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PROVIDED TO MARION C.I. ON

IN THE SUPREME COURT OF FLORIDA

6-12-19 FOR MAILING.

ARRP

ANTHONY RAY PEEK,
Petitioner,

v.

Case No.: _____

MELINDA COONROD, Chair
Florida Commission on
Offender Review,
Respondents.

Received, Clerk, Supreme Court

JUN 18 2019

PETITION FOR WRIT OF QUO WARRANTO

COMES NOW, the petitioner, Anthony Ray Peek, pursuant to **rule 9.100 (a)**, petitioning this Honorable Court for an immediate writ of quo warranto, directed to the respondent, Melinda Coonrod, chair of the Florida Commission On Offender Review, and shows the court as follows:

BASIS FOR INVOKING JURISDICTION

The supreme court has jurisdiction to issue a writ of quo warranto under Article V. **Section (3)(b)(8)**, of the Florida Rules of Appellate Procedures. Quo Warranto is the proper remedy to challenge the unconstitutional use of authority by the respondent, a state agency that goes beyond the authority provided to the respondent, pursuant to **Chapter 947.18 Florida Statutes**, governing “**Conditions for Parole**”.

(See Fla. House of Representatives v. Christ, 999 So. 2d 601 (Fla. 2008)).

Article V. Section (3)(b)(8) Florida Constitution, provides that, the Supreme Court shall have jurisdiction to issue writs of quo warranto to state officials and state agencies. The respondent in the instant case, is the duly appointed chair of the Florida Commission On Offender Review, a state agency. For this reason, jurisdiction in this case, to issue a writ of quo warranto, lies in the Supreme Court.

STATEMENT OF THE FACTS

The respondent is the duly appointed chair of the Commission on Offender Review, and as such, she is solely responsible for all administrative final actions, judgments, orders, decisions, and rules adopted and invoked in and for this administrative agency. **(See Chapter 947.04 Florida Statutes)**

The petitioner is a parole eligible inmate, who is subject to **chapter 947.18 Florida Statutes**, whom was charged, with Robbery, burglary, and sexual battery in 1977, and he was sentenced to life with parole, and two fifteen year sentences, consecutive. **(See, EXHIBIT-A)**

In April 1987, the petitioner was afforded his first parole hearing, and he had subsequent parole hearings thereafter during the years of **1988, 1989, 1991, 1993, 1995, 1997, 1999, 2003, 2008, 2010 and 2017**. **(See, EXHIBIT-B)**

On May 24th, 2010, the Florida Commission on Offender Review forwarded a Judicial Notice and Case Summary, relative to the petitioner's upcoming final effective parole release date hearing, pursuant to **Chapter 947.1745 (6) F. S.**, to

Chief Judge James Langford, presiding over the Tenth Judicial Circuit Court, in and for Polk County, Florida, to inquire whether the judge objected to the petitioner possibly being paroled within 90 days.

(See, EXHIBIT-C)

On June 1st, 2010, Chief Judge James Langford, stated in writing that;
“The Court takes no position in this matter. It appears the defendant has been continuously incarcerated since his arrest in 1977. The Court defers to the Parole Commission.”

(See, EXHIBIT-C)

On July 20th, 2010, Parole Examiner Felix Ruiz, conducted a final effective parole release date interview with the petitioner, pursuant to **Chapter 947.1745 (1) F. S.**, and established his effective parole release date to be September 29th, 2010.

(See, EXHIBIT-D)

More specifically, Parole Examiner Felix Ruiz, concluded in his written report, in pertinent parts:

“Since his last interview, Peek has not received any D.R.s. The D.C. progress report dated July 6th, 2010, rates Peek above Satisfactory in his quarter’s adjustment and work assignment of Wellness Aide... His release plan is to live with his wife, Helen Peek at 1808 S.W. 67th Terrace, Gainesville, Florida... should his release plan reveal a positive environment that will continue to facilitate Peek in his transition in society, and if this release plan does not pose a risk to

public safety, parole is recommended to his established PPRD on September 29th, 2010.

(See, **EXHIBIT- D**).

