

UNITED STATE DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

SAMUEL GALBRAITH

NUMBER

VERSUS

JAMES LEBLANC, Secretary,
Louisiana Department of
Public Safety and Corrections,
and SHERYL RANATZA, Chair,
Louisiana Board of Pardons

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

The complaint of Samuel Galbraith, a resident of the State of Louisiana and domiciled at the Hunt Correctional Center, Parish of Iberville, respectfully represents:

JURISDICTION AND VENUE

1. Jurisdiction arises under 28 USC Section 1331 for this suit seeking declarative and injunctive relief for violation of civil rights pursuant to 42 USC Section 1983, the Fourteenth Amendment to the United States Constitution, 42 USC Section 1988 and supplemental jurisdiction under 28 USC Section 1367.

2. Venue is proper pursuant to 28 USC §1391 because the defendants are being sued in their official capacity and are domiciled in Baton Rouge, within the Middle District of Louisiana. A substantial part of the events giving rise to the claims herein occurred in this district.

PARTIES

4. Defendant James Leblanc is the Secretary of the Louisiana Department of Public Safety and Corrections (DOC) and is being sued in his official capacity.

5. Defendant Sheryl Ranatza is the Chair of the Louisiana Board of Pardons and Committee on Parole (Board) and is being sued in her official capacity.

6. Plaintiff Samuel Galbraith is a forty-eight-year-old prisoner in the custody of the Department of Corrections and is being housed at the Hunt Correctional Center (HCC) in St. Gabriel, Louisiana. His DOC number is 422350.

FACTS GIVING RISE TO THE CAUSES OF ACTION

7. On April 23, 1997, Galbraith turned himself into custody for the murder of Karen Hill. Following his plea of manslaughter and attempted aggravated rape on February 3, 2003, Galbraith was sentenced to seventy-one years at hard labor. The Department of Corrections assigned his parole eligibility date as April 23, 2017. Galbraith was 18 years old at the time of the offense; as of this filing, he is 48 years old.

8. Galbraith original parole hearing was set for October 13, 2017. That hearing was continued and rescheduled by the Board for November 3, 2016. Upon information and belief, the hearing was rescheduled because the October date was over 180 days before Galbraith's parole eligibility date and thus ran afoul of Board policy.

9. On November 3, 2016, Galbraith was brought before a three-member panel of the Committee on Parole represented by counsel. The panel unanimously voted to grant parole conditioned upon: approval of residence, an approved out-of-state plan, and a low Static- 99

score. On November 10, 2016, as required by the Board, Galbraith paid \$150.00 to complete the offender's application for Interstate Compact Transfer as part of his conditional parole. After inspection by Texas Parole officers, a low Static- 99 score, approval of the residence plan and the approval of the application for Interstate Compact Transfer, the parole was granted. The out-of-state living plan was to rejoin his family in southern Texas where he would be employed by his family's construction company.

10. Special conditions were placed upon his parole: he was ordered to have no contact with the victim's family; he could not travel to Louisiana without approval from the Louisiana Parole Office; and he was to perform community service by speaking to at risk youth twice a year.

11. Galbraith was eligible for parole pursuant to La.R.S. 15:574.4, that was in effect at the time of his crime in 1988. It allowed for Galbraith to be parole eligible after serving twenty years and reaching the age of forty-five, often referred to as the 20/45 parole eligibility act. (That statute was amended in 1995 to restrict the 20/45 parole eligibility rule for persons convicted of a crime of violence.)

12. Galbraith was set to be released on April 23, 2017. However, on April 21, 2017, defendant Board of Pardons, Committee on Parole issued a press release stating that Galbraith's grant of parole was rescinded.

13. Galbraith received a letter dated May 1, 2017 from Hal Morrison of the Board. Morrison stated that parole was rescinded because "we have been advised that Other [sic]. There may have been technical irregularities notifying the victim's family."

14. Galbraith has exhausted his administrative remedies. His ARP was rejected, not denied, by Warden Hooper of HCC. See, 22 La. Admin. Code Pt XI, 325(F)(3)(a)(viii)

THE CRIMINAL JUSTICE REFORM AGENDA

15. Galbraith became a political football in the debates and discussions surrounding the criminal justice reforms the 2017 session of the Louisiana Legislature.

