



PAROLE BOARD OF CANADA
APPEAL DIVISION
DECISION(S)

OFFENDER INFORMATION:

Name: **GEORGE, GARRETT STEVEN**

FPS: [REDACTED]

FILE NO: [REDACTED]

Institution: [REDACTED]

DECISION(S) APPEALED:

- DAY PAROLE REVOKED

FINAL DECISION(S):

DAY PAROLE REVOKED

AFFIRMED

2023-02-06

APPEAL DECISION REVIEW:

The Role of the Appeal Division

The role of the Appeal Division is to ensure that the law and the Board policies are respected, that the rules of fundamental justice are adhered to and that the Board's decisions are based upon relevant, reliable, and persuasive information.

The Appeal Division reviews the decision-making process to confirm that it was fair and that the procedural safeguards were respected.

The Appeal Division has jurisdiction to re-assess the issue of risk to reoffend and to substitute its discretion for that of the original decision makers, but only where it finds that the decision was unfounded and unsupported by the information available at the time the decision was made.

Summary of Appeal Decision:

You have appealed the Parole Board of Canada (Board) decision of July 22, 2022, to revoke your day parole.

The Appeal Division has reviewed your file and listened to the audio-recording of your hearing. It has also reviewed your submission, which is contained in your appeal letter submitted by your representative, [REDACTED] dated September 28, 2022.

In arriving at the decision to affirm the Board's decision, the Appeal Division has considered your grounds as submitted, and has summarized them under the following headings:

Failed to observe a principle of fundamental justice:

Reasonableness of the Decision

Based its decision on erroneous or incomplete information:

Relevant, Reliable, and Persuasive Information

Analysis of Grounds:

Failed to observe a principle of fundamental justice:

Reasonableness of the Decision

FPS: [REDACTED]

Name: **GEORGE, GARRETT STEVEN**

File No: [REDACTED]



**Based its decision on erroneous or incomplete information:
Relevant, Reliable, and Persuasive Information**

You submit that the Board failed to properly consider all relevant and reliable information, specifically, the video tape from the incident that informed the basis of the suspension. You argue that the Board has a duty to consider all relevant and reliable information.

You maintain that the Board member had not actually viewed the video of the incident, but at the hearing he relied upon the hearsay of the Parole Officer (PO). You believe that the Board member did not review the video first-hand because of the vagueness of his comments during the hearing. You submit that the Board member suggested that you used too much force in defending yourself but that this was not depicted in the video. You also raise that the Board member was unable to comment on the specifics about the incident and that the Board must not merely rely on the input of a PO. The role of the Board member is that of an adjudicator and not of an advocate for the position of the Correctional Service of Canada (CSC): it must test the credibility and reliability of CSC.

You argue that you ought not to be penalized because another inmate targeted you, and you were entitled to defend yourself in the situation. You clarify that your assistant did not view the video as it was viewed by a staff person from Prisoners Legal Services (PLS). You also state that you can only rely on your memory of the event and the one time-viewing you were permitted in the presence of the PLS Advocate. You argue that you are left relying upon the notes of the PLS Advocate. You argue that the content of the video shows you passing by another resident at ██████████ Community Residential Facility and the other resident attacks you, wherein you then protect yourself from the assailant.

For these reasons, you ask the Appeal Division to review the Board's decision to revoke your day parole.

The Appeal Division finds that you have not raised any grounds that would cause it to intervene in the Board's decision to revoke your day parole. We find that the Board reviewed your case in a manner that is consistent with the criteria set out in law and policy. That is, the Board had to determine whether you presented an undue risk to society to reoffend on day parole in accordance with section 135(5) of the *Corrections and Conditional Release Act* (CCRA). Within this context, the Board properly considered relevant factors such as the reasons for your suspension, your behaviour since your release, any comparison with a previous pattern of criminal behaviour, and your criminogenic risk factors.

The Appeal Division notes that the Board considered all the available information, which included the video of the incident in question, and weighed this information against your behaviour on release. The Board concluded that your risk had elevated to the point of becoming undue. The Appeal Division finds the Board's decision reasonable.

The Appeal Division reads that you are challenging the Board's decision on the grounds that the Board rendered a decision without viewing the video of the incident that led to your suspension. The Appeal Division disagrees. As per the Board's written reasons:

First, the Boards find there is reliable and persuasive information provided by the video that shows you were the aggressor during the confrontation on the stairs. While the video does not contain audio, so the Board is not aware of what was said, the video does not reflect your version of events. There is no indication of any weapon, and after you and your



roommate's shoulder touched, you were the person who turned around. It is true that your roommate then turned around and stepped towards you, but you very quickly kicked your roommate and your roommate tumbled down the stairs. You then walked down the stairs and kicked and punched the victim, including one kick that appears to be directed towards the victim's head. To describe yourself as the "victim" in such a set of circumstances indicates that you do not accept responsibility.

The Appeal Division reviewed the video and finds itself in agreement with the Board's explanation of your behaviour during the incident. To this point, the Appeal Division finds it reasonable that the Board was concerned with your reaction on the stairs. It also believes that the sequence of events and your behaviour on the stairs, as documented by the video, is consistent with the Board's written reasons. Your submission that the Board was also unable to explain the behaviour it viewed in the video is also without merit. As noted above, the Board provided specifics about the video, including noting the lack of audio and its comments about your decision to go down the stairs towards your roommate. Stating the Board did not view the video because you disagree with the Board's interpretation of events is not sufficient to support your submission.

Taken as a whole, the Appeal Division finds the Board's analysis of the incident fair and its assessment of your risk sound. It was reasonable for the Board to have agreed with CSC's recommendation to revoke your release because you deflected responsibility, used reactive violence against another member of the public, and had lacked insight and emotional control, particularly given the totality of your history of failed releases. Your submissions are without merit.

It is important to understand that the role of the Appeal Division is not to substitute its discretion for that of the Board and reassess your risk unless the Board's decision is unreasonable and unsupported. The Appeal Division is satisfied that the Board's decision is reasonable, based on sufficient relevant, reliable, and persuasive information and is consistent with the criteria set out in the CCRA and the Decision-Making Policy Manual for Board Members.

Conclusion:

For the reasons set out above, the Appeal Division is affirming the Board's decision of July 22, 2022, to revoke your day parole.

DECISION(S) AND VOTES:

DAY PAROLE REVOKED	AFFIRMED	2023-02-06
Board Member Votes		
STEWART, S. .	AFFIRMED	2023-02-06
BOUDREAU, G. .	AFFIRMED	2023-02-06



SIGNATURES:

STEWART, S. .

Board Member Signature Date

BOUDREAU, G. .

Board Member Signature Date