On July 29th, 2010, Parole Examiner Ralph Moulder, conducted a pre-parole investigation of the petitioner's submitted parole release plan, to verify whether it met the requirements for a "satisfactory parole release plan," pursuant to **Rule 23-21.002(45)(a) thru (f)**, and thus the requirements of **Chapter 947.18** and **947.174 (5)(b) F. S.**

After an extensive interview with the petitioner's wife, Mrs. Helen Peek, and fully viewing the proposed residence at 1808 S.W. 67th Terrace, Gainesville, Florida, Parole Examiner Moulder established and concluded in his written report, in pertinent part:

"The residence would certainly appear to be acceptable in an environment in which the subject would be residing with his supportive wife who would seem to be a positive one."

(See, **EXHIBIT-E**)

On September 1st, 2010, the respondents conducted a final effective parole release date hearing in the petitioner's case, pursuant to **Chapter 947.1745(3) F. S.**, with the above official record before them in Exhibits C, D, and E.

Although, the petitioner's parole plan met all of the requirements defined as a "satisfactory parole release plan," pursuant to the respondent's **rule 23-21.002**

(45)(a) thru (f) F. A. C. (See EXHIBIT – E) which was established and verified by the Parole Examiner Ralph Moulder (See EXHIBIT – E) and deemed to meet all of the statutory requirements of **Chapter 947.18 F. S.**, the respondents ignored the official record that supported parole on September 29th, 2010, and arbitrarily made an unsupported decision not to authorize petitioner’s effective parole release date stating that;

“The Commission has decided not to authorize your effective parole release date for the following reason(s):... Failed to make a positive finding as required by Fla. Stat 947.18, and has referred your case to the Commission for Extraordinary review.” (See, Rule 23-21.0155)

(See, EXHIBIT-F)

On November 3rd, 2010, the respondents conducted an invalid Extraordinary review hearing in the petitioner’s case, pursuant to **Rule 23-21.0155 F. A. C.**, where at, they again ignored the official record that was statutorily established by the parole examiners’, during petitioner’s effective parole release date interview, and they subjectively established a record of their own, and suspended petitioner’s release date, pursuant to **Chapter 947.18 F. S.**, beyond their statutory authority, to take such action, pursuant to **Chapter 947.18 F. S.**, where the Florida Legislature has never granted respondents the authority to suspend a parole eligible inmate’s release date, pursuant to **Chapter 947.18 F. S.**, (See, EXHIBIT-G). (See also **Chapter 947.18 F. S.**).

More specifically, the respondent's final order and judgment, states in pertinent part;

"The Commission concludes that although inmate Peek's coping skills may be somewhat adequate for a structured setting, such as provided by a correctional institution, the Commission finds he has a propensity for criminal conduct, representative of a repeat offender. Thus, the Commission forecasts a negative prognosis for acceptable re-socialization. Based on the foregoing, the Commission is drawn to the conclusion that a reasonable doubt exists with regards to whether inmate Peek would remain free of any criminal conduct should parole be granted in his case. The Commission therefore, by this action, suspends inmate Peek's presumptive parole release date of September 29th, 2010, pursuant to section 947.18 Florida Statutes. At the Commission's meeting held September 1st, 2010, your presumptive parole release date 9/29/2010 remains suspended. You will be re-interviewed for your extraordinary review during the month of May 2017"

(See, **EXHIBIT-G**).

Seven years later, June 28th, 2017, the respondents conducted their second invalid extraordinary review in petitioner's case, pursuant to their **Rule 23-21.0155**, stating in pertinent part;

".... the Commission finds in accordance with **Rule 23-21.0155**, that it is leaving in tack the suspension of your assigned presumptive parole release date of 9/29/10. The Commission continues to be unable to make a finding that there is a reasonable probability that if you are placed on parole

you will live and conduct yourself as a respectable and law abiding citizen and that your release will be compatible with your own welfare and the welfare of society as required by **Section 947.18 Fla. Stat.** ...At the Commission meeting held on 6/28/17, your presumptive parole release date remains suspended at 9/29/10. You will be re-interviewed for your extraordinary interview during the month of March 2024”

(See **EXHIBIT- H**)

