

BEFORE THE NEW Zealand PAROLE BOARD

UNDER Section 67 of the Parole Act 2002

**IN THE MATTER an application review of a decision of the
Parole Board**

**APPLICATION FOR REVIEW OF THE DECISION OF THE
PAROLE BOARD**

FILED BY SCOTT WATSON

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The NZPB breaches Section 67 Of the NZ Parole Act within all points raised here within.

- 1) The risk assessment referred to is flawed, erroneous and irrelevant.
 - That only A Richards has completed a risk assessment
 - That all other psychologists directly refer to that document and that they only quote A Richards risk assessment to agree with it and make it their own but never do their own risk assessment at all. They all document exactly that, contrary to what the NZPB panel members state.

- 2) That the A Richards report is still before the review process. Therefore, none of its content can be legally referred to but it repeatedly has been, by psychologists and now by the New Zealand Parole Board (NZPB), wrongfully. Directly breaching Section 67 of the Parole Act.

- 3) Erroneous and flawed psychological reasoning.

- 4) The Parole Assessment Report (PAR).
 - The PAR is based on a person who was born in Addington, Australia, as per its identifying features, of its cover page.
 - That within that PAR it refers to a psychological report authored by a Z Wilton dated 12 May 2016. Wilton has never authored any psychological report, dated 12 May 2016, on me at all. This document is clearly

belonging to the person as born in Addington, Australia, so it is wrong and erroneous.

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- 5) Mr Browns comments are false, malicious, erroneous and misleading, being his own personal manipulation. The NZPB being a New Zealand court, Mr Brown has perjured himself.

 - 6) That clearly by being forced to pay for what was directed in its 2015 decision, I have shown compliance and been proactive in what the NZPB requires, making the postponement of four years a contradiction in itself.

 - 7) Misinformed statement and decision by the NZPB on 2015 directions.

 - 8) My NZPB submissions ignored by the NZPB.

 - 9) The panel member, Dr Skipworth, stated clearly and repeatedly, that if I did not admit to the index offence and be treated for it, I will never be released from prison.

1) The “very high risk” which the NZPB has based its decision-making process upon is completely flawed. The Carlyon, Wilton and Neilson psychological reports all state they do not conduct a risk assessment and state they only base their opinions on the A Richards psychological report. That report is still under review through the New Zealand judicial processes, set out under the NZ Psychologist Board directions. In the Richards report it states very clearly that Richards entire reasoning for a “very high risk” is based upon denial of index offending, denial of having lived in Australia and that all psychological tests that were completed returned a normal psychological profile, as per paragraph 22 of my parole submission, as well, “not understanding the subject”.

2) Paragraph 38 of the NZPB decision is a quote directly from the Richards report and again shows a completely outrageous thought process which is clearly and simply answered.

- The dynamic factors cannot be established

- (a) There is no “historical use of violence”. The report by Richards or any other psychologist draws upon records from child or youth creation. This does not establish a propensity and with one NZPB panel member complaining, at the 2016 hearing, that I don’t have any violence in my background except the index conviction so no understanding of me can be made which makes a complete contradiction of the claimed “historical use of violence” labelling by psychologists, thereby confirming, clearly, that the

labelling and information is erroneous, irrelevant and actually deceitful of those psychologists. The NZPB panel member confirms this.

- (b) There is no clinical establishment of “criminal personality”. References to “entrenched deceit” are founded on presentation of defective information.
- (c) Criminal attitudes and peers are an inevitable aspect of immersion in the prison system for 17 years.
- (d) “Interpersonal aggression” is a misnomer for assertive behaviour, instinctive in the prison system.
- (e) “Emotional control” is indicative of self-regulation and stability.
- (f) “Violence during incarceration” refers to an altercation in a combative custodial environment.
- (g) There is no history of “weapon use”.
- (h) “Poor insight to violence” is not applicable in that there is no history of violence.
- (i) “Substance use” has been discounted by Department of Corrections assessors.
- (j) “Stability of relationships with others”. The subject has been able to maintain a relationship with a partner in excess of 10 years, while in custody.
- (k) “Impulsive or reckless behaviour” was a feature of child and youth offending.
- (l) “Cognitive distortions” cannot be related to the subjects of the alleged offences he purportedly committed. The general public are well aware of the controversial nature of the judicial procedures involved and the subject has widespread public support.

