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Docket No. 22-7120

Attn: Office of the Clerk

Supreme Court of the
United States

Aaron J. Bressi - Petitioner
V.

Commonwealth of Pennsylvania
Parole Board, et al. - Respondents

Docket No. 22-7120

Petition: For Rehearing.

Note: Payment for filing
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a Separate Cover.

1. The Third Circuit has recognized a Cause of action under Substantive due process that is distinct from procedural due process. (see) Burkett V. Love, 89 F.3d 135, 139-40 (3d Cir. 1996). (See also) Block V. Potter, 631 F.2d 233, 236, 17 V.1. 623 (3d Cir. 1980).

2. Even if no liberty interests or rights exist to a government benefit, there are certain reasons upon which the government may not rely in exercising its discretion (see) Perry V. Sindermann, 408 U.S. 593, 597, 92 S. Ct. 2694, 33 L. Ed. 2d 570 (1972).

3. Under substantive due process, as the term has been construed by the Courts, a state may not deny parole on Constitutionally impermissible grounds, such as race or in retaliation for exercising Constitutional rights. Burkett, 89 F.3d at 140.

4. Similarly, the Board may not base a parole decision on factors bearing no rational relationship to the interests of the Commonwealth. Block, 631 F.2d at 237.

5. Essentially, the duty of the Board when reviewing applications for parole is to act in a manner that avoids making the parole process arbitrary, even though the granting of parole is a discretionary matter under § 331.21 of the Pennsylvania Parole Act. (see) Wolff v. McDonnell, 418 U.S. 539, 558, 94 S.Ct. 2963, 41 L. Ed. 2d 935 (1974).

6. In other words, the mere presence of a large measure of discretion in the system does not alter the (fundamental due process limitation against Capricious decision making). Block 631 F.2d at 236.

7. As such, when a Court is faced with the review of a decision of a parole board, it must insure that the Board followed criteria appropriate, rational and consistent with the Statute and that its decision is not arbitrary and Capricious nor based on impermissible considerations. Id. at 236 (Citing Zannino V. Arnold, 531 F.2d 687, 690 (3d Cir. 1976)).

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Thank You,
Aaron Bressi
(5-22-23)

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