant be committed to the Department of Social and Health Services Division of Institutions (prison) for a maximum term of life with a minimum term of twenty years to be recommended. Minimum and maximum terms to be served concurrently.

Approved:

Mary Kay Barbieri

Deputy Prosecuting Attorney

APPENDIX 6

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 AND V; RAPE IN THE FIRST DEGREE, COUNT II; KIDNAPPING IN THE FIRST DEGREE, COUNT III; MURDER IN THE SECOND DEGREE, COUNT IV (WHILE ARMED WITH A DEADLY WEAPON, AND A FIREARM, AS TO ALL FIVE COUNTS)

it is therefore ORDERED, ADJUDGED and DECREED that the said defendant is guilty of the crime of ROBBERY IN THE FIRST DEGREE, COUNTS I AND V, CLASS "A" FELONY, RCW 9A.56.200(1)(a)(b); RAPE IN THE FIRST DEGREE, COUNT II, RCW 9.79.170; KIDNAPPING IN THE FIRST DEGREE, COUNT III, CLASS "A" FELONY, RCW 9A.40.020 (1)(a)(b); MURDER IN THE SECOND DEGREE, COUNT IV, CLASS "A" FELONY, RCW 9A.32.050(1)(b) (WHILE ARMED WITH A DEADLY WEAPON, AND A FIREARM, AS TO ALL FIVE COUNTS) (PURSUANT TO RCW 9.95.040 AND RCW 9.41.025) 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 Maximum term of life on all 5 counts, concurrently; (min. recommended - 15 years) 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 10th day of May, 1978

Judge

Presented by:

Deputy Prosecuting Attorney

APPENDIX 7

STATE OF WASHINGTON

BOARD OF PRISON TERMS AND PAROLES

FILED 13 NOV 5 23

SENTENCE FIXED BY BOARD

13 NOV 5 : 23

No. 259801

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

Ozie Davis WHITFIELD, having been by the Superior Court of King County, Washington, in cause No. 84744 convicted of the crime of ROBBERY IN THE FIRST DEGREE, COUNTS I AND V; RAPE IN THE FIRST DEGREE, COUNT II; KIDNAPPING IN THE FIRST DEGREE, COUNT III; MURDER IN THE SECOND DEGREE, COUNT IV WHILE AMRED WITH A DEADLY WEAPON AND A FIREARM AS TO ALL COUNTS) and sentenced for a maximum term of LIFE on each Count to run Concurrently years of confinement in a Washington Correctional Facility; and

The Board of Prison Terms and Paroles, having fully considered the Prosecuting Attorney's and Judge's statements of the facts surrounding said convicted person's crime and other information relative to such convicted person, and having interviewed said convicted person; NOW THEREFORE, By virtue of the authority in it vested by the laws of the State of Washington, and within six months after the admission of such convicted person to a Washington Correctional Facility, the Board of Prison Terms and Paroles fixes the duration of his confinement as follows, to wit:

That said Ozie Davis WHITFIELD be and he is hereby ordered to be confined in a Washington Correctional Facility, for a period of TWENTY (20) years, on each Ct. to run Concurrently (FIVE (5) YRS. MANDATORY UNDER 9.95.020 and THREE (3) YRS. MANDATORY (NON-WAIVABLE) under RCW 9.79.170) and he is hereby required to perform as many hours of faithful labor in each and every day during said term of imprisonment as shall be prescribed by the rules and regulations of said institution.

Done at Olympia, Washington, this 11th day of July, 1978

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BOARD OF PRISON TERMS AND PAROLES

By _____

Board of Prison Terms and Paroles

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BOARD OF PRISON TERMS AND PAROLES

Olympia, Washington

Name: WHITFIELD, Ozie David Number: 259801 Institution: WCC-R Type of Meeting: Sentence Date: 7-11-78 Members: MN & HBR	DECISION AND REASONS

Board Decision:

Minimum term of 20 yrs. on King Co., CSe.#84744. This carries with it a five year mandatory on the Murder, 2nd conviction and a 3 yrs. unwaivable mandatory on the rape conviction. Nxt. Mtg. 5-80, Progress.

Reasons for Decision:

Crime Particulars

cc: Institution
Resident
File

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APPENDIX 8

NO. 97689-9

SUPREME COURT OF THE STATE OF WASHINGTON

In re the Personal Restraint Petition of:

CARL ALONZO BROOKS,

Petitioner.

ANSWER TO MOTION FOR DISCRETIONARY REVIEW

ROBERT W. FERGUSON
Attorney General

Mandy L. Rose, WSBA #38506
Assistant Attorney General
Corrections Division OID #91025
PO Box 40116
Olympia WA 98504-0116
360-586-1445
Mandy.Rose@atg.wa.gov

a parole avenue to juvenile offender inmates after a set period of time." *Scott*, 190 Wn.2d at 597.

Here, the sentence imposed on Brooks provides him with the opportunity for parole. The Board has considered Brooks for parole multiple times, even before the twenty-year time period that would have been required under RCW 9.94A.730, and the Board paroled him from five of his sentences. App. 3; App. 5 through 11. Brooks' sentence does not violate the *Miller* rule, even as expanded by this Court.

The gravamen of Brooks' complaint is not that his sentence renders him eligible for parole, but that the Board did not find him a suitable candidate for parole. The Board actually first considered Brooks for parole (and paroled him from several of his sentences) less than fifteen years after the entry of his judgment and sentence. *See* App. 7, Decision and Reasons (considering Brooks for parole in 1993, but finding him to be an untreated sex offender). The Board actually first considered Brooks for parole earlier than he would have been eligible if RCW 9.94A.730 applied. The Board, properly exercising its discretion, determined that Brooks was not yet a suitable candidate for parole because he had not yet completed treatment and posed a high risk to reoffend.

