

Tracy Masters

12/09/2005 08:51 AM

To: adminrules@sos.state.ga.us
cc: La'Quandra Smith/LegalSvc/pap,
Subject: Amendment to Parole Board Rule 475-3-.05

Dear Ms. White:

Attached are electronic and scanned versions of the Letter of Transmittal, Certification Page and Amended Rule 475-3-.05. The Parole Board voted to make the amendment effective January 1, 2006. I will be out of the office Dec. 12-15. Therefore, I am forwarding this today. I will be here all day, if you have any questions. My phone number is 404.651.6671. If any questions arise next week, please contact La'Quandra Smith at the same number. As always, thank you for your assistance.

Tracy Masters



CERTIFICATION PAGE.doc



letter of transmittal.doc



Rule 475-3-.05.doc



rule transmittal ltr.tif



rule.475.3.05.certification.tif



rule.475.3.05.nov2005.tif

Tracy Dean Masters
Director of Legal Services
Georgia Board of Pardons & Paroles

STATE BOARD OF PARDONS AND PAROLES



Milton E. "Buddy" Nix, Jr.
Chairman

2 Martin Luther King, Jr., Drive, S.E.
Balcony Level, East Tower
Atlanta, Georgia 30334-4909
(404) 656-5651
www.pap.state.ga.us

Garland R. Hunt, Esq.
Vice-Chairman
Garfield Hammonds, Jr.
Member
Dr. Eugene P. Walker
Member
L. Gale Buckner
Member

December 9, 2005

Coral G. White
Deputy Director
Administrative Procedure Division
Office of Secretary of State
Suite 816, 200 Piedmont Avenue
Atlanta, GA 30334

Re: Letter of Transmittal
Board of Pardons and Paroles
Rule 475-3-.05 Parole Consideration.
Amended.

Dear Ms. White:

In accordance with the provisions of the Georgia Administrative Procedures Act and Secretary of State Rule 590-2-1-.04, please see the accompanying Rule 475-3-.05 amendment and certification page, in Microsoft Word format. In addition, this letter of transmittal, the certification page, and amended Rule 475-3-.05 have been scanned and submitted from the Pardons and Paroles Board's electronic mail communications system.

Should questions arise concerning this amendment, please contact me or Assistant Director of Legal Services La'Quandra Smith at 404.651.6671.

Sincerely,

A handwritten signature in black ink that reads "Tracy D. Masters".

Tracy D. Masters
Secretary to the Board and
Director of Legal Services

CERTIFICATION PAGE

CERTIFICATION OF ADMINISTRATIVE RULES FILED
WITH SECRETARY OF STATE CATHY COX

(Pursuant to O.C.G.A. §50-13-3, §50-13-4, §50-13-6)

I do hereby certify that the attached amendment is a correct copy as promulgated and adopted on the 18th day of November, 2005, to become effective January 1, 2006.

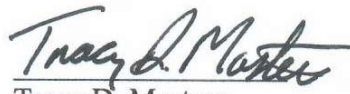
STATE BOARD OF PARDONS AND PAROLES

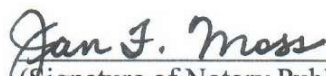
(Filing date: December 12, 2005)

Pursuant to the provisions of the Administrative Procedures Act, during an Open Meeting on November 18, 2005, the State Board of Pardons and Paroles amended its Agency Rule 475-3.05, relating to Parole Consideration, by adding paragraph seven creating a crime severity level VIII, specifying level VIII crimes and establishing Parole Guidelines recommendations for level VIII crimes.

Citation of applicable Authority: Ga. Const. 1983, Art 4, Section 2, Para. 2; O.C.G.A. Sections 42-9-20; O.C.G.A. 42-9-40; O.C.G.A. 42-9-42; and O.C.G.A. 42-9-45.

Sworn to and subscribed before
me this 9th day of December, 2005.


Tracy D. Masters
Secretary to the Board


(Signature of Notary Public)
(Notary Public Seal)

Notary Public, Clayton County, Georgia
My commission expires 7/22/06

475-3-.05 Parole Consideration. Amended.

