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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

In re GEORGE EDWARD WHITE,
on Habeas Corpus.

H036936
(Santa Clara County
Super. Ct. No. 58822)

In 1975, petitioner George Edward White was convicted of the first degree murder of 20-year-old Betsy Martin. White shot Martin six times in the back of the head as she lay on her bed, because she, according to White, owed him approximately \$10,000 for drugs he had sold her. Martin's body was discovered by her boyfriend, William Wright, also a drug dealer. Initially sentenced to death, White's sentence was subsequently commuted to life in prison.

On April 8, 2010, the Board of Parole Hearings (Board) found White unsuitable for parole. The Santa Clara County Superior Court granted White's petition for a writ of habeas corpus and ordered the Board to conduct a new hearing for him within 100 days. The superior court found the Board utilized a disfavored "weigh[ing] analysis" rather than applying the "nexus" test in concluding that White is unsuitable for parole.

Respondent Gary Swarthout, acting warden of the California State Prison, Solano (Warden), appeals from the order. He argues there is some evidence in the record to support the conclusion that White poses a current risk of danger to society.

We agree there was some evidence to support the Board's conclusion that White was unsuitable for parole and shall reverse.

I. FACTUAL AND PROCEDURAL BACKGROUND

A. The 2010 Board hearing

At the outset of the hearing, the Board confirmed that White had waived his right to an attorney and was representing himself. White acknowledged receiving the documents referenced in the hearing checklist, but indicated he had neither read them nor brought them to the hearing. White said he was prepared to proceed and when asked why he had not read the documents, he said, “I just didn’t want to read [them].”

One of the panel members responded, “Sir, you show up in here without a packet. You’re asking for parole today. I’m the Deputy Commissioner. I got all these files I’m going through. We have the District Attorney that have packets. [*Sic.*] And you have the Commissioner that have [*sic*] all this paperwork concerning you. You show up here with nothing and say you’re ready to go forward. How can you present relevant information that you are suitable for parole without even reading your packet, not even giving us the respect of bringing the packet to the Board with you?”

White said he did not need a packet, because he “lived all of it.”

1. The life crime

The Board related the facts of the commitment offense as follows.

“On August 26th, 1974, at approximately 2:30 a.m. the body of Betsy Delores Martin was discovered in a pool of blood in one of the bedrooms of her residence in Palo Alto, California. The body was discovered by the victim’s boyfriend, William Wright. Autopsy revealed that the victim had at least four entry wounds, bullet wounds to the rear head and six exit wounds to the victim’s face. Two entrance wounds were made at the base of the skull and without powder burns. A large hole located in the center of the rear skull area was made by at least two bullets. The powder burns suggested the weapon was fired at close range. Further examination revealed massive brain damage and a severed spinal cord. Other bruises all discovered on the victim’s back which may have been caused by some type of striking blow. The firearm that inflicted the injuries was never

recovered. It was consistent with a nine millimeter. Wright reported that various items were missing from the residence at the time the victim's body was discovered. Those items included pieces of the victim's jewelry, two silver bars and a yellow plastic bag containing a small quantity of marijuana. Detectives issued a notice to the jewelry stores out in the immediate area. On August 29th, 1974, the owner of Rapp's Jewelry contacted the Palo Alto Police Department. Mr. Rapp reported that on August 26th, 1974, approximately 12 noon an individual identified as Erwin Willie Owens sold him two rings and a pocket watch and offered to sell him two silver bars. During the transaction Owens was with another male identified as--that he was unable to identify. Wright identified the items as property belonging to the victim. The two rings, the pocket watches were found to be missing when the body was discovered. On August 30th, 1974, at approximately three a.m. detectives observed and arrested Owens. Just prior to arrest, Owens exited the passenger door in a vehicle by a man subsequently identified as George White. When Owens exited the passenger side of the vehicle, he was observed to be holding a revolver which he proceeded to discard in a nearby planter box. The weapon had been stolen in a residential burglary which occurred on March 14, 1974, in Menlo Park. Detectives obtained a consent search of White's mother's residence. During the course of that consensual search, they recovered a quantity of nine millimeter ammunition from underneath the bed in a room normally occupied by White. On September 1, 1974, detectives interviewed White's former girlfriend, Ms. Robertson. She stated that on August 26th, 1974, she was awoke [sic] at two a.m. When she went to the door, she discovered George White and two of his friends identified as Ronald and Erwin. White told her that he had just killed a white girl. He displayed an automatic pistol which he had removed from his waistband. Ms. Robertson indicated she observed blood on the gun. When she asked--White asked Ms. Robertson to inspect his clothing to see if she could see any blood stains after which he showed her some jewelry. The three left the house. Ms. Robertson indicated the last time she saw the weapon was in

Moore's^[1] possession on August 26th--August 28th, 1974. While White was in custody, he placed a telephone call to Ronald Bradford. While collecting physical evidence at the scene of the murder, a latent fingerprint was found that this was made [*sic*] by Ronald Bradford and Bradford was placed under arrest."