Petitioner submits here, that the respondent’s invocation of **Rule 23-21.0155**, governing extraordinary review, and **Rule 23-21.0161**, governing extraordinary interviews, in petitioner’s (and all similarly situated inmates parole cases), pursuant to their erroneous interpretation of **Chapter 947.18 F. S.**, which extends beyond their Legislative grant of authority in **Chapter 947.18 F. S.**, (where this statute clearly contains no specific language thus authority for the rules adoption, as required by **Chapter 120.536 (1) F. S.**, governing rule making, and do not grant the respondent any authority, to suspend parole dates, or to invoke any, of the procedures outlined in the respective rules), is clearly a violation of their authority granted in **Chapter 947.18 F. S.**, and of their rule making authority, pursuant to **Chapter 120.536 (1) F. S.**

Accordingly, this petition for an immediate Writ of Quo Warranto follows:

THE NATURE OF RELIEF SOUGHT

The nature of relief sought herein, is an immediate writ of quo warranto, directing the respondents to demonstrate to the court, their authority to invoke **Rules 23-21.0155**, and **23-21.0161- F. A. C.**, pursuant to their cited enabling statute **947.18 F. S.**, as the law implemented.

And or, equitably issue an immediate writ of quo warranto directing the respondents to repeal **Rules 23-21.0155**, and **23-21.0161- F. A. C.**, pursuant to the essential requirements of law under **Chapter 120.536 (2)(b) F. S. (1999)**.

ARGUMENT

Petitioner submits and argues here that, it is the Florida Legislatures clear constitutional and statutory intent, for the respondents to adopt their rules pursuant to the provisions of **Chapter 120 Florida Statutes**.

More specifically, **Chapter 947.071 F. S.**, states in pertinent part:

“It is the intent of the Legislature that... all rule making procedures by the Commission be conducted pursuant to the provisions of the Administrative Procedure Act, **Chapter 120 Florida Statutes**.”

(See, Chapter 947.071 F. S.)

Additionally, **Chapter 947.07 F. S.**, state in pertinent part;

“The Commission has authority to adopt rules pursuant to **Chapter**

120.536(1) and 120.54 for its governance, including among other things rules of practice and procedure and rules prescribing qualifications to be possessed by its employees.”

(See, Chapter 947.07 F. S.)

Chapters 120.536(1) and 120.54 Florida Statutes, that governs the rule making procedure and authority under the administrative procedure act, states in pertinent part;

“A grant of rulemaking authority is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required. An agency may adopt rules that implement or interpret the specific powers and duties granted by the enabling statute...statutory language granting rulemaking authority or generally describing the powers and functions of an agency shall be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the same statute.”

(Emphasis added)

(See, Chapter 120.536 (1) F. S.)

“Prior to the adoption, amendment or repeal of any rule other than an emergency rule, an agency, upon the approval of the agency head, shall give notice of its intended action, setting forth a short, plain explanation of the purpose and effect of the proposed action; the full text to the proposed rule or amendment and summary thereof; a reference to the specific rulemaking authority pursuant to which the rule is adopted; and a reference to the section or subsection of Florida Statutes or the laws of Florida being implemented or interpreted or made specific.”

(Emphasis added)

(See, Chapter 120.54 (3)(a)1 F. S.)

The respondent's **Rule 23-21.0155 F. A. C.** governing the agency's Extraordinary review procedures, which cites **Chapter 947.18 F. S.**, as the specific enabling statute and law implemented, states verbatim;

“When an inmate’s case is referred for extraordinary review by the Commission, an order shall be prepared, outlining the reason for the Commission’s decision. The order shall be acted upon by the Commission within 60 days of the decision declining to authorize the effective parole release date. The Commission’s order shall specifically state the reasons for finding the inmate to be a poor candidate for parole release, pursuant to **Fla. Stat. 947.18**, and shall identify the information relied upon in reaching the conclusion. Additionally, the order shall suspend the established presumptive parole release date until such time that the inmate is found to be a good candidate for parole release. The determination on extraordinary review, that an inmate is not a good candidate for parole release shall have the effect of overriding his presumptive parole release date, however, the inmate shall continue to receive extraordinary reviews, which shall be scheduled pursuant to **F. A. C. 23-21.013**.

2.) If upon extraordinary review, a majority of the Commission finds the inmate to be a good candidate for parole release pursuant to Fla. Stat. 947.18, the Commission shall enter a written order authorizing the effective parole release date, setting the date of release and outlining the term and conditions of parole.”