(m) The subject has demonstrated “compliance with supervision conditions”, was easily managed has a good work ethic and primarily kept to himself. The Richards report is seriously flawed by not making this information clear, with Carlyon and Wilton doing well to withhold this information to the NZPB, thereby making their own reports erroneous and misleading to the extreme.

(n) FURTHER:

a) Defective Information and Misinformation

The psychologist compiled the report upon the basis of defective information and then attributed the discrepancies in the subjects (Mr Watson) account as being, “unable to provide consistent responses” and having a tendency toward deceit and manipulation.

An example of this discrepancy is that the psychologist contended that file material indicated that Mr Watson had for a time resided in Australia and was deceitful of that fact. However, the psychologist could not and did not disclose the information of the fact purportedly held on file.

A Privacy Act 1993 request for this information was lodged with the Department of Corrections and the Privacy Commissioner.

Another example. The assertion that the subject had engaged in ‘binge-drinking’ suggestive of alcohol or substance abuse dependency as a key factor that contributes to his index offending which he denies.

These allusions to alcohol or substance abuse dependency mentioned in paragraphs 10, 16, 20, 28, 31 and 36 of the report to the NZ Prison Service dated 13th March 2015 are the platform for alleged historical offending and leading up to his index offending which are strenuously denied.

The contentions of the psychologist receive little support given the fact that the subject has remained in custody for some 18 years without having been found to be IDU status. This is a regime in which regular and random drug and alcohol testing is performed.

For the above reason (11.6) and lack of identification of alcohol as a contributing element to the alleged offending that the Department of Corrections does not hold the view that it would be beneficial to engage in the Prison Based Drug Treatment Unit.

b) Psychological Formation

The psychologist was unable to complete or evaluate a formulation of the subject's personal and social dynamics to Psychological formulation. The psychologist attributed this inability upon her behalf to the subject's self-report as being overly confident and his entrenched deceitfulness (at paragraph 27 of the report).

In plain speak; the subject did not conform to the predetermined conceptualised personality constellation that the author of the report had sought to establish. Clinical observations made during the assessment hypothesised that the self-report was likely to be managed rather than a direct reflection from him of his memory or experience.

The Psychometric Assessment utilising the Millon Clinical Multiaxial inventory administered to obtain further information on Mr Watsons emotional and interpersonal functioning were interpreted as affected by his strong response style in combination with an inclination to portray himself in the best possible light. And, in reference to paragraph 24 of the report one of the parallel test results were deemed invalid by the author because they displayed no psychological or interpersonal difficulties. This led to managed rather than direct reflection from him of his memory or experiences.

Clearly this was not the result that the psychologist had been instructed to achieve in her role as psychologist charged with the task of ascertainment of rehabilitative options. Psychologists regularly provide reports to the Parole Board to assist with their prime statutory duty not to release a prisoner unless community safety is considered.

The Wechsler Adult Intelligence Scale (WAIS-iv) test was applied to assess general cognitive functioning as reported in paragraph 25 of the report and that test established no indications of deficits in working

memory or of learning disability. So, Mr Watson's test results indicate his full-scale IQ is in the average range.

It is postulated that an average IQ range is not sufficient to defeat or confuse the Millon Clinical Multiaxial inventory test. The subject's positive attitude and emotional control deposes theories of a criminal diversity.

Ultimately the author's hypotheses of the subject's personality characteristics defined in paragraph 28 of the report cannot be substantiated having regard to paragraph 24 and 25 and the psychometric assessment. The psychologists reference to perceived historical violent behaviour is unsupported and even Department of Corrections Offender Plan does not adhere to substance or alcohol abuse as contributing key factors to the alleged offending.