White confirmed that this was what happened, and said he had nothing to add to this account. He admitted shooting the victim, and said he did so because he was "[t]rying to get some money" she owed him for "[n]arcotic transactions." White claimed the victim owed him \$10,000 for drugs, even though her boyfriend was a drug dealer.

The Board noted that the victim could not repay him if she were dead and asked why White killed her if she really owed him money. White responded, "That's a good question." When asked if he had an answer to that question, White said, "No."

White denied sexually assaulting the victim, did not know if she had been sexually assaulted and could not recall if there had been any testimony at trial about her being sexually assaulted. He said he was not charged with sexual assault. He did not know why the victim had sperm in her vagina and anus as reported in the autopsy, and could not explain how the bedspread pattern became imprinted on the victim's right thigh and leg.

When asked how he felt about the victim's death, White said, "Well, I feel bad about it" and that he had previously expressed remorse to the Board and in his psychological evaluations. However, he acknowledged he did not really talk about the crime during the last several parole hearings. White had never written a letter of remorse to the victim's family, but said that if the victim's mother were "standing right there," he would tell her "how much I was sorry what happened to her daughter. Her daughter didn't deserve that."

¹ In the April 2010 Life Prisoner Evaluation report, White said he 'went by this mother's last name, Moore, while growing up.'

White said the victim was the intended target, and did not recall that her boyfriend, the drug dealer, was the actual target. He admitted it was an “execution style slaying,” saying “You don’t shoot nobody in the head by accident.” The victim was lying on the bed, and White put the gun against her head and pulled the trigger. He denied telling anyone afterwards, “I killed me a white girl.” He denied having a gun when he, Owens and Bradford were talking in front of Robertson, and denied giving Robertson any jewelry.

The Board asked White how he felt about his initial death sentence and he said, “That was the appropriate sentence for what I did.” He continued, “And if they executed me, that would have been what I deserved. . . . Now I got life in prison, and I’m asking for another chance.”

When asked why he felt he was qualified for parole, White responded, “I did done my time.” After further prompting about his efforts at rehabilitation, White said “I did done everything that the Board required me to do. I done everything that I wanted to do. . . . I did went to a trade. . . . [¶] . . . I went to NA for 18, 19 years. [¶] . . . [¶] I did been to Cat-X. [¶] . . . [¶] And that’s it. That’s all the State has offered. They don’t have nothing else.”

The Board asked White what difficulties he expected to encounter in reentering society, and he said, “Something like finding a job.” After being prompted to relate other hurdles he might encounter if paroled, White said, “I don’t think it’s going to be that complicated.”

2. *Social history*

As set forth in his 2009 psychological evaluation, White was born July 23, 1950, in San Mateo, California. He is the third oldest of nine siblings. His parents separated when he was four years old, and he and his siblings lived with his mother thereafter. White’s father worked at a car dealership, detailing cars, and his mother, who died in

1990, was a janitor. White remains in touch with his father and his seven remaining siblings (one had died sometime before 2010).

White began committing crimes at the age of 11, including breaking and entering and burglary. He obtained his high school diploma while in the California Youth Authority (CYA).

White has had three or four relationships which lasted longer than a year, but has never been married.

3. *Prior criminal record*

White denied having an “extensive criminal history” as an adult, though he conceded that including his juvenile record might justify that description. The Board detailed his history as follows. “[A]s a juvenile, you got into the system at age 12. Sent to CYA January 5th, 1967, at age 16 for a little bit of auto theft, joyriding. Paroled from CYA on November 9th, 1967. You only did a year. Records are kind of unclear about that, but you did do some more time at CYA. As an adult, starting in ’68, a little bit of 10851 and theft with credit card, detention only. 1968, San Jose Police Department, contributing to the delinquency of a minor, criminal conspiracy, burglary, dismissed. Redwood City PD, the same, three weeks later. Possession of a hypodermic needle, receiving stolen property, dismissed, insufficient evidence. A year later in 1969, Redwood City, burglary, dismissed. A few months later in April, Redwood City, burglary and receiving stolen property, disposition unknown. Two months later, San Francisco PD, another burglary, failure to provide, no disposition. 1969, 6/16, two weeks later--no, two days later, forgery, convicted. That was fictitious checks. Went back to CYA on 8/17/1969. Paroled in 1970. 10/20/1971, burglary, convicted, San Jose, two years probation, three months jail time. You also got a receiving stolen property. 1/24/1972, . . . [r]eceiving stolen property, unknown disposition. 1972 in July, Redwood City, transporting and selling narcotics, criminal conspiracy, dismissed in the furtherance of justice. 1973, Redwood City, 10851, which is auto theft, receiving stolen property,