(1) Consideration is automatic for all offenders serving sentences imposed by a court of this State and who are in the custody of the Department of Corrections, except that no parole consideration shall ever be given to offenders serving sentences for which parole is not authorized by law. No application is required. Persons ordered to serve consecutive county misdemeanor confinement sentences exceeding 12 months must request consideration. The request may be in any written form and must contain name under which convicted, where incarcerated, offense(s), date and court of conviction, and length of sentence(s). The request should be submitted as early as possible to allow enough time for necessary investigations.

(2) Reconsideration of those inmates serving life sentences who have been denied parole shall take place at least every eight years. The Board will inform inmates denied parole of the reasons for such denial without disclosing confidential sources of information or possible discouraging diagnostic opinions.

(3) Inmates who have escaped will not be considered for parole until their return to custody of penal authorities of this State. If initial parole consideration was given prior to the escape of a life sentence inmate, the next consideration will be scheduled for one to eight years after recapture.

(4) A person who is returned to prison because of violation of the conditions of parole or other conditional release will be scheduled for parole consideration six months to one year after revocation unless the Board directs otherwise in its order of revocation, votes to consider the case earlier, or unless a new sentence supersedes the revoked sentence for the purpose of computing parole eligibility.

(5) In considering parole for persons who will become statutorily eligible for parole consideration and who are serving less than a life sentence, the Board shall review a recommendation as to months to serve. This recommendation will be obtained from the Parole Decision Guidelines system which accounts for the severity of the crime and the inmate's likelihood of success on parole. The inmate's likelihood of success on parole is measured by weighted factors concerning the inmate's criminal and social history which the Board has found to have value in predicting the probability of further criminal behavior and successful adjustment under parole supervision. The Parole Decision Guidelines System is an aid to the Board in making more consistent, soundly based and explainable parole decisions and does not create a liberty interest. The Board specifically reserves the right to exercise its discretion under Georgia Law to disagree with the recommendation resulting from application of the Parole Decision Guidelines and may make an independent decision to deny parole or establish a Tentative Parole Month at any time prior to sentence expiration. After the Board notifies the inmate of their decision, the inmate may contest either the Crime Severity Level or Parole Success Factor scores by writing within 30 days the Parole Guidelines Director in the Board's Central Office. Prior to an inmate being paroled the inmate's institutional conduct will be reviewed and institutional misconduct may result in a delay in parole release or a decision to deny parole. Any decision rendered under the Parole Decision Guidelines may be changed at the discretion of the Board at any time. The Board may modify any part of the Parole Decision Guidelines system at any time.

(6) Inmates considered under the Parole Decision Guidelines system, who are not paroled or discharged from prison earlier, will be reconsidered at least every five years after the date recommended by the Parole Decision Guidelines.

(7)(a) Offenders considered for parole using the Parole Decision Guidelines System who have been convicted of the following crimes shall be assigned a Crime Severity Level of VIII: voluntary manslaughter, statutory rape, homicide by vehicle while under the influence of alcohol/drugs or as a habitual traffic violator, aggravated battery on a police officer, aggravated assault on a police officer, attempted rape, involuntary manslaughter, hijacking a motor vehicle, criminal attempt to murder, aggravated assault (with injury or weapon), enticing a child for an indecent purpose, cruelty to children, child molestation, feticide by vehicle, incest, bus hijacking, robbery, aggravated stalking, aggravated battery, burglary of an occupied residence, VGCSA - Cocaine or Methamphetamine – 400 or more grams, VGCSA - Marijuana -10,000 or more pounds, or VGCSA - Opiates – 28 or more grams.

(b) Crime Severity Level VIII offenders with a Parole Success Score of 0 to 8 shall receive a Parole Guidelines recommendation of 90% of the prison sentence.

(c) Crime Severity Level VIII offenders with a Parole Success Score of 9 to 13 shall receive a Parole Guidelines recommendation of 75% of the prison sentence.

(d) Crime Severity Level VIII offenders with a Parole Success Score of 14 to 20 shall receive a Parole Guidelines recommendation of 65% of the prison sentence.