Prognostication that it is likely the index offending was similar to or emulated to some degree, historical violent behaviour but of increased severity with an increased confidence that the subject would be able to deceptively avoid culpability requires at its farthest reach the engagement of circular reasoning and it should also be considered that there was never forensic evidence presented to indicate violence has taken place. There is a standard of competence that is reasonably to be expected of a registered psychologist practising within the scope of practice and the role of a psychologist in this matter is to ascertain the

rehabilitative options. It is not the function of the psychologist to usurp the power of the judiciary to impose sentence or that of the legislative branch of government to dictate the length of sentence.

c) Recommendation to DTU Programme

The psychologist incorrectly recommended the subject engage in a DTU (Drug Treatment Unit) Programme in an apparent contradiction of his 18 years incarceration with both regular and random drug-alcohol testing and no IDU (Identified Drug User) status arising out of substance abuse issues.

The fact that alcohol or substance abuse played no overt role in the alleged offending in the case study is specious.

Despite repeated reference in the psychologists report to alcohol (paragraph 10, 16, 20, 22, 28, 31, 36) there is no correlation between alcohol or substance abuse and violence, nor any indication of problematic adult substance abuse.

Recommendations for treatment or management are not considered by Offender Management Planning to be relevant and represent an unnecessary allocation of resources.

d) Potential to Re-offend

The psychologist incorrectly drew inferences based upon both defective and hypothetical assertions that the subject is to be considered a high-risk of violent recidivism. The instruments used to assess this perceived risk were not included in the appendix to the report and could not be viewed by the subject.

Mr Watson seeks disclosure pursuant to the Privacy Act 1993 and Health Information Privacy Code 1994.

The RoC RoI (Risk of Re-conviction x Risk of Re-imprisonment) model index a computer-based statistical model which uses an offender's criminal history and demographics to assess the risk of re-offending. It predicts the probability of reconviction within the next five years, the seriousness of offending and likelihood of imprisonment on the basis of the extracted RoC RoI score. Mr Watson is classified as medium risk at just one point over 0.49 which is considered low.

The index is incremental from 0.00 to 0.49 as Low, 0.50 to 0.64 as Medium, 0.65 to 0.89 as High and 0.90 to 1.00 as Very High, and considered greater than 90% chance of imprisonment. The index is considered to be very accurate.

It should also be noted that RoC RoI indices will change after sentencing as it will then include the current sentence. Given the

seriousness of the offence x2, the pre-existing RoC RoI for the subject is extremely low.

The Violence Risk Scale (VRS) as a dynamic risk related to Mr Watson's theoretical violent behaviour was assessed. The psychologist stated (at paragraph 31 Of the report) that it was difficult to assess the dynamic factors. The VRS could not be assessed because the dynamic factors associated with alleged violence were absent.

Mr Watson has not been privy to the Psychopathy Checklist Screening Version (PCL; SV) and seeks disclosure under the Privacy Act 1993 and Health Information Privacy Code 1994.

The Psychopathy Checklist (PCL) is an established clinical instrument assigned to identify individuals with a constellation of personality traits that predispose them to serious and persistent criminal offending.

The PCL; SV and Risk Assessment Inventory (RAI) are part of the Structured Decision Making (SDM) process adopted by the New Zealand Parole Board. This is a process for evaluating information of offenders by policy guidelines.

The problem for the psychologist who wrote the report is that she cannot identify what the precipitants are to the subject's alleged violent behaviour. It is unclear how a regulated professional can express a

view which suggests an implied risk of violent recidivism. This opinion cannot be attributed to the denial of culpability for the index offending.

The psychologist expresses no clear understanding of Mr Watson's perceived violent behaviour and cannot be considered a high risk of violent recidivism. The subject has been reported by Department of Corrections as being compliant, easily managed, has a good work ethic, has primarily kept to himself and never received IDU charges throughout his incarceration of 17 years.

The views expressed in paragraph 34 of the report simply cannot be sustained and there is no empirical or actuarial evidence to support these contentions.

e) Inadequate Consideration and Irrationality

Given the fact that this report is formulated to address offender management and provide psychological assessment for the purpose of rehabilitative options, it is appropriate to review the adequacy of the consideration given to certain matters and the reasoning employed.