convicted on vehicle theft, 24 months probation, six months jail suspended. 6/7/74, 496, which is receiving stolen property, carrying a concealed weapon on a person and carrying a loaded firearm in a public place, felon in possession of a firearm.”

White insisted that his adult criminal history, which included many dismissals, was a consequence of being in a place where other people had “weapons and guns and narcotics.” He believed he was treated unfairly by being arrested simply for being in such places. However, he admitted being guilty of the juvenile offenses, which resulted in him being sent to the CYA.

When asked what he had learned from his criminal record, White said he “take[s] a [*sic*] inventory all the time,” and he “feel[s] bad about it.” He said it “ruined” his life, and that he got involved in selling drugs because “[t]hat was available at the time.”

4. *Parole plans*

If paroled, White intended to live at the house of a friend, Louis Tate, in East Palo Alto. Tate, who was 74 years old at the time of the 2010 hearing, visits White in prison at least once a week. In a letter to the Board, Tate said he would assist White in finding a job and White could live with him and his wife in their three-bedroom house on his release.

At the time of the parole hearing, White had no jobs lined up and had not looked for work. He said he had obtained a dry cleaning certificate while in prison. The Board asked what he thought prospective employers would say after looking at his criminal record. White replied, “After I talk to them, they’re going to see I’m a changed man.” He pointed out that the “criteria you [i.e., the Board] have for finding me suitable and the criteria of getting me a job is two different criterias.” [*Sic.*]

In response to the district attorney’s questions about employment, White admitted that he never worked prior to being sent to prison. He was arrested for selling drugs in 1972, but that charge was dismissed. White denied that he and his codefendants stole from drug dealers rather than dealing drugs themselves.

5. *Institutional record*

At the time of his parole hearing, White's classification score was zero, though because of the murder conviction, his mandatory placement score was 28. He has never been in a street gang nor has he ever been involved in prison gangs.

Since his incarceration in 1974, White had received no CDC-128 write-ups and only two CDC-115 write-ups, one of which was vacated. The other CDC-115 he received in 2007 for mutual combat, and White explained that he was defending himself after his cellmate kicked him.

White had not obtained any college credits while incarcerated. He obtained a certificate in dry cleaning in 1987, but had completed no other vocational training.

White had not participated in any self-help programs since his prior parole hearing, because "They don't have nothing I want to do." When asked what programs were available, White said, "All they have is NA and AA. They don't have nothing else." White said he had gone to NA for 18 years from 1986 to 2005. Even though he did not have a drug problem, he took it "[b]ecause they asked me to." He knew a few of the steps, such as step four, which "has to do with taking a fearless inventory of yourself." White said he takes such an inventory every day. He took an inventory of himself regarding the commitment offense, and said he learned it was motivated by "Greed. When you do something for so long, you become callous to it to where you just don't even think about how it affects other people's lives." White also discussed steps eight, nine and 10.

White completed the category X program in 1987, but told the Board he got "[n]othing" from that program that would prepare him for parole.

6. *2009 psychological evaluation*

In the section entitled "Insight/Self Assessment," the evaluator wrote, "White has developed insight over the course of his incarceration." White told the evaluator: "I am more wise, and more mature. I know some others who came after me and before me are

not doing so well. I try to keep doing better, and doing something constructive every day.” In a subsequent section entitled “Remorse and Insight into Life Crime,” the evaluator asked White about his feeling of remorse, and White responded, “I used to talk about it and when I did, I said I was sorry. I expressed it before. It is on paper in the file. I don’t talk about the crime. That is over with. I talk about it just for today.” When asked why the crime occurred, White reiterated that he was “not going to talk about the crime. It is over with.” The evaluator noted that White “does not convey remorse or empathy in his presentation. He appears to have learned to live with what he has done, but his level of repentance is based upon living in the present and not upon necessarily processing what he has done in the past.” According to the evaluator, this “leaves open to question to what degree [White] is capable of experiencing the impact of his behavior upon others in the past, or of accepting responsibility for past actions and also, issues regarding not having to process circumstances, possibly based on an inflated sense of self worth.”