Authority O.C.G.A. Secs. 16-8-83, 17-10-6, 17-10-6.1, 17-10-17, 42-9-20, 42-9-39, 42-9-40, 42-9-42, 42-9-45, 42-9-46. **History.** Original Rule entitled "Parole Consideration" adopted. F. and eff. Jan. 7, 1970. **Amended:** F. Oct. 8, 1971; eff. Oct. 28, 1971. **Amended:** F. Jan. 20, 1972; eff. Feb. 9, 1972. **Amended:** F. Jan. 8, 1974; eff. Jan. 28, 1974. **Amended:** F. June 30, 1976; eff. July 20, 1976. **Amended:** F. Mar. 15, 1979; eff. Apr. 4, 1979. **Amended:** F. Nov. 8, 1979; eff. Dec. 1, 1979, as specified by the Agency. **Repealed:** New Rule, same title adopted. F. Nov. 21, 1983; eff. Dec. 11, 1983. **Amended:** F. Jan. 7, 1985; eff. Feb. 1, 1985; as specified by the Agency. **Amended:** F. Apr. 29, 1985; eff. May 19, 1985. **Amended:** F. Aug. 23, 1993; eff. Sept. 12, 1993. **Repealed:** New Rule, same title adopted. F. July 9, 2001; eff. July 29, 2001. **Amended:** F. Dec. 12, 2005; eff. Jan. 1, 2006.



"Gilley, Janice"
<JGilley@sos.state.ga.
us>

12/14/2005 04:51 PM

To: <Tracy_Masters@pap.state.ga.us>
cc: "White, Coral" <cwhite@sos.state.ga.us>
Subject: Rule 475-3-.05 amended, Rules of the State Board of Pardons and
Paroles

RE: Rule 475-3-.05 amended, Rules of the State Board of Pardons and Paroles

This acknowledges receipt of your letter, dated December 09, 2005, with which was attached an electronic copy of the above-captioned amendment.

We have recorded said amendment as having been received and filed on December 09, 2005, to become effective on January 01, 2006, as specified by the Agency.

Sincerely,

Coral White

Coral White
Manager
Administrative Procedure Division
cwhite@sos.state.ga.us

CW/jg

--

This message has been scanned for viruses and dangerous content by MailScanner, and is believed to be clean.

Georgia State Board of Pardons and Paroles



Milton E. "Buddy" Nix,
Jr.
Chairman

STATE BOARD OF PARDONS AND PAROLES

2 Martin Luther King, Jr., Drive, S.E.
Balcony Level, East Tower
Atlanta, Georgia 30334-4909
(404) 656-5651
www.pap.state.ga.us

Garland R. Hunt, Esq.
Vice-Chairman
Garfield Hammonds, Jr.
Member
Dr. Eugene P. Walker
Member
L. Gale Buckner
Member

BOARD MEETING AGENDA FOR NOVEMBER 18, 2005

LOCATION: THE EMPIRE ROOM
Floyd Veterans Memorial Building
200 Piedmont Avenue
20th Floor, West Tower
Atlanta, GA 30334

TIME: 2:00 PM

- I. CALL TO ORDER
 - II. WELCOME - Chairman Nix
 - III. APPROVAL OF AGENDA
 - IV. ADOPTION OF MINUTES FROM OCTOBER 4, 2005
-
- V. OLD BUSINESS
 - VI. NEW BUSINESS
 - VII. DIRECTOR'S REPORT
 - A. PUBLIC COMMENT TO PROPOSED AMENDMENT TO BOARD RULE 475-3-.05: - Tracy Masters
 - VIII. BOARD VOTE ON PROPOSED AMENDMENT TO BOARD RULE 475-3-.05
 - IX. ADJOURNMENT



STATE BOARD OF PARDONS AND PAROLES

2 Martin Luther King, Jr., Drive, S.E.
Balcony Level, East Tower
Atlanta, Georgia 30334-4909
(404) 656-5651
www.pap.state.ga.us

Garland R. Hunt, Esq.
Vice-Chairman
Garfield Hammonds, Jr.
Member
Dr. Eugene P. Walker
Member
L. Gale Buckner
Member

Milton E. "Buddy" Nix, Jr.
Chairman

BOARD MEETING SUMMARY

November 18, 2005

Members Present: Milton E. Nix, Jr.; Garland R. Hunt, Esq.; Dr. Eugene P. Walker, Garfield Hammonds, Jr. and L. Gale Buckner.