Since Brooks is eligible for parole, the Board has exercised its discretion in determining whether to parole Brooks, and the Board will

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Moreover, Brooks filed his personal restraint petition in 2019, several years after the Supreme Court issued *Miller* and this Court issued *Houston-Sconiers*. Even assuming, *arguendo*, that those decisions constituted a new rule of law applicable to Brooks, *see In re Pers. Restraint Petition Marshall,* 10 Wn. App. 2d 626, 455 P.3d 1163 (2019) (*Houston-Sconiers* did not apply on collateral review to excuse untimely petition) the decisions still do not constitute excuse Brooks' untimeliness. Brooks still failed to file his petition within one year of the issuance of those decisions. The petition is therefore untimely.

VIII. CONCLUSION

For the reasons set forth above, the Board respectfully requests that the Court deny Brooks' motion for discretionary review.

RESPECTFULLY SUBMITTED this 3rd day of March 2020.

ROBERT W. FERGUSON
Attorney General

s/ Mandy L. Rose

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NO. 97689-9

SUPREME COURT OF THE STATE OF WASHINGTON

In re the Personal Restraint Petition of: CARL ALONZO BROOKS, Petitioner.	NOTICE OF APPEARANCE

TO: CLERK OF THE ABOVE-ENTITLED COURT; and

TO: CARL ALONZO BROOKS, Petitioner *Pro Se*:

PLEASE TAKE NOTICE that Respondent, INDETERMINATE SENTENCE REVIEW BOARD, without waiving objection as to sufficiency of service of process or jurisdiction of this Court, hereby enters its appearance in the above-entitled action by and through its attorneys, ROBERT W. FERGUSON, Attorney General, and MANDY L. ROSE, Assistant Attorney General, and requests that all future pleadings and correspondence be sent to said attorneys at the address given below.

RESPECTFULLY SUBMITTED this 16th day of January, 2020.

ROBERT W. FERGUSON
Attorney General

s/ Mandy L. Rose
MANDY L. ROSE, WSBA #38506
Assistant Attorney General
Corrections Division OID #91025
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APPENDIX 9

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

October 11, 2017

Mr. Carl Brooks
DOC # 259045
1313 N. 13th Avenue,
Walla Walla, WA 99362

Dear Mr. Brooks,

I have been asked to respond to your recent correspondence to the Indeterminate Sentence Review Board (ISRB) regarding your sentencing structure.

You are currently serving on Count III Kidnapping in the First Degree (while armed), which was ordered to run consecutive to the first block of Counts (Counts I, VI, VII, V, and VIII) for which you already served. Your time start on Count III was on September 20, 1991. On that count you were sentenced to 300 months or 25 years. The Earned Release Date (ERD) showing in OMNI is based on all of your offense Counts running to completion based on the sentenced time per the Judgment and Sentence. In the Board's tracking system, on your action sheet we note that your next ERD is currently February 3, 2019. The Board will see you for your .100 hearing approximately 120 days prior to that date, which would be around October of 2018.
If the Board paroles you from Count III to your next Count, you would begin your next minimum term of 25 years. The Court indicated which of your counts would run concurrent and which would run consecutive. In total the minimum amount of time set by the judge was 90 years. Your maximum term is life. RCW 9.95.100: *The Board shall not, however, until his or her maximum term expires, release a prisoner, unless in its opinion his or her rehabilitation has been complete and he or she is a fit subject for release.*

Your letter, and a copy of my response will be placed your file for further consideration by the Board.

Sincerely,

Monika Fields
Investigator 3
Indeterminate Sentence Review Board

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"Working Together for SAFE Communities"

recycled paper

APPENDIX 10

Washington State Penitentiary

INTERDEPARTMENTAL MEMORANDUM

Date: 11/19/12

To: BROOKS, Carl - 259045

From: Stephen Sinclair
Superintendent

Re: **Kite Dated 11/16/12**

I have received your kite dated 11/16/12, in you say you should be allowed to work in the Walla Walla County 40 hours a week. You say this is per your Judgement & Sentence and other issues.

You have an ERD of 2/1/44, which would make you 84 years old on your release. This results in your being classified as de facto LWOP. You are classified as close custody due to this and will be appropriately housed. It also means you will be expected to follow all policy requirements of an offender who is assigned close custody.

pjw

cc: R. HaneyNixon, CC 2
C. Bull, CC 3
Central File

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APPENDIX II

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 [redacted] 1744 - Robbery, Count I, VI & VII, Assault [redacted] irst, Count V, [redacted] 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

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EXHIBIT

1284

RECEIVED
MAR 31 2020
Washington State
Supreme Court

Certificate of Mail

I, Carl Brooks, certify under penalty of perjury, laws of states and United States, I served the following Documents:

Brooks' Reply to Indeterminate Sentence Review Board Answer (Against Pers. Restraint) 97689-9 Table of Contents; Appendixes 1 thru 11; and Certificate of Mail

Upon:

Mandy L. Rose WSBA 38506
Asst. Attorney General
Correction Div. OID 91025
PO Box 40116
Olympia WA 98504

Clerk, State Supreme Court
PO Box 40929
Olympia, WA 98504

By placing the same in the U.S. Mail at the Law Library
Coyote Ridge Correction Center
PO Box 769
Connell, WA 99326

Dated: March 26, 2020
Carl Brooks
Carl Brooks #259045
Declarant

Tammie Barajas 3/24/20

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