The evaluation indicated that White scored in the moderate range for psychopathy, in the moderate/high risk category for violent recidivism and was in the overall moderate/high range for committing violence in the free community. White told the Board he disagreed with the evaluation on those points, and believed he should be classified in the low range for all of them as he is “not a violent person.”

7. *Denial of parole*

The Board denied parole to White for 15 years, finding that he posed an unreasonable risk of danger if released from prison. The Board cited the following factors in support of its denial: the commitment offense;² White’s prior escalating

² In discussing the commitment offense, the Board noted that “During the autopsy it was discovered that the victim was sexually assaulted, sodomized and raped.” The autopsy was not part of the original clerk’s transcript on appeal. We granted White’s (continued)

criminal history and failure to profit from prior efforts to correct his criminality; his lack of insight into the crime, as documented in the 2009 psychological evaluation which also found White presented a moderate to high risk of violent recidivism; his unrealistic parole plans; and his failure to participate in self-help since his last parole hearing.

The Board recommended White remain discipline free, upgrade his vocational skills when available, participate in available self-help programs and cooperate in completing a clinical evaluation. The Board cautioned White that he could not return to his next parole hearing “and say ‘I’ve done my time. Let me out.’ ” The commissioner concluded by telling White, “You gave the worst presentation I’ve had the privilege to sit before in a long time. You were not prepared. You need to be--This stuff is about you. And I knew this stuff cover to cover because that’s my job, and you come in here--It was pathetic, to be honest with you.”

B. Petition for writ of habeas corpus

On December 29, 2010, White filed a petition for writ of habeas corpus, alleging that the Board’s decision to deny him parole was not supported by the evidence. He also claimed the Board failed to articulate a nexus between the commitment offense and the conclusion that White posed a current risk to public safety. In addition, White raised a constitutional challenge to the 2008 amendments that Marsy’s Law made to Penal Code section 3041.5,³ claiming those amendments violate the ex post facto clauses of the federal and California Constitutions.

motion to augment the clerk’s transcript to include the victim’s autopsy report and the medical examiner-coroner investigator’s report.

³ The Marsy’s Law amendments to Penal Code section 3041.5 went into effect on November 5, 2008, after voters approved Proposition 9, otherwise known as the “Victims’ Bill of Rights Act of 2008: Marsy’s Law.” (Pen. Code, § 3041.5; Cal. Const., art. I, § 28.)

The superior court issued an order to show cause and, on May 4, 2011, granted the petition, faulting the Board for misapplying *In re Lawrence* (2008) 44 Cal.4th 1181 (*Lawrence*). The Board was ordered to provide White a new hearing within 100 days, “comporting with due process and the ‘nexus’ test of *Lawrence*, rather than the ‘weight’ test of *Dannenberg*.^[4]” The trial court did not address White’s constitutional challenge to Marsy’s Law.⁵

Warden appealed and subsequently petitioned for a writ of supersedeas staying the superior court’s order. We granted the petition.

II. DISCUSSION

A. Standard of review

“[T]he judicial branch is authorized to review the factual basis of a decision of the Board denying parole in order to ensure that the decision comports with the requirements of due process of law, but . . . in conducting such a review, the court may inquire only whether some evidence in the record before the Board supports the decision to deny parole, based upon the factors specified by statute and regulation. If the decision’s consideration of the specified factors is not supported by some evidence in the record and thus is devoid of a factual basis, the court should grant the prisoner’s petition for writ of habeas corpus and should order the Board to vacate its decision denying parole and thereafter to proceed in accordance with due process of law.” (*In re Rosenkrantz* (2002) 29 Cal.4th 616, 658 (*Rosenkrantz*).)

Under the “some evidence” standard, only a modicum of evidence is required to uphold a decision regarding suitability for parole. (*In re Shaputis* (2011) 53 Cal.4th 192

⁴ *In re Dannenberg* (2005) 34 Cal.4th 1061.

⁵ White does not raise the issue on appeal, and we do not address it other than to note that the question is pending before the California Supreme Court. (*In re Vicks* (2011) 195 Cal.App.4th 475, review granted July 20, 2011, S194129; *In re Russo* (2011) 194 Cal.App.4th 144, review granted July 20, 2011, S193197.)