16. Gov. John Bel Edwards began a series of discussions with working groups after being elected. His stated purpose was to reduce Louisiana's incarceration rate. On March 15, 2017, Gov. Edwards announced that he would push legislation that would, among other things, change parole eligibility for persons convicted of violent offenses.

17. The Louisiana Justice Reinvestment Task Force, a body of stake-holders in the criminal justice system, made its report and recommendations on March 16, 2017. One of the recommendations was to relax parole eligibility for violent prisoners.

18. Many media outlets reported on these initiatives and proposals.

19. Near the end of March 2017, various news outlets reported stories regarding Galbraith's impending release. Galbraith's grant of parole became a major tool for the opponents of Gov. John Bel Edwards' criminal justice reform proposals.

20. Asa Skinner, District Attorney for Vernon Parish, was featured in television and newspaper articles calling the Committee's decision an injustice. District Attorney Skinner negotiated Galbraith's plea bargain which allowed for him to become parole eligible after serving twenty years, and had sent a letter of opposition to Galbraith's release to the Board.

Following the unanimous decision to grant parole, District Attorney Skinner a wrote letter to the Board requesting a rehearing.

21. Other reports focused on Jessie McWilliams, the mother of the murdered victim. There were allegations made that suggested the mother did not receive notification of the parole hearing. However, McWilliams has stated that she was notified of the parole hearing and had been interviewed via telephone by Board staff concerning her views on Galbraith's possible parole.

22. James Hill, the victim's husband, stated he was notified of the hearing and he sent a letter of opposition.

23. An on-line petition was widely-distributed calling for Galbraith's continued incarceration.

24. Just days before Galbraith's impending release, news stories reported that the Louisiana Sheriff's Association and the Louisiana District Attorney's Association were vehemently opposed to any measure that would assist prisoners convicted of violent offenses from being released. Galbraith's grant of parole factored large in their efforts to thwart the Governor's and Louisiana Justice Reinvestment Task Force's recommendations the provide release opportunities to violent offenders. For example, Pete Adams, the Executive Director to the District Attorney's Association, commented that Galbraith's grant of parole "turned out to be an example of why we are concerned.... This is an example of one of those things in the [reform] package that would do that."

25. Following numerous news accounts, on April 21, 2017, Gov. Edwards announced that his office had been "in contact with the parole board today and we are looking at what

options [to keep Galbraith in prison] are available," he said. "We want to make sure that the process that was followed was complete and that [the Committee on Parole] did everything they were supposed to."

26. Later that day, and after the Governor's staff met with the Parole Board, the Parole Board Chair, Sheryl Ranatza, issued a press statement announcing the rescission of Galbraith's parole citing news reports alleging that the mother of the victim did not receive notification of the parole hearing. She stated: "During recent interviews with various media outlets, the victim's mother did state that her parole hearing notification letter for the originally scheduled October hearing was mailed to an address in Albany, New York rather than her address in Albany, Illinois." She further stated, "Although Mrs. McWilliams did receive the required notice for the November parole hearing, because of the apparent procedural error which occurred with the initial victim notification, the Board will reschedule a subsequent parole hearing for Mr. Galbraith, so that Mrs. McWilliams and the District Attorney has the opportunity to fully participate in the process."

27. On information and belief, the Board did not investigate or find any irregularities or technicalities regarding notification to the victim's family before rescinding Galbraith's parole.

28. Upon information and belief, both the husband and mother of the victim received proper notification of the hearing and both had the opportunity to voice their opposition to a grant of parole and in fact did so. The notifications complied with established by law and policies.

29. Under La.R.S. 15:574.2(D)(9), only one family member of the victim must be notified. The Board has a duty “[t]o notify the victim, or the spouse or next of kin of a deceased victim, when the offender is scheduled for a parole hearing.”

30. On information and belief, Hill and McWilliams were initially notified of the October 13, 2016 hearing on July 7, 2016.

