

SUMMARY



Date considered: 21 February 2023

Sentence

1. The offender is serving an indeterminate sentence, of which the minimum term in custody was 12 years.

Test for release

2. Before it could direct release, the Tribunal had to be satisfied that it is no longer necessary for the protection of the public that the offender should be confined.

Decision

3. The Tribunal was satisfied on this matter, and directed release subject to licence conditions.

Reasons for decision

4. In reaching its decision, the Tribunal considered:
 - a) the circumstances of the index offence, and any offending history;
 - b) formal risk assessments prepared on the offender;
 - c) the offender's conduct since sentence, and intentions if released;
 - d) all relevant information in the dossier; and
 - e) the evidence heard at the hearing.
5. The Board are concerned about the serious nature of the index offences, the offender's previous history of violence, their history of non-compliance with court orders and bail conditions in the community and their recall to custody on three occasions.
6. The Board acknowledge that both social workers in their oral evidence preferred that the offender is further tested through community access at the Open Estate. The Board did not agree with their recommendations. Whilst testing in conditions of less security can be applicable in the Board's overall assessment of risk in certain circumstances, given the particular facts and circumstances of the offender's case it was not deemed necessary, particularly in light of the applicable test. The Board are required to apply anxious scrutiny.
7. The Board, whilst not being impressed by the offender being released and recalled to custody on three occasions, with the last time between 2019 and 2020 they were in the community for approximately one year before they were recalled. The offender has now been back in custody for approximately two years and eight months and has reached the point where they await their First Grant of Temporary Release and potential transfer to the Open Estate. The offender was relocated to the mainstream population within the prison and thereafter their behaviours appear to be more positive.

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8. The offender's last conviction for violence was approximately eighteen years ago. The Supervising Officer's position is that the offender's risk of causing harm in the community would not presently be imminent. Both social workers prefer that the offender is tested at the Open Estate. However, given the particular facts and circumstances of this case, the Board do not feel that this is necessary to enable the offender to currently meet the statutory test.
9. The Board encourage the offender to build a positive relationship with his Supervising Officer in the community and to engage with all supports and services afforded to the. Accordingly, the Board directed release on licence conditions which it deemed lawful, necessary and proportionate to manage the offender's level of risk in the community.