Authority:

Rulemaking Authority Fla. Stat. 947.002, 947.07

Law Implemented Fla. Stat. 947.18

(See, Rule 23-21.0155 F. A. C.)

The respondent's **Rule 23-21.0161 F. A. C** governing the extraordinary interview procedures, which also cites Chapter 947.18 F. S., as its enabling statute and law implemented, states verbatim;

(1) In conducting extraordinary interviews, investigators shall follow the procedures specified in these rules for conducting effective parole release date interviews and additionally, shall obtain information relevant to the Commission's previous determination that the inmate was not a good candidate for parole release. The Commission's investigator shall reduce this recommendation to writing and forward it to the Commission within 30 days. The Commission shall independently review the complete official record in the inmate's case. The inmate shall be informed in writing of the Commission's findings on extraordinary review within 30 days of the Commission's decision.

(2) If as a result of extraordinary interview the Commission finds that the inmate continues to be a poor candidate for parole release, it shall establish an effective parole release date within two years from the date of the Commission's decision and schedule a new effective interview if needed. Thereafter, actual release on parole is subject to the provisions of law authorizing postponement or rescission of an order of parole due to an unsatisfactory release plan, unsatisfactory institutional conduct, or acquisition of any other new information not available at the time of the

most recent effective or extraordinary interview as provided in F. A. C.
Rule 23-21.019

(3) If as a result of extraordinary interview, the Commission finds that the inmate continues to be a poor candidate for parole release, the Commission shall again state the reasons and record support for this finding and shall again refuse to authorize an effective parole release date. Finally, the Commission shall schedule a subsequent extraordinary interview, pursuant to F. A. C 23-21.013. Thereafter, such extraordinary interviews shall be performed in accord to this rule and shall continue until the Commission finds the inmate to be a good candidate for parole release or he otherwise satisfies his term of incarceration.”

Authority,

Rulemaking Authority Fla. Stat. 947.002, 947.07

Law Implemented Fla. Stat. 947.18

(See, Rule 23-21.0161 F. A. C.)

Lastly, the respondents’ cited enabling statute and law implemented, Chapter 947.18 F.S., for the adoption and invocation of **Rules 23-21.0155** and **23-21.0161 F. A. C.**, states verbatim;

“No person shall be placed on parole merely as a reward for good conduct or efficient performance of duties assigned in prison. No person shall be placed on parole until or unless the Commission finds that there is a reasonable probability that if the person is placed on parole, he or she will live and conduct himself or herself as a respectable and law abiding person

and that the persons release will be compatible with his or her own welfare and the welfare of society. No person shall be placed on parole until and unless the Commission is satisfied that he or she will not become a public charge. The Commission shall determine the terms upon which such person shall be granted parole. If the person conviction was for a controlled violation, one of the conditions must be that the person submit to a random substance abuse testing intermitted throughout the term of supervision upon the direction of the correctional probation officer as defined in **Section 398.29 Florida Statutes**, as a condition of parole subject to modification, based on change of circumstances. If the person's conviction was for a crime that was found to have been committed for the purpose of benefitting, promoting or furthering the interest of a criminal gang, one of the conditions must be that the person be prohibited from knowingly associating with other criminal gang members or associates, except as authorize by law enforcement officials, prosecutorial authorities, or the court, for the purpose of aiding in the investigation of criminal activity.”

(Emphasis added)

(See, Chapter 947.18 F.S.)

First, Petitioner contends and submits here, that the verbatim language of the respondents' **Rules 23-21.0155** and **23-21.0161**, respectively, compared next to the specific language of the respondents' cited enabling statute, **Chapter 947.18** for the adoption and invocation of the respective rules, clearly evidences on the face of the record, that the respondent is erroneously interpreting, construing and invoking **Chapter 947.18 F. S.**, to go beyond implementing and or interpreting the specific

powers and duties conferred by **Chapter 947.18 F. S.**, in violation of the provisions of **Chapter 947.18 F. S.**, and the respondent's Legislative grant of rule making authority, pursuant to **Chapters 947.071, 947.07, 120.536 (1) and 120.54 F. S.**, where there is no specific language, thus authority provided in **Chapter 947.18 F. S.**, as mandated by **Chapter 120.536 (1) F. S.**, that grants the respondent Legislative authority, power, duty or jurisdiction, to adopt or invoke any part of the respective rules, either in the petitioner's, or any other parole eligible inmates case.