31. On information and belief, Hill and McWilliams were notified on September 28, 2016 that the new hearing date was set for November 3, 2016.

32. The Board failed to provide Galbraith with any notice or opportunity to challenge a possible rescission of parole or to challenge the false information.

33. Galbraith became a pawn in the debates over whether persons convicted of violent offenses should be parole eligible.

34. At all times, the defendants were acting under color of state law.

CAUSE OF ACTION

Deprivation of substantive due process and procedural due process in violation of the 14th amendment to the United States Constitution and 42 Sec. 1983

35. Plaintiff incorporates by reference the preceding paragraphs as if fully set forth herein.

36. Galbraith received notification from the Board that “[t]here may have been technical irregularities notifying the victim’s family.” This purported reason is not a valid reason to rescind parole, nor is it true.

37. A grant of parole is an act of discretion by the members of the Committee on Parole. The members are appointed by the governor. In Louisiana, there are many statutory rules in effect governing who may apply for parole, and at what time during their incarceration. Louisiana, unlike many states, does not provide a person a hearing on whether to rescind a grant of parole.

38. Louisiana does, however, have express provisions of law that address under what circumstances the grant of parole may be rescinded once granted. According to the Board's regulations, two reasons exist that may cause the Board to rescind a parole.

Upon notification by the secretary of the Department of Public Safety and Corrections that an offender has violated the terms of work release granted under §311 or has engaged in misconduct prior to the inmate's release, the committee may rescind its decision to grant parole. In such cases, the inmate shall promptly receive another parole hearing.

22 La. Admin. Code Pt XI, 504 (K). The same provisions are found in Board Policy Number 05.505 (M)(1), to wit:

Upon notification by the Secretary of the Department of Public Safety and Corrections that an offender has violated the terms of work release granted by the board or has engaged in misconduct prior to the inmate's release, the board may rescind its decision to grant parole. In such cases, the inmate shall promptly receive another parole hearing.

39. Additionally, if the Board were to grant a conditional parole to an offender requiring successful completion of programs and the offender did not complete the program, rescission of the conditional parole may occur. 22 La. Admin. Code Pt XI, 711. That provision is not at issue here.

40. Galbraith was on notice that his grant of parole could be rescinded only if he engaged in misconduct while in custody. Galbraith had a liberty interest that arose from an expectation created by state law and policy.

41. Depriving Galbraith of release due fabricated, invalid and arbitrary reasons for rescission creates an atypical and severe hardship.

42. Galbraith is a model prisoner. As stated above, during his plea negotiations, District Attorney agreed allow Galbraith to plead to charges which would allow him parole eligibility after serving twenty years. He has maintained a stellar record while incarcerated; he has received only two infractions. He has been a trusted inmate counsel for a number of years and is currently a writer for the “The Walk Talk,” HCC’s inmate magazine. The Board recognized his accomplishments and his low-risk of re-offending when the panel unanimously granted him parole.

43. Galbraith was set to rejoin his family and work in the family’s successful construction business. Following the grant of parole, Galbraith’s mother retired and moved from Houston to southern Texas and his wife quit her job and moved from Dallas to southern Texas to be near him when he returned home. Galbraith purchased health insurance. Galbraith was hours away from being released via a valid grant of parole when he was denied release on false and invalid reasons.

44. Galbraith was on notice that his grant of parole could be in jeopardy if he engaged in misconduct before release. No allegation has been made that would suggest he did, in fact, he continues to be a model prisoner.

45. The Board did not provide Galbraith with notice that his impending release was in jeopardy and did not provide him with an opportunity to be heard as to why his parole should be rescinded. Additionally, the Board refused to allow Galbraith to challenge the Board’s decision.

Prayer for Relief

Wherefore, plaintiff respectfully prays that this Court:

1. Issue a declaratory judgment and injunction in favor of plaintiff ordering that the November 2017 grant of parole be reinstated;
2. Order that the plaintiff be immediately released from DOC custody under the conditions of his parole grant;
3. Award plaintiff costs and attorney's fees;
4. Provide such relief as the Court deems just and proper.

Dated: July 26, 2017

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