

SUPREME COURT OF WASHINGTON

In re the Personal Restraint of Dyer

157 Wash. 2d 358 (2006) · Decided July 27, 2006

SUMMARY

The Washington Supreme Court held that the Indeterminate Sentence Review Board abused its discretion by finding Richard J. Dyer not parolable based on speculation and conjecture while disregarding favorable psychological evidence and evidence of rehabilitation. The court reversed the Board’s decision and remanded for a new parolability hearing based on the evidence presented.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	C. Johnson, J.; Alexander, C.J.; Sanders, J.; Chambers, J.; J.M. Johnson, J.
JURISDICTION	Washington
DECIDED	July 27, 2006
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Dyer filed a personal restraint petition challenging the Indeterminate Sentence Review Board's determination that he was not parolable and its extension of his minimum term by 60 months.
STANDARD OF REVIEW	The court reviews parole eligibility decisions to ensure that the ISRB exercises its discretion in accordance with applicable statutes and rules. The ISRB abuses its discretion when it fails to follow its procedural rules or acts without considering and in disregard of the facts.
PRECEDENTIAL VALUE	Published Washington Supreme Court opinion; precedential
PARTIES	Richard J. Dyer v. Indeterminate Sentence Review Board

TOPICS

- parole
- state post-conviction relief
- judicial review of agency action
- administrative law
- criminal procedure

PRACTICE AREAS

- Administrative law
- Criminal procedure
- Post-conviction relief
- Parole

QUESTIONS PRESENTED

1. Whether the ISRB abused its discretion by finding Dyer nonparolable while disregarding favorable psychological evidence and other evidence presented at the parolability hearing.
2. Whether the ISRB could support its nonparolability decision with speculation and conjecture that Dyer was manipulative and posed a high risk of reoffending.
3. Whether Dyer's constitutional claims needed to be reached after the court resolved the abuse-of-discretion issue.

HOLDINGS

1. The ISRB abused its discretion because it disregarded evidence presented at the hearing, including the current psychological evaluation, and relied on speculation and conjecture unsupported by the record.
2. The court could not determine Dyer's parolability or order parole in the first instance; the matter had to be remanded to the ISRB for a new parolability hearing.

KEY QUOTATIONS

“The ISRB possesses broad discretion in determining parolability, but this discretion is not without limits. The ISRB cannot ignore the evidence presented at the hearing nor rely on mere conjecture in making its decisions.” (at 369)

“Where the ISRB disregards the evidence presented and supports its decision with speculation and conjecture, it abuses its discretion.” (at 369)

FACTUAL BACKGROUND

Dyer was convicted by a jury of first degree rape of two individuals and was sentenced to concurrent maximum terms of life imprisonment. He participated in numerous offender-change programs and maintained exemplary behavior in prison, but was not permitted to enter sex-offender therapy because he denied committing the rapes. A 2001 psychological evaluation concluded that he presented a low risk of reoffending and could be considered for a less restrictive environment. The ISRB nevertheless found him nonparolable, relying substantially on the nature of his crimes, his good prison behavior, and speculation that he had learned to manipulate psychological tests.

PROCEDURAL HISTORY

Dyer was convicted of two counts of first degree rape and received concurrent life maximum terms under Washington's former indeterminate sentencing system. The ISRB denied parole in 1995, 1998, and 2002; this case concerns the ISRB's January 30, 2002 decision following its December 2001 hearing. The Washington Supreme Court held that the ISRB abused its discretion and remanded for a new parolability hearing.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The ISRB must conduct a new parolability hearing and determine Dyer's parolability based on the evidence and testimony presented, without relying on speculation and conjecture.

CASES CITED

- Meachum v. Fano, 427 U.S. 215, 225, 96 S. Ct. 2532, 49 L. Ed. 2d 451 (1976)
- Greenholtz v. Inmates of the Neb. Penal & Corr. Complex, 442 U.S. 1, 10, 99 S. Ct. 2100, 60 L. Ed. 2d 668 (1979)
- In re Pers. Restraint of Addleman, 151 Wn.2d 769, 776-78, 92 P.3d 221 (2004)

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