This is consistent with judicial review of administrative process applied in *Thames Valley Electric Power Board v. NZ Forest Products Pulp and Paper Ltd* [1994] 2 NZLR 644 at 654 (CA).

Decisions will also be set aside as unreasonable where misinformation or misrepresentation leads to a gap in the chain of reasoning as in *Martin v. Ryan* [1994] 2 NZLR 209 (HC). The Court of Appeal regarded inconsistency in decision making as an element of "irrationality" in *Pharmaceutical Management Agency Ltd v. Rousell Uclaf Australia Pty Ltd* [1998] NZAR 58 (CA). This is especially so in consideration of the principle of substantive fairness as a legitimate ground for judicial review.

Examples of the gap in the chain of reasoning mentioned above are manifest in the difficulties the psychologist who wrote the report experienced in applying models, instruments or tests to the clinical results of her assessment. This is particularly evident at paragraph 24 whereby the Millon Clinical Multiaxial Inventory was administered to obtain information on the subject's emotional and interpersonal functioning. The models as applied were inconclusive and one was deemed to be invalid. They did not return the finding the psychologist was seeking.

Despite the fact that the psychologist determined the subject to be quite normal by application of the Wechsler Adult Intelligence Scale (WAI – IV) and suffering no indications of deficits in working memory or of learning disability, a complete and elucidating formulation of Mr Watson's personal and social dynamics was unable to be arrived at.

Once again, Mr Watson proved to be very normal and did not return the findings the psychologist was seeking.

Thereupon, by circular reasoning, the psychologist hypothesised that the subject's personality characteristics alongside substance use were key factors in his offending. Although substance use has already been dismissed by the Department of Corrections Sentence Management Planners as not relevant nor contributing to index offending and there is simply no record established of substance use or abuse related issues. The personality characteristics raised in paragraph 28 are worthy of mention.

Inclusive of Mr Watson's characteristics deemed by this psychologist to be of detrimental value were

- Superficial interpersonal style
- Deceitfulness
- Shallow affect
- Incapacity to experience empathy or remorse
- Ill-equipped to consider rights or feelings of others

The psychologist deduces a superficial interpersonal style from the subject's positivity and desire to present in a positive light (see paragraphs 5 and 6 of the report). This positivity was described as a strong response style (paragraph 24) and impacted the ability to

produce the result sought in the Millon Clinical Multi-axial Inventory (MCMI – II) clinical test.

It should be borne in mind that the subject is a man who has been convicted of a random crime, with no apparent motive, no forensic evidence of violence, and no bodies and who maintains his innocence, continuing to pursue legal appeal processes and complicit custodial system. That positivity and stoic resolve is not superficial but it is the result of 18 years of incarcerated adversity.

Inconsistencies in file note and source material that the psychologist selectively refers to do not lend to the cultivated predetermination of predetermination of perceived deceitfulness nor to shallow affect or pretence.

The fact that the subject was found guilty by a jury in a highly controversial forensic process and continued claims to lack of culpability for the index offence do not indicate incapacity to experience empathy or remorse. That view is a predetermination. Similarly, the psychologist has not demonstrated by any of the observations or clinical tests recorded that the subject is ill-equipped to consider the rights and feelings of others.

Furthermore, the statement in paragraph 28 that the likelihood that the subject's index offending was similar to, or emulated to some degree, historical violent behaviour but of increased severity and undertaken with increased confidence that he would be able to deceptively avoid culpability is an example, once again, of reasoning in a circle to arrive at a predetermined result. This is purely speculative, has no grounding nexus, and is wholly unprofessional for a clinician reasonably expected to maintain a required standard of competence within the scope of psychological practice.