(*Shaputis II*); *Rosenkrantz, supra*, 29 Cal.4th at p. 677.) It is not for the reviewing court to decide which evidence in the record is convincing. (*Shaputis II, supra*, at p. 211.) Thus, the court may not independently resolve conflicts in the evidence, determine the weight to be given the evidence, or decide the manner in which the specified factors relevant to parole suitability are to be considered and balanced because those are matters exclusively within the discretion of the Board. (*In re Shaputis* (2008) 44 Cal.4th 1241, 1260; *Rosenkrantz, supra*, at p. 677; *In re Scott* (2004) 119 Cal.App.4th 871, 899.) Indeed, “[i]t is irrelevant that a court might determine that evidence in the record tending to establish suitability for parole far outweighs evidence demonstrating unsuitability for parole.” (*Rosenkrantz, supra*, at p. 677.)

While the standard of review is deferential, it is not “toothless” and “ ‘must be sufficiently robust to reveal and remedy any evident deprivation of constitutional rights’ [citation], it must not operate so as to ‘impermissibly shift the ultimate discretionary decision of parole suitability from the executive branch to the judicial branch’ [citation].” (*Shaputis II, supra*, 53 Cal.4th at p. 215.)

Where the superior court grants habeas relief without an evidentiary hearing, we review the matter de novo. (*Rosenkrantz, supra*, 29 Cal.4th at p. 677.)

B. Parole suitability and unsuitability criteria

The general standard for a parole unsuitability decision is that “a life prisoner shall be found unsuitable for and denied parole if in the judgment of the [Board or the Governor] the prisoner will pose an unreasonable risk of danger to society if released from prison.” (Cal. Code of Regs., tit. 15, § 2402, subd. (a).)⁶ A nonexclusive list of factors which demonstrate an inmate’s unsuitability for parole includes: the offense was committed in an especially heinous, atrocious, or cruel manner; the inmate possesses a

⁶ Unspecified section references are to title 15 of the California Code of Regulations.

previous record of violence; the inmate has an unstable social history; the inmate has a lengthy history of severe mental problems related to the offense; and the inmate has engaged in serious misconduct while in prison. (§ 2402, subd. (c).)

Relevant factors, also nonexclusive, tending to demonstrate suitability for parole include the inmate's lack of a prior record of violent crime; the inmate's stable social history; the inmate's expressions of remorse; the inmate is of an age that reduces the probability of recidivism; the inmate has made realistic plans for release or has developed marketable skills that can be put to use upon release; and the inmate has engaged in institutional activities that indicate an enhanced ability to function within the law upon release. (§ 2402, subd. (d).)

The factors serve as generalized guidelines and “ ‘the importance attached to any circumstance or combination of circumstances in a particular case is left to the judgment of the [Board].’ ” (*Rosenkrantz, supra*, 29 Cal.4th at p. 654.) Parole release decisions are essentially discretionary; they “entail the Board's attempt to predict by subjective analysis” the inmate's suitability for release on parole. (*Id.* at p. 655.) Such a prediction requires analysis of individualized factors on a case-by-case basis and the Board's discretion in that regard is “ ‘ “almost unlimited.” ’ ” (*Ibid.*) However, as the California Supreme Court later clarified, “It is not the existence or nonexistence of suitability or unsuitability factors that forms the crux of the parole decision; the significant circumstance is how those factors interrelate to support a conclusion of current dangerousness to the public.” (*Lawrence, supra*, 44 Cal.4th at p. 1212.) Accordingly, in exercising its discretion, the Board “must consider all relevant statutory factors, including those that relate to postconviction conduct and rehabilitation.” (*Id.* at p. 1219.) That “requires more than rote recitation of the relevant factors with no reasoning establishing a rational nexus between those factors and the necessary basis for the ultimate decision--the determination of current dangerousness.” (*Id.* at p. 1210.)

C. *There was sufficient evidence to show White's current dangerousness*

In denying parole, the Board relied upon the following factors: the commitment offense; White's escalating criminal history and failure to profit from prior efforts to correct his criminality; his lack of insight into the crime, as documented in the 2009 psychological evaluation which also found White presented a moderate to high risk of violent recidivism; his unrealistic parole plans; and his failure to participate in self-help since his last parole hearing.

The superior court's order vacating the Board's decision was founded on its conclusion that the Board had ignored the new " 'nexus' test" set forth in *Lawrence* and had instead utilized the " 'weight' test of *Dannenberg*." In reaching this conclusion, however, the superior court focused almost exclusively on the Board's discussion of the commitment offense and failed to acknowledge the myriad other factors listed by the Board which supported its conclusion that White was unsuitable for parole. This was error.

