

PAROLE MATTERS

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PAROLE MATTERS. What NOT to do at a parole hearing.

QUICKSAND: The Biggest Mistakes A Lifer Can Make During a Parole Hearing.

Many lifers are told what to do during the coveted parole hearing. But many don't know what NOT to do. The following is a list (with explanations) of what lifers should NOT do. These are the major pitfalls which can destroy a lifer's parole chances:

1. Do NOT lie:
Lying never works. Whether it's a small lie about a program the inmate pretends to have participated in, or whether it's a big one about denying the life crime -- sometimes inmates believe that lying is acceptable. It is not. For example, a lifer was denied parole because he claimed he was given the murder weapon (a gun) when he actually purchased it. Even though the distinction didn't matter to the parole board, the fact the lifer got caught in a lie did.



**PAROLE HEARINGS
are foremost
interviews for the
job of productive
citizen.**

The Board couldn't help but wonder why would the lifer lie about key facts of the crime – even relatively inconsequential facts/issues. Similarly, denying the life crime when you are actually guilty doesn't work as does admitting to a crime you didn't commit. Neither works. It's better to tell the truth even if you have previously lied on record. Perpetuating a lie won't make it better in the long run. It will only turn into rotting fruit. Keep it simple, tell the truth.

2. Do NOT try to sound like a professor or self-help guru. Many lifers try to show their rehabilitation by becoming wordsmiths. To show improvement, lifers sometimes try to sound like college professors. This doesn't work. The lifer just sounds like a phony. Instead of trying to sound intelligent, being yourself is the highest form of intelligence. Being comfortable in your own skin, and being who you are – flaws and all – is more impressive than coming off as someone who pretends to be something they're not. Use your own words. It's more convincing to use your own language and to be yourself rather than to sound like a thesaurus.
3. Do NOT just repeat catch phrases from self-help programs. Simply parroting catch phrases or slogans from self-help is not convincing. Anyone, including a parrot, can repeat what they've heard. You have to do more. You have to show how what you have learned applies directly to you and your experience.
4. Do NOT memorize the 12 steps of recovery for NA or AA. Many lifers (who have substance abuse in their past) mistakenly believe that they should "memorize" the steps. Again, anyone can parrot or memorize a phrase. It's much better to show that you have actually worked the steps. By genuinely working the steps, you will learn them in the process. And your discussion of the steps will be far superior than just repeating the words of each step. You will be able to discuss how you apply them in your life only after working the steps, not memorizing.
5. Do NOT be shy. Many inmates think that they can do the minimum in the hearing by just answering the questions and nothing else. These lifers tend to give answers that are one or two sentences in length. Lifer hearings are job interviews for the most important job



Sincerity
combined with
preparedness
equals a great
parole hearing.

on the planet – that of productive citizen. In order to get the job, you have to talk just like in any interview. You don't get points for being shy, and you don't get points for pretending that not talking is somehow showing humility. Lifers have to be prepared to talk and express themselves throughout the hearing.

6. Do NOT critique yourself while you are simultaneously answering questions. For many people, including lifers, public speaking does not come easy. But don't make it harder by having two conversations at once – one conversation with the Board, and another between you and your internal critic. That's too many voices. You can critique your "performance" all you want after the hearing. During the hearing itself, leave the critic back in your cell.
7. Do NOT be evasive. Answer the question asked directly before making a larger point. If the Board asks you "How old were you at the time of the life crime?." Do not start telling them about your childhood. Tell them your age. Directly answer the question. Being coy or evasive is not looked upon kindly.
8. Do NOT put lipstick on a pig. If your crime is ugly and horrific, don't try to dress it up to make it look better than it really was. Admitting to ugly facts is much better than pretending those facts don't exist. Admit and face the worst aspects of your life crime or priors.

The process of being
evaluated is your
chance to show
how much progress
you made
correcting your core
past character
defects, and how
you are now
planning the
particulars of your
life on the outside.