The psychologist then speculated that Mr Watson's personality profile and entrenched deceitfulness would lead him to continue to focus on portrayal of himself in an overly confident manner and this mindset would significantly undermine interventions required for personal change and reduction of risk of reoffending essentially implying the subject to be irretrievable in the rehabilitative sense. It is difficult to support this speculation given that the RoC Rol index is only one point above low risk, Violence Risk Scale (VRS) was difficult to assess, Millon Clinical Multiaxial Inventory (MCM-III and MCM-II) test was indeterminate or invalid and Wechsler Adult Intelligence Scale (WAIS-IV) normal, and personality and social dynamic formulation unable to be arrived at. Moreover, perceptions of, "entrenched deceitfulness" can be dispelled by the disclosure of defective documentary record of the subject's alleged residence in Australia.

In regards to the means to assess dynamic risk and the potential to reoffend, the psychologist made reference to a number of factors. She acknowledged that it was difficult to assess dynamic factors associated with the subject's violence. The following items were identified as likely, moderately or strongly related to his perceived violence risk (from paragraph 31 of the report);

- (a) Historical use of violence
- (b) Criminal personality
- (c) Criminal attitudes and criminal peers
- (d) Interpersonal aggression
- (e) Emotional control
- (f) Violence during incarceration
- (g) Weapon use
- (h) Poor insight into violence
- (i) Substance use
- (j) Stability of relationships with others
- (k) Engagement in impulsive, reckless behaviour
- (l) Cognitive distortions
- (m) Compliance with supervision/sentencing condition

These dynamic factors cannot be established.

- (a) There is no historical use of violence. The report draws upon records from child or youth creation. This does not establish a propensity.

- (b) There is no clinical establishment of criminal personality. References to entrenched deceit are founded upon the presentation of defective information.
- (c) Criminal attitudes and peers are an inevitable aspect of immersion in the prison system for 17 years.
- (d) Interpersonal aggression is a misnomer for assertive behaviour instinctive in the prison system.
- (e) Emotional control is indicative of self-regulation and stability.
- (f) Violence during incarceration relates to an altercation in a combative custodial environment.
- (g) There is no history of weapon use.
- (h) Poor insight to violence is not applicable in that there is no established history of violence.
- (i) Substance use has been discounted by Department of Corrections assessors.
- (j) Stability of relationships with others; the subject has been able to maintain a relationship with a partner in excess of 10 years in custody.
- (k) Impulsive or reckless behaviour was a feature of child and youth offending.
- (l) Cognitive distortions cannot be related to the subject's assertions of innocence of the alleged offences he purportedly committed. The general public are aware of the controversial nature of the judicial procedures involved and the subject has widespread public support.
- (m) The subject has demonstrated compliance with supervision conditions, was easily managed, had a good work ethic, and primarily kept to himself.

The precipitants to Mr Watson's violent offending are stated by the psychologist as being unclear (see paragraph 33).

It is evident that the psychologist attempts to establish that there is a trend or a history of a propensity towards violence. It is assumed that such a view is predicated upon the assumption that the alleged crime would have involved or did involve violence, yet there exists no forensic evidence to this fact. The subject submits that this assumption is erroneously grounded and that there is logical explanation for the anomalies and inconsistencies in the clinical tests to establish the psychological profiles, constellations and risk assessments in the absence of evidential particulars against the subject.

The subject submits that the psychologist has created and perpetrated a mindset to create a document that would support such confusion with the New Zealand Parole board and the Department of Corrections so as to impede the decision-making process in the assessment of the subject's perceived risk to the safety of the community. The cumulative effect of this being that in the eyes of an independent observer the process has been one that has been irretrievably and unduly influenced by manifest bias.

This cannot sit with The NZPB and nor ignorance of the facts be a defence to uphold a clear breach of the NZ Parole Act, the materials

used, directly being the foundations of the decision reached and those materials wrong, as very clearly shown with facts attached.

- 3) As well as paragraphs 23, 24, 25 and 26 of my NZPB submissions make it very clear the erroneous nature and entrenched deceitfulness used by the Department of Corrections psychologists, with those paragraphs clearly stating and showing the grounds the Carlyon and Wilton psychological reports, which the NZPB bases its decision on, to be completely flawed and being erroneous and irrelevant information.