Motions and Other Business:

1. Mr. Hunt made a motion to adopt the agenda as written. Ms. Buckner seconded the motion and the motion carried unanimously.
2. Dr. Walker made a motion to adopt the minutes of the Board meeting of October 4, 2005. Ms. Buckner seconded the motion and the motion carried unanimously.
3. Tracy Masters, Director of Legal Services, reviewed the following proposed amendment to the Board's administrative rules, which the Board tentatively passed at its last meeting on October 4, 2005.

PAROLE BOARD RULE 475-3-.05 Parole Consideration. Amended.

(7)(a) Offenders considered for parole using the Parole Decision Guidelines System who have been convicted of the following crimes shall be assigned a Crime Severity Level of VIII: voluntary manslaughter, statutory rape, homicide by vehicle while under the influence of alcohol/drugs or as a habitual traffic violator, aggravated battery on a police officer, aggravated assault on a police officer, attempted rape, involuntary manslaughter, hijacking a motor vehicle, criminal attempt to murder, aggravated assault (with injury or weapon), enticing a child for an indecent purpose, cruelty to children, child molestation, feticide by vehicle, incest, bus hijacking, robbery, aggravated stalking, aggravated battery, burglary of an occupied residence, VGCSA - Cocaine or Methamphetamine – 400 or more grams, VGCSA - Marijuana -10,000 or more pounds, or VGCSA - Opiates – 28 or more grams.

(b) Crime Severity Level VIII offenders with a Parole Success Score of 0 to 8 shall receive a Parole Guidelines recommendation of 90% of the prison sentence.

(c) Crime Severity Level VIII offenders with a Parole Success Score of 9 to 13 shall receive a Parole Guidelines recommendation of 75% of the prison sentence.

(d) Crime Severity Level VIII offenders with a Parole Success Score of 14 to 20 shall receive a Parole Guidelines recommendation of 65% of the prison sentence.

Equal Opportunity Employer
Recipient of the Council of State Governments' Innovations Award
American Probation and Parole Association's President's Award Winner
Accredited by the Commission on Accreditation for Corrections/American Correctional Association

4. Mr. Hunt made a motion to adopt the proposed amendment to Board Rule 475-3-.05. Mr. Nix seconded the motion and the motion carried unanimously.
5. Mr. Nix made a motion to make January 1, 2006, the effective date of the amendment to Board Rule 475-3-.05.
6. Mr. Hunt seconded the motion and the motion carried unanimously.
7. With no further business, Ms. Buckner made a motion for the meeting to adjourn. Dr. Walker seconded the motion and the motion carried unanimously.



Tracy D. Masters
Secretary to the Board



Milton E. "Buddy" Nix, Jr.
Chairman

STATE BOARD OF PARDONS AND PAROLES

2 Martin Luther King, Jr., Drive, S.E.
Balcony Level, East Tower
Atlanta, Georgia 30334-4909
(404) 656-5651
www.pap.state.ga.us

Garland R. Hunt, Esq.
Vice-Chairman
Garfield Hammonds, Jr.
Member
Dr. Eugene P. Walker
Member
L. Gale Buckner
Member