9. Do NOT argue or fight with the Board. Offering legal argument is different than arguing. Legal argument contains a principled legal opinion with facts and case law to support the conclusion. Arguing is telling someone why they are wrong without offering legal authority and facts which support your position. Plus, be prepared to agree to disagree if the Board does not accept your legal argument, but never just plain argue with the commissioners.
10. Do NOT offer pointless objections or ask your attorney to do the same. Because the Board is not a court room, you do NOT lose your objections on appeal if you don't raise them in the hearing. Some objections – called affirmative objections – you lose on appeal if you didn't raise them in court. But no affirmative objections exist before the Board. Raising objections you know will not win during the hearing accomplishes nothing except alienating the Board. Do not offer pointless objections.
11. Do NOT climb Mount Everest. Many lifers turn parole hearings into a bigger deal than they are. While it is true that parole hearings are critical, turning the hearing into a larger than life episode only makes you more nervous and afraid. The hearing is a conversation, not an interrogation, between the people at the hearing table. Don't make it more, or less, than it is – a parole hearing. Otherwise, if you turn it into climbing Mount Everest, you will be the only person in the hearing room weighed down with all that climbing gear, and your nerves will get the best of you.
12. Do NOT re-litigate the past. You are not in a courtroom before the Board, nor are you in the superior court that convicted you. Trying to re-litigate your conviction at a parole hearing is like trying to get an oil change at the dentist. It doesn't work. The parole board, if you listened carefully, tells you they must accept the findings of the court as true. And they take that requirement seriously. Do not try to bring up issues that are better left to an appeal.
13. Do NOT think short-term. Sometimes, your parole hearing is just a means to an end. You may not be found suitable no matter what you do. You may be plagued by certain obstacles you simply can't get beyond such as an unsupportive psychological evaluation or a recent disciplinary. If so, you need to look to the parole hearing as a means to an end – or an opportunity to make a favorable impression that will factor into a *future* parole hearing at which you are ultimately found suitable. Making a good impression that you are sincere about the crime and that you are genuinely working on yourself may be best impression you can make. Even though you will be denied parole, at least a future panel will conclude that the changes in you dates much further back than the year they find you suitable.
14. Do NOT follow jailhouse rumors. Rumors and bad legal advice abound in prison. There are countless rumors and bad information about how to handle parole hearings which circulate in prison. Ninety percent are pure lies. It's best to consult with a lawyer about the reality of the legal landscape and how to handle a parole hearing.
15. Lastly, do NOT give up hope. Prison is designed to discourage you more than you keep you motivated. You have to be your best advocate by staying on the right course.



HERE ARE THE PAROLE LAW CASES YOU NEED TO KNOW ABOUT:

In re Vicks – Cal. Rptr. 3d – (2011) 2001 WL 1778224. – This case is an enormous victory. The Fourth Appellate District for the Court of Appeals invalidated the parole denial periods of Marsy's Law. The Court found that Marsy's Law violated the laws against ex post facto (retroactive) application of criminal laws. Anyone convicted before the implementation of Marsy's Law – which is basically every lifer going before the Board – has to have the old parole denial periods of 1,2,3,4, & 5 years apply instead of the insane denial periods of 15, 10, 7,5, & 3 apply. The real issue now is whether the Attorney General is planning to appeal the decision. If appealed, the decision will be paused – and will not apply – until the California Supreme Court affirms or overturns the ruling. Parole Matters will be following this case closely.

In re Michael Aragon
– Cal.Rptr. 3d -- (2011)
This is a bad case which denied parole based on lingering substance abuse issues. Even though the court reasoned that

predicting a return to substance abuse is not an exact science, and the lifer had not used alcohol or drugs in prison, he couldn't recite the steps of 12 step programs or speak cogently about recovery. The Court held he had "not internalized the therapeutic lessons of those programs." The Court also held that the burden of proof for the Board or the Governor is by a preponderance of evidence, not by "clear and convincing" evidence. Lastly, the Court ruled against *In re Vicks*, and held that a three year denial under Marsy's Law did not violate ex post facto rules, and therefore was constitutional. The Court reserved judgment for denials longer than 3 years.

In re Hank Nguyen
– Cal.Rptr. 3d -- (2011)
This is a good case which overruled the Governor who had reversed parole based on a lack of insight. The court looked at the lifer's lack of rules violations in over 18 years, his good mental health, and his "sincere remorse" to overrule the Governor.

In re Chester Ryner

-- Cal.Rptr. 3d -- (2011)
This is a great case ruling that a psychological assessment that says a lifer has "weak" insight cannot mean that he has no insight because "weak" presumes some insight. A lack of insight must evidence a "material deficiency" and be based on "factually identifiable deficiencies." The Court also ruled that a concern that the lifer do more anger management was baseless given that no such programs were available, and the lifer had no proven history since the life crime of a persistent anger problem. Lastly, the Court affirmed that release is the proper remedy, not a re-review by the Governor, when dealing with a Governor reversal.

**FILING AN APPEAL
CAN BE YOUR BEST
BET TO GOING HOME.**



**Photo on the left:
Client Alicia Hanna
and her sister
celebrate Alicia's
being (free) in Mexico,
not Chowchilla.**

**Congratulations Alicia,
and the other clients
of Charles Carbone,
Esq. who received a
parole date or were
released recently:**

**Anthony DiRamos,
Michael Madrilejo,
Gilda Duran,
Linnea Adams,
Lance Umemoto,
Mike Ngo,
Emmanuel Kurtz,
Justino Alarcon,
Paul Jordan,
Kevin Taylor,
Frederick Hill, and
Raymond Walker.**

Although PAROLE MATTERS is an educational tool for lifers, it may be construed as a legal advertisement by some despite its foremost intent to inform lifers and their families on parole issues. Charles Carbone, Esq. is responsible for its content.

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Steven Valencia,
Troy Williams,
Luis Martinez,
Masieh Pourahmad,**

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