- 4) On page 5, of the Parole Assessment Report to the NZPB, under the heading “Rehabilitative Programmes”, it states a psychological report by Zoe Wilton, dated 12 May 2016, is used to base its report to NZPB on. I have never had a psychological report done on that date by that person. I am sure Wilton has authored many psychological reports and she may have authored one on 12 May 2016 but not on me. This is more than just erroneous and irrelevant but also it is very disturbing that such a mix up has taken place with official documentation and then used to base a NZPB decision on. I am sure that the person, born in Addington, Australia, as per the identifying feature of the PAR, must have had Wilton complete a psychological report on 12 May 2016 and that person can be very happy about that, but it is not based on me and as per the chief psychologist of the Department of Corrections, Ms Nikki Reynolds, “there are and have been other subjects with the name Scott

Watson, within the NZ Department of Corrections and NZ psychological systems”.

- 5) Where clearly at paragraph 44 of the NZPB decision the NZPB bases its decision making entirely upon erroneous and irrelevant information for declining parole and its postponement order of four years. What Mr Brown states is not supported by any reports or documentation of his own or any other prison officer. He made his comments purely “off the cuff” to manipulate and deceive the NZPB. This is clear by the fact that there are no reports or documentation to support his words and there should be for him to have made such claims. What is documented in the Carlyon report (paragraph 8) is Mr Brown stating the he gets his “jollies” by trying to provoke and antagonise me and others to get a reaction and I do not react to clearly unprofessional and abusive and probably illegal behaviour that within the Department of Corrections is accepted as the norm. So the NZPB is fully aware, the long serving prison officer, Mr Brown, who the NZPB puts such great weight behind in making their decision to decline parole and postpone for four years, at the time of the NZPB hearing was under investigation for basic fraud within the department, by his own work colleagues. Mr Brown is abusive to the extreme, that is his entire modus operandi with three of his senior staff even, approaching me prior to the NZPB hearing to inform me, Mr Brown was going to do all he could to have parole declined. As I voiced at the parole hearing and in my written submission Mr Brown is your basic archetypical psychopath prison guard, with no response from him at the hearing itself when his deranged conduct was brought to light. His comments that the NZPB based

their decision upon are erroneous, irrelevant and abusive, with the “two Scott’s” claim being, in fact, spiteful and malicious on his part. Clearly, I would have to be as bent as Mr Brown is if I did not attempt to stay well clear of Mr Brown and his ‘carry on’. The NZPB, being a type of New Zealand court, clearly Mr Brown commits perjury before it. One would therefore leave it in the hands of the NZPB to follow this matter up with the appropriate authorities to properly investigate and prosecute.

6) That the NZPB completely ignored the psychological report paid for privately, doing so due to the fact that the Department of Corrections refused and played games with the NZPB directions it made in 2015 to have “intensive” and “one to one” counselling. Within that report It is clearly reported that the psychological counselling I received is deemed as “intensive” and “one to one”. So, the decision refusing parole and the postponement of four years is a corruption of the process and far removed from natural justice, as clearly, I have been proactive in what the NZPB directed in its 2015 decisions but where again the Department of Corrections has refused to follow those decisions and directions even going so far as to abuse those decisions and directions by refusing to carry them out. So, I have had to pay for the NZPB directions myself, those being “intensive one to one counselling”, exactly what the NZPB directed I do.

7) The Statement of the NZPB decision (paragraph 24) is incorrect. The Department of Corrections was not about to start individual psychological

treatment, as recommended by the NZPB in 2015 “a few days” before the last hearing. It clearly states in the letter received from the Department of Corrections psychologists that only three sessions were to take place and these were only to discuss if the NZPB directions should take place.

8) That the NZPB completely ignores the well-presented written submission which clearly makes answer to all concerns raised within the NZPB decision document of 2016.

9) Dr Skipworth stated very clearly that I will never be released if I do not admit to the index offending and be well and truly treated for such. This breaches every principle of natural justice and the Parole Act.

Signed by: Scott Watson

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On this 12th day of March 2017