OFFICIAL MINUTES

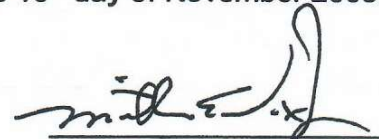
Open Meeting of October 4, 2005

1. Chairman Nix called the meeting to order at 10:00 a.m. The meeting was held in the Floyd Building, 2 M. L. K., Jr. Drive, East Tower, 5th floor, Atlanta, Georgia. Chairman Nix, Vice-Chairman Hunt, Mr. Hammonds, Dr. Walker and Ms. Buckner were present.
2. Chairman Nix welcomed everyone.
3. Chairman Nix reported that Governor Perdue commended the Parole Board and its employees for a job well done in responding to the Katrina hurricane disaster relief effort.
4. Mr. Hunt made a motion to adopt the agenda as written. Mr. Hammonds seconded the motion and the motion carried unanimously.
5. Mr. Hunt made a motion to adopt the minutes of the Board meeting of August 30, 2005. Ms. Buckner seconded the motion and the motion carried unanimously.
6. OLD BUSINESS

There was no old business for the Board to consider.
7. NEW BUSINESS
 - A. Chairman Nix gave an overview of his meeting in Chicago with the other "heads" of the parole authorities of the various states.
 - B. Chairman Nix also gave an overview of the Governor's most recent department heads meeting. He thanked Parole Board employees for their efforts in performing the difficult tasks they face every day.
 - C. Tracy Masters, Director of Legal Services, presented a proposed amendment to Board Rule 475-3-.05. This amendment would create a crime severity level eight, which would include offenses formally covered by the 90% policy as well as some drug trafficking offenses. The proposed rule is attached and incorporated by reference herein.

- D. After much discussion of the proposed rule amendment, Dr. Walker made a motion to initially adopt this amendment to the Board Rules and to place a final vote on it on the agenda for the next open meeting of the Parole Board scheduled for November 18, 2005. The motion was seconded by Ms. Buckner and was passed unanimously.
- E. Beth Oxford, Director of Parole, discussed certain measures intended to improve parole success outcomes.
- F. Danny Hunter, Director of Field Services, gave an update on the Field Operations Division. He gave statistics on parolee success rates and provided the Board with an overview of the accomplishments of the Field Services Division over the past year. He thanked Jay Hancock and the members of his unit for how efficiently and professionally they process the numerous delinquent reports sent to the Board every day.
- G. The Board members commended Danny Hunter on the performance of his division's members and the results they are achieving.
- H. Chairman Nix presented Leadership Coins to Beth Oxford, Danny Hunter, and all of the Regional Directors.
- I. With no further business, Mr. Hunt made a motion to adjourn. Dr. Walker seconded the motion and the motion carried unanimously.

Approved by the Board on this 18th day of November 2005.



Milton E. Nix, Jr.
Chairman



STATE BOARD OF PARDONS AND PAROLES

2 Martin Luther King, Jr., Drive, S.E.
Balcony Level, East Tower
Atlanta, Georgia 30334-4909
(404) 656-5651
www.pap.state.ga.us

Garland R. Hunt, Esq.
Vice-Chairman
Garfield Hammonds, Jr.
Member
Dr. Eugene P. Walker
Member
L. Gale Buckner
Member

Milton E. "Buddy" Nix, Jr.
Chairman

BOARD MEETING SUMMARY

October 4, 2005

Members Present: Chairman Milton E. Nix, Jr.; Vice-Chairman Garland R. Hunt; Member Garfield Hammonds, Jr. and Member L. Gale Buckner.

Motions and Other Business:

Mr. Hunt made a motion to adopt the agenda as written. Mr. Hammonds seconded the motion and the motion carried unanimously.

Mr. Hunt made a motion to adopt the minutes of the Board meeting of August 30, 2005. Ms. Buckner seconded the motion and the motion carried unanimously.

Tracy Masters proposed an amendment to Board Rule 475-3-.05: Parole Consideration. Amend. The amendment adds a crime severity level eight for those offenses formerly governed by the Board's 90% policy and certain drug offenses. The amendment reads as follows:

(7)(a) Offenders considered for parole using the Parole Decision Guidelines System who have been convicted of the following crimes shall be assigned a Crime Severity Level of VIII: voluntary manslaughter, statutory rape, homicide by vehicle while under the influence of alcohol/drugs or as a habitual traffic violator, aggravated battery on a police officer, aggravated assault on a police officer, attempted rape, involuntary manslaughter, hijacking a motor vehicle, criminal attempt to murder, aggravated assault (with injury or weapon), enticing a child for an indecent purpose, cruelty to children, child molestation, feticide by vehicle, incest, bus hijacking, robbery, aggravated stalking, aggravated battery, burglary of an occupied residence, VGCSA - Cocaine or Methamphetamine – 400 or more grams, VGCSA - Marijuana -10,000 or more pounds, or VGCSA - Opiates – 28 or more grams.

