

Kenneth Foster, 142187
Parole eligible since 1984

Foster has done everything possible to rehabilitate himself, but the sentencing judge's expectation that this would lead to parole has not come true

No one expected Kenneth Foster to still be in prison after 30 years – least of all the judge who sentenced him. Charged with two counts of first-degree murder for the January 1974 shooting deaths of two Detroit drug dealers, Foster was convicted of second-degree murder by a jury. He was 22 years old and had no prior record, adult or juvenile. However, he had gotten involved in selling drugs and the killings occurred during the robbery of dealers he knew.



Kenneth Foster

At his sentencing, Foster, who had dropped out in the tenth grade, asked the court to recommend that he be allowed to finish school. Judge Robert J. Colombo replied:

I would like to see you finish up school, Mr. Foster. While perhaps I think I'm going to be here in ten years, too, if I am not I am making a record here. I will follow your case and follow your progress and again, if you are ever recommended for parole, and you can be in ten years, I will approve it . . . If you successfully complete your education you can return to the community as a responsible individual. I have heard a lot of people say a lot of good things about you. I appreciate that you have potential.

Foster lived up to his potential. He completed his GED and an associate's degree, then received his bachelor's degree in 1993. He participated in a wide variety of prison programs, from group counseling and substance abuse treatment to the NAACP, Moorish Science Temple of America and Jaycees. His work reports are excellent. While at the Michigan Reformatory, he worked his way up to inmate supervisor of the garment factory cutting room. At the Muskegon Correctional Facility he worked as a dental clerk and chair side dental assistant. The dentist praised Foster's "ability and his attitude." The program coordinator for Muskegon Community College characterized Foster as a steady, dependable, hardworking student who showed substantial leadership ability. She also wrote:

Ken is a very sincere person, with an amiable personality and wonderful sense of humor. . . I believe that he will benefit the community when he is released.

Several letters from corrections officers who supervised Foster in the 1990s describe him as someone who regularly volunteers to help out, who communicates well with other prisoners and staff, and who would be an asset to the free community. Foster has received only a dozen misconduct citations in total, none since 1991.

In 1982, the MDOC calculated Foster's grid term at 14 years. Although three parole board members showed interest in 1993, a majority was never willing to proceed to public hearing. Foster finally turned to the courts, seeking a resentencing on the rationale that the parole board's policies were subverting the intent of his sentencing judge. In support of his motion, Foster submitted a letter written by Judge Colombo in July 2001 that stated in part:

No Way Out: Michigan's parole board redefines the meaning of "life"

[N]ot only I, but the vast majority of trial judges in the State of Michigan were aware that by imposing life sentences rather than [in]determinate sentences of minimum and maximums, the Michigan Parole Board at that time was able to parole defendants who had made substantial progress toward rehabilitation upon completion of a term of 10 years . . .

Unfortunately there has also been a huge change in the position of the . . . Parole Board . . . between my sentence and this date, and Mr. Foster is caught in the middle of it . . . I would never have sentenced Mr. Foster to a term of more than two concurrent terms of 25 to 30 years . . . And in the year of 1975 that would have meant with then applied good time he would have served no more than 17 or so years in prison.

Judge Colombo's letter persuaded his successor in office to grant Foster a resentencing. However, the prosecutor appealed and the Court of Appeals reversed the lower court's decision.

The parole board last reviewed Foster's case in December 2003. It did not even afford him a personal interview. The next month he was hospitalized for diabetes. He will be considered again for parole in 2008, when he will be 55 years old and have served nearly 35 years in prison.