

**Judgment 36/2006      Murphy v Parole Review Committee – Royal Court  
(Civil Action File 1024) – 30<sup>th</sup> June 2006**

---

**Judicial review – Parole Review Committee (Guernsey) Law, 1989 – issues as to whether the Committee had approached the parole application reasonably and rationally – leave granted to apply for judicial review (The application was subsequently abandoned)**

**IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY**

**The** 30<sup>th</sup> day of June, 2006 before Sir de Vic Carey, Lieutenant Bailiff

In the matter of

MIGUEL JONATHAN MURPHY

(Applicant)

and

PAROLE REVIEW COMMITTEE

(Respondents)

On the application of the Applicant for permission to apply for Judicial Review of the Respondent's decision dated 29<sup>th</sup> April, 2006 to refuse the release of the Applicant on parole, THE COURT having considered the matter on the papers provided and having heard Advocate R.G. Shepherd, DELIVERED the attached judgment and GRANTED LEAVE to apply for Judicial Review and DIRECTED that affidavits and skeleton arguments be exchanged by 21<sup>st</sup> July, 2006.

MIRANDA TOSTEVIN

Her Majesty's Deputy Greffier

**OFFICIAL TRANSCRIPT**

**FRIDAY 30<sup>TH</sup> JUNE 2006**

**IN COURT THREE**

**Before**

**Sir de Vic Carey  
Lieutenant Bailiff**

**MIGUEL JONATHAN MURPHY (“The Applicant”)**

- v -

**CHAIRMAN PAROLE REVIEW COMMITTEE (“The Committee”)**

**Ruling made by the Lieutenant Bailiff**

Miguel Jonathan Murphy is a young offender who has applied for leave to bring proceedings for Judicial Review of a decision not to admit him to parole on 30<sup>th</sup> May 2006, which was the first date upon which he could be considered for parole, that date being 10 months after the commencement of his sentence of two years youth detention concurrent on two charges involving respectively, possession with intent to supply and supplying cannabis resin. In accordance with Practice Direction No. 3 of 2004 I have dealt with the matter on the papers.

In 2004 I dealt with *Webster and Singleton* who were older men who were refused parole at the first opportunity, but were otherwise in similar circumstances to this accused having been sentenced to 2 years and 9 months for importing cannabis resin. There were also suggestions of likely relapse into alcohol related offending.

I had a full hearing as this was the first case involving a challenge to a decision of the Committee. I refused relief and my decision was followed by the judgment of Collas DB in *Bradley*. He too refused the application and his further observations on the way the Court is to approach this sort of matter have been of great assistance to me. These decisions show the heavy burden that is placed on Applicants who challenge administrative decisions on the grounds of Wednesbury unreasonableness.

The concerns that I expressed generally concerning the framework under which the Committee was operating have been met in part by the proposals approved by the States in April 2005, but those have not been implemented.

From reading the papers I consider that there are issues as to whether the Committee has approached the application of this Applicant reasonably and rationally. I will let Counsel develop those at the Hearing.

However, whatever the strength of the case of the Committee I have the gravest reservations about the Court's time being taken up with what appears to be a minor case of a man who will be free by Christmas in any event.

Of course this man is a risk – most offenders are - but are the risks posed by him such that the refusal of parole is justified? I know not at this stage and I remind myself that I am only concerned with the *Wednesbury* test, if I may put it that way. I also remind myself of what I said in *Webster and Singleton* concerning there being no expectation of automatic release by prisoners at 1/3 of sentence or after 10 months.

I will say no more. Leave is given. I presume that time will be needed for exchange of cases including affidavits and we shall discuss what dates those should be. This Applicant will have served half his sentence by 1<sup>st</sup> August 2006 and I urge the Applicant to renew his application and the Committee to review the matter again so that hopefully he may be released on conditions at half time to use a colloquialism, so that this Court's time and more importantly Counsel's time – the Applicant is legally aided is not further taken up. I note that there is a hesitation on the part of the Home Affairs Department at adopting the UK system of automatic parole at half time for those sentenced to less than four years. The report of 2005 emphasises the need for clarity and certainty. The system has got also to be seen to be fair as otherwise the Court will be constantly faced with applications of this kind, which may on occasion be found to have substance. However, it is right that I should not be raising this particular Applicant's hopes in any way that he is likely to win if his application proceeds to full hearing.

Affidavits and skeleton arguments to be exchanged by 21<sup>ST</sup> July in the hope that further expense will not be incurred on the part of Ozannes until the will of the Committee concerning release on 1<sup>st</sup> August is known.

Suzanne M. O'Neill  
Friday 30<sup>th</sup> June 2006