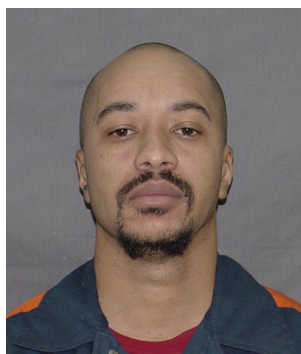


Faces behind the Figures

Are we safer because they're behind bars?



Kenneth White, No. 180729

Offense: Second-degree murder

Sentence: Parolable Life + 2 years

First possible release: 1997

Kenneth White, now 35, was a first offender who pled guilty to second-degree murder and felony-firearm at age 17. He had been assured he would be eligible for parole after 12 years. The sentencing judge has said he intended that White serve no more than 15. Nonetheless, despite White's exemplary prison conduct and a supportive family, the parole board has issued him two five-year continuances, the second, in 2002, without even interviewing him.

Background

Kenneth White was a high school student at the time of the offense. He did not use drugs or alcohol and had no prior police record, adult or juvenile. White struggled academically but posed no discipline problems at home, in school or in the community. However, his mother had repeatedly warned him about his association with negative peers, fearing that he could be easily led into trouble.

Offense

On October 30, 1984, White and three others drove to Kettering High School in Detroit to confront a young man, Dennis Dunn, about a stolen jacket. A fight ensued between the victim and one of the men. Sherard Brown and White, then 17, pulled guns and fired at Dunn. A bullet from White's gun struck Dunn and he died later that day.

A jury found Brown guilty of second-degree murder in April 1985. He was sentenced to a parolable life term. In August, after negotiating for the same sentence, White pled guilty to second-degree murder and felony-firearm.

White's attorney, Philip Fabrizio, had assured him that, including the mandatory two years for the gun charge, he would be eligible for parole in 12 years and would probably serve no more than 15, assuming good behavior. Release guidelines then in use by the parole board predicted White would serve 14 years. Fabrizio later explained he never would have bargained for a parolable life sentence had he known the parole board would come to interpret that sentence to be the same as life without parole.

Judge John O'Brien, who sentenced both Brown and White, has signed an affidavit in which he stated: "Had I intended that Mr. White serve more than 15 years in prison for his conviction of second-degree murder and felony-firearm, I would not have consented to the sentence bargain

More about the men and women who fill Michigan prison beds

agreed to by the prosecutor and defense attorney. Instead, I would have sentenced the Defendant to a lengthy term of years.”

White’s co-defendant, Sherard Brown, had a legal error at his sentencing hearing that allowed him to be resentenced. In 1996, Judge O’Brien substituted a sentence of 16-25 years for Brown’s original life term. He was released from prison in 1999.

In-Prison Conduct

White, a shy, soft-spoken, slightly built man, has only four misconducts during the 18 years of his incarceration, none assaultive and none since 1989. He earned a GED, with his teacher reporting that he was cooperative, highly motivated, diligent, and a great example for the other students.

White has a supportive family that has stayed in touch with him by phone calls and visits throughout his incarceration. His mother has a home where he can live. Both his brothers are well-established with families, homes and jobs. They also jointly own a business in which White plans to work when he is released.

Parole Board Action

The parole board has interviewed White only once, when he first became eligible for release in 1997. It continued him for five years. In 2002, the board merely reviewed his file, then stated it had “No Interest” in considering him for parole. As is its practice with lifers, the board did not calculate White’s parole guidelines score to assess his risk of re-offending.

White’s next required review will be in 2007. By then, he will have served eight years more than the judge intended and will be 40 years old.

Questions

1. Where the sentencing judge and the parties to a plea agreement reasonably relied on both the terms of the lifer law and long-standing parole board practices, should the parole board, another agent of the state, be required to implement their intentions?
2. Can the board fairly evaluate a prisoner’s readiness for release without even meeting the person face-to-face and without calculating a parole guidelines score?
3. Should the board be permitted to continue lifers for five years without explanation?
4. Should lifers be able to appeal “no interest” decisions to the courts?
5. Should a person who committed a serious crime as a teenager but who has matured in prison be incarcerated for the rest of his life even though he became eligible for parole after 10 years?