(b) Crime Severity Level VIII offenders with a Parole Success Score of 0 to 8 shall receive a Parole Guidelines recommendation of 90% of the prison sentence.

(c) Crime Severity Level VIII offenders with a Parole Success Score of 9 to 13 shall receive a Parole Guidelines recommendation of 75% of the prison sentence.

(d) Crime Severity Level VIII offenders with a Parole Success Score of 14 to 20 shall receive a Parole Guidelines recommendation of 65% of the prison sentence.

Page Two
Oct. 4, 2005

Dr. Walker made a motion to initially adopt this amendment to the Board Rules and to place a final vote on the amendment on the agenda for the next open meeting of the Board. The motion was seconded by Ms. Buckner and was passed unanimously.

A handwritten signature in cursive script that reads "Tracy D. Masters".

Tracy D. Masters
Secretary to the Board

State of Georgia

TRACY D. MASTERS
DIRECTOR OF LEGAL SERVICES

BOARD OF PARDONS AND PARCLES
FIFTH FLOOR, EAST TOWER
2 MARTIN LUTHER KING, JR. DRIVE, S.E.
ATLANTA, GEORGIA 30334
www.pap.state.ga.us

18 Nov 05



Twenty-three identical letters
were ^{hand-}delivered to Legal
Services after the Board had
voted to adopt the proposed
amendment to its administra-
tive rules.

Tracy

November 17, 2005

State Board of Pardons and Paroles
Board's Legal Office
2 Martin Luther King, Jr. Drive, SE
Atlanta, GA 30334
RE: James Andrew Black EF-488035

Dear Sir or Madam:

I am writing this letter to express my concern regarding the Board's intent to consider amending an agency rule related to the 90% policy. I am strongly opposed to the considered amendment which would decrease the prison sentence for convicted felons placing these individuals back on our streets and in our community. I feel this is unfair and demeaning to the many victims and victim families whose only source of closure and comfort was to know that the individual responsible for the committed crime is no longer a free member of society to possibly cause harm or death to other innocent victims.

I am personally aware of the emotional and physical pain that can be caused by the actions of such an individual who takes no consideration for the possible ramifications of his or her decisions. The convicted felon, James Andrew Black, referred to above is responsible for the death of my close friend Jay Harrington and the serious injury of his fiancée Jennifer Slaton. The lives of these exceptional teenagers as well as their families and friends have been impacted forever.

Jay was a wonderful friend who brought joy and a warm smile to everyone he came in contact with. He had such a bright future as he was attending college to pursue his career in the healthcare field. His enthusiasm for his career was evident by his eagerness to learn and the manner in which he interacted with coworkers and patients. Jennifer has endured years of intensive medical care and rehabilitation in an attempt to regain some sense of normalcy in her life. Her outwardly visible physical scars have healed, but her emotional and mental scars are still very evident. At 24 years of age she is considered "disabled" as the result of the closed head trauma she received in the crash caused by James Andrew Black.

On the night of February 3, 2001, James Andrew Black made a decision to consume alcohol then to get in his truck to go for a joy ride with friends. It was not the first time he had made this choice. He drove under the influence of alcohol knowing that he was breaking the law. After he pulled into the on-coming lane of the highway and violently struck the car Jay and Jennifer were riding in he fled the scene of the crash never stopping to consider if the individuals in the car he had struck were alive or dead.

My plea to you is that James Andrew Black not be considered for parole before having served his full sentence as ordered. Twenty years will never erase the pain or loss he has caused, but it is the only justice that can be offered to his victims.

Sincerely,


Maria A. Smith
1222 Lakeview Parkway
Villa Rica Ga 30180
Ph 770 830-6988