

DECISION SUMMARY



Date considered: 19 July 2023

Sentence

1. The offender is serving an indeterminate sentence, of which the minimum term in custody was 14 years.

Test for release

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

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

Reasons for decision

4. In reaching its decision, the panel 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 statutory test for the release of life sentence prisoners was discussed, and in order to justify the continued confinement of a life sentence prisoner, the danger posed by the prisoner must involve a substantial risk of serious harm to the public. The panel must take a 360 degree view when considering this and the serious harm must be at a level that outweighs the hardship of keeping a prisoner detained after serving the punishment part off their sentence.
6. The starting point for the panel in considering the offender's release was the index offence. It was clear to the panel that the offender is capable of causing serious harm given the circumstances of the index offence and their previous convictions for violence. However, the index offence represented a severe escalation in the seriousness of their offending and the panel had to consider whether the danger now posed by them involves a substantial risk of serious harm to the public. The offender is now more than 11 years past the expiry of the punishment part of their sentence therefore the panel had to be satisfied that the level of serious harm they pose outweighed the hardship of keeping them detained.
7. In applying the necessary anxious scrutiny to the consideration of the offender's release, the panel noted that they have not been involved in violence in custody

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for a significant period of time. Although they have been downgraded from National Top End (NTE) on several previous occasions, these were due to self-sabotage and did not involve violence or aggression. The panel also considered the offender's current period at NTE. The offender has had extensive contact with the public through their employment and the panel noted positive reports from their community work placement over a period of several months and often travelling there via public transport, avoiding misconduct reports, coping well with challenges in relation to delays and seeking support as appropriate.

8. The panel then considered the evidence of the Prison Based Social Worker (PBSW) and Community Based Social Worker (CBSW) neither of whom recommended the offender's release. Both witnesses referred to the need for the offender to be tested at the Open Estate (OE) to consolidate their risk assessments and provide better insight into how they will manage in the community. Both witnesses were concerned about immediate release given the length of time the offender had been in custody and the accommodation secured for release.
9. However, the PBSW and CBSW acknowledged that manageability of risk is not the test to be applied by the panel and agreed that there were no concerns about the offender's ability to comply with supervision. Furthermore, the PBSW stated that it was unlikely that the offender would cause serious harm on release. The panel, considering the offender's positive progress in custody and lack of violence for a significant number of years, concurred with the PBSW and therefore departed from the social work recommendations. Although the panel shared the concerns about the accommodation secured for release, it concluded that the test for the offender's continued confinement was not met, taking into account the evidence that there was no real likelihood of serious harm being caused on release and the fact that they are now more than 11 years post-tariff.
10. The offender's evidence highlighted that they may have unrealistic expectations about release, particularly in terms of the challenges they are likely to face with obtaining employment and stable accommodation. However, ultimately the panel concluded that the test for their continued confinement was not met, that there was evidence of the offender's ability to comply with licence conditions from their community work placement and that they had provided good evidence of their ability to cope with challenges and seek out support in custody.
11. Accordingly, the panel directed release on licence conditions which it deemed lawful, necessary and proportionate to manage the offender's level of risk in the community.

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