



Crime & Punishment

James Alan Fox on criminal behavior and the justice system

LaGuer – rather be right than free?

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It is usually an uphill battle for prisoners, having previously been convicted of brutal crimes such as rape or homicide, to convince a parole board that they are suitable for release into the community. In Massachusetts, only 25% of lifers are successful in their bids for freedom. Understandably, the board members tend to weight their deliberation toward public safety concerns.

But in the case of today's Massachusetts Parole Board hearing for Benjamin LaGuer, who has served 26 years of a life sentence for aggravated rape of an elderly neighbor, the battle was virtually over not long after it began. It would be shocking were he to garner even one vote in his favor, much less the majority.

LaGuer's dilemma is certainly understandable: how can he demonstrate that he has been rehabilitated while insisting that he was innocent all along? In his prepared opening statement, he actually did a fairly good job of walking that fine line, by expressing sympathy for the victim yet outlining his plans for housing, work, and education, were he to be paroled. However, he then had to respond to a barrage of questions posed by the panel; it was an immediate and lengthy train wreck that only grew worse as the hours dragged on.

The issue for the Parole Board is essentially whether the candidate poses a danger to society, if released, and nothing to do with guilt or innocence. Yet, rather than focusing on why he could be trusted in the community and how he would comply with conditions of his release, LaGuer argued, debated, interrupted and challenged the Board. No matter what the question, he launched into a tirade about being the victim of injustice--of errors in evidence handling and prejudice among the jurors. LaGuer seemed far more interested in being right than being free.

LaGuer and his distinguished attorney, retired Superior Court Judge Isaac Borenstein, had hoped that the assembled line-up of prominent supporters--former B.U. President John Silber, Minister

Don Muhammad, and broadcaster Jimmy Myers--would help the cause. However, their testimony also seemed to focus more on injustice, and less on LaGuer's readiness for parole.

After the parade of witnesses for LaGuer was finished, the state had its chance to make the case against release. There was little in the cautionary remarks by two assistant district attorneys about the erratic and evasive behavior of the prisoner that the Board hadn't already seen clearly on display.

In her argument against parole, Assistant District Attorney Sandra Hautanen relayed a conversation in which a staff member at MCI-Gardner had remarked that LaGuer could be characterized with one word: entitlement. Accurate or not, he is definitely entitled to one thing at least--another parole hearing in five more years. Whether he'll smarten up about how to handle the process with all due respect and deference, even if insisting on his innocence, remains to be seen.