The "nexus" analysis described in *Lawrence* is straightforward. The Board must discuss the factors that demonstrate why a particular inmate is or is not suitable for parole and connect those factors to its ultimate conclusion that the inmate would present a danger to public safety if released. "It is not the existence or nonexistence of suitability or unsuitability factors that forms the crux of the parole decision; the significant circumstance is how those factors interrelate to support a conclusion of current dangerousness to the public." (*Lawrence, supra*, 44 Cal.4th at p. 1212.)

It is true the Board listed the commitment offense as its "first consideration," saying that it "weighed heavily against suitability,"⁷ but this reflects nothing more than

⁷ We do take issue with the Board's conclusion that, per the autopsy report, the victim "was sexually assaulted, sodomized and raped." The autopsy report revealed sperm in the victim's vagina and anus, but indicated "[t]here is no abnormality or evidence of injury noted in the perineal region nor on the vulva or in the anal region." (continued)

the Board's adherence to the order in which the factors are set forth in the regulations. Unsuitability factors are listed in section 2402, subdivision (c), and the first unsuitability factor is the commitment offense. (§ 2402, subd. (c)(1).) Simply because the Board addressed the factors in the same order in which they appear in the regulations does not mean that it failed to properly consider White's suitability for parole.

The Board was also concerned about White's criminal history, which was extensive and reflected his failure to take advantage of prior opportunities to reform. While this, like the commitment offense, is a circumstance which cannot be changed, the Board is authorized to rely on this as a factor demonstrating unsuitability for parole. (§ 2402, subd. (c)(2).)

The Board cited White's lack of insight, which was reflected not only in his presentation to the Board but in his 2009 psychological evaluation. In that evaluation, Dr. Lehrer noted that White "does not convey remorse or empathy in his presentation. He appears to have learned to live with what he has done, but his level of repentance is based upon living in the present and not necessarily processing what he has done in the past." The 2009 psychological evaluation also concluded that White presented a moderate/high risk of violent recidivism and an overall moderate to high risk for committing violence if released. This unfavorable report further supports the Board's conclusion that White is unsuitable for parole.

The report does not identify White or either of his codefendants as a possible contributor of that sperm, presumably because DNA testing was either not available or prohibitively expensive in 1974. Since there were no abnormalities or evidence of injury to the victim's vagina and anus, it is just as likely that the sperm came from consensual sex with her boyfriend who last saw her at 10:30 p.m. the night she was killed, rather than from a sexual assault by White and his codefendants. Consequently, we fail to see how the autopsy report, in and of itself, could support the Board's conclusion that the victim was sexually assaulted, particularly where it appears White was not charged with or convicted of such a crime.

With respect to White's parole plan, the Board was justifiably concerned that it was unrealistic. When asked where he intended to live upon being paroled, White said he would move in with Louis Tate, a 74-year-old man, and Tate's wife in East Palo Alto, at an undisclosed address. White did not have a job offer and had not made *any* inquiries about employment following parole. In his 25 plus years of incarceration, the only trade White had learned was dry cleaning, and his certification in that vocation was issued in 1987. White admitted that he had never held a job outside prison, instead supporting himself through criminal activities.⁸ When asked how he intended to find employment if released on parole, White responded, "Find a job."

Finally, the Board's conclusion that White had failed to participate in self-help since his previous parole hearing is supported by the record. White admitted as much, stating, "They don't have nothing I want to do." [*Sic.*] White said the only programs available were NA and AA. Though White participated in NA for 18 years, up until 2005, he was apparently no longer interested in that program. White's failure to engage in any self-help since his prior parole hearing, simply because there were no programs he "want[ed] to do," suggests he does not take seriously the Board's recommendations about how to improve his chances of being paroled.

Based on this record, there is sufficient evidence to support the Board's conclusion that White is presently dangerous and unsuitable for parole at this time.

⁸ White stated that he dealt narcotics, whereas the Board seemed to believe that White actually robbed narcotics dealers, rather than dealing drugs himself. In either event, White supported himself by committing crimes, rather than working in a legitimate profession.

III. DISPOSITION

The May 4, 2011 order granting White's petition for a writ of habeas corpus is reversed. The matter is remanded to the superior court with directions to vacate that order and enter a new order denying White's petition for a writ of habeas corpus.

Premo, Acting P.J.

WE CONCUR:

Elia, J.

Mihara, J.