

[2019] PBRA 65

Application for Reconsideration by Shah

Application

1. Shah (the Applicant) applies for reconsideration of a decision by the Parole Board dated 29 October 2019.
2. Rule 28(1) provides that applications for reconsideration may be made in eligible cases on the basis that (a) the decision is irrational and/or (b) that it is procedurally unfair. This is an eligible case.

Background

3. In 2005 the Applicant was sentenced to Imprisonment for Public Protection (IPP) with a minimum term to serve of 5 ½ years for offences of attempted robbery, possession of a firearm and an offence of wounding with intent to do grievous bodily harm. At the oral hearing the Applicant's legal representative told the panel that the Applicant was not seeking release but was seeking a transfer to an open prison.

Request for Reconsideration

4. On 18 November 2019, the Applicant's legal representative made an application for reconsideration on the form supplied by the Board. No reasons for the application for reconsideration were included in the form but there was an indication that the reasons would be "*provided by Shah in due course*". The application was attached to an email from the Applicant's legal representative who asked for an extension of 7 days to obtain the reasons from the Applicant. He also requested a transcript of the hearing.
5. On 19 November 2019, the Member Case Assessment Duty Member considered the application for an extension and refused it. Reasons were given for the refusal, which I have considered, and the refusal was entirely justified in my judgment.
6. The Secretary of State has made no submissions in relation to this application.

Discussion

7. One of the reasons for the introduction of the reconsideration procedure was that it provides a speedy process for correcting any errors in the decision. It is essential that the timetable is adhered to as extending it will extend the period over which a decision remains provisional. That is not to say that there will not be



occasions when, for good reason, an extension can be given under Rule 9; but there needs to be good reasons for an extension which need to be set out. No good reason has been put forward in this case. Extensions will rarely be granted and only for good reason. The request for a transcript of the hearing is also refused. They are very expensive to produce and they will not be provided to enable a 'fishing expedition' to take place which appears to be the only reason for the request in this case. No reason has been advanced for needing a transcript. The tape can be, and is, checked if there is something specific which needs to be considered.

8. By virtue of Rule 28(1) it is only decisions whether to release or not to release the prisoner that can be reconsidered. It is not possible to apply for reconsideration of a decision not to recommend a move to open conditions. The Applicant was only asking the panel to recommend a move to open conditions not to release and the refusal of the panel to make that recommendation cannot be subject to an application for reconsideration.

Decision

9. This application has no merit and is refused.

John Saunders
21 November 2019