(See, Chapter 947.18 F. S., Cf. Rules 23-21.0155 and 23-21.0161)

Next, Petitioner contends and submits here that both, the First District Court of Appeal, and the Supreme Court of Florida, have clearly erred in their decade old decisions in *Gobie v. Florida Parole and Probation Commission*, 416 S. 2d 838 (Fla. 1st DCA 1982) and *Florida Parole and Probation Commission v. Paige*, 462 So. 2d 817 (Fla. 1985) in relations to **Chapter 947.18**, and how it should be invoked, where both courts erroneously held that;

“[H]owever, neither the statutes nor the Commission's rules provide guidelines concerning the invocation of **Section 947.18** to refuse to authorize an EPRD.”

(See *Gobie* and *Paige*, Supra)

Contrarily, the respondent's statutes and rules, absolutely provide guidelines

together, in how the respondent is to procedurally and substantively invoke **Chapter 947.18 F.S.**, governing “Conditions For Parole”. (See *Florida Parole Comm’n v. Paige*, 434 So. 2d 7 (Fla. 1st DCA)).

More specifically, **Chapter 947.1745 (1) F.S.**, governing “Establishment of Effective Parole Release Dates,” clearly states unambiguously that;

“Establishment of effective parole release dates – if the inmate’s institution conduct has been satisfactory; the presumptive parole release date shall become the effective parole release date as follows:

(1) Within 90 days before the presumptive parole release date, a hearing examiner shall conduct a final interview with the inmate in order to establish an effective parole release date and parole release plan. If it is determined that the inmates conduct has been unsatisfactory, a statement to this effect shall be made in writing with particularity and shall be forward to a panel of no fewer than two commissioners appointed by the chair. (Emphasis added)

(See, Chapter 947.1745 (1) F. S., and EXHIBIT – D and E)

Chapter 947.174 (5)(b) F. S. governing “Subsequent Interview,” states verbatim;

“For the purposes of this section, the Commission shall develop and make available to all inmates guidelines which:

(b) Define what constitutes a satisfactory release plan and what constitutes verification of the plan prior to placement on parole.”

(Emphasis added)

(See, Chapter 947.174 (5)(b) F. S.)

Petitioner contends and submits here, that the respondents complied with the above Legislative mandate, where they properly adopted and made available to all parole eligible inmates, **Rule 23-21.002 (45)(a) – (f) F. A. C.**, which defines what constitutes a “satisfactory” parole release plan and verification of the plan prior to an inmate being placed on parole. (See, **Rule 23-21.002 (45)(a) – (f) F. A. C.**)

More specifically, the respondent’s **Rule 23-21.002 (45)(a) – (f) F. A. C.** states verbatim;

“Satisfactory Parole Release Plan means a release plan that meets all of the following requirements:

(a) A residence confirmed by field investigation to be sufficient to meet the living needs of the individual seeking parole, or sufficient financial resources or assistance to secure adequate living accommodations with the approval of the parole supervisor.”

(b) Self sustaining employment or financial support sufficient to preclude the parolee from becoming a public charge, which has been confirmed by field investigation.

(c) Both paragraphs **(a)** and **(b)** available in a community that does not represent individual, collective or official resentment or hostility to the extent that it impairs the opportunity for lawful and peaceful existence of the parolee or any individual within that community.

(d) If the individual seeking parole is a convicted sexual offender, the

proposed residence and employment must not pose an undue risk to children under the age of eighteen.

(e) The occupants of the proposed residence must not pose an undue risk to the inmate's ability to reintegrate into society.

(f) The proposed residence must not contain any firearms.”

(See Rule 23-21.002 (45)(a) thru (f) F. A. C.) (See also EXHIBIT-E)

Petitioner contends and submits here, that where a parole eligible inmate's parole release plan meets all of the above requirements, pursuant to the respondent's defined **Rule 23-21.002 (45)(a) thru (f) F. A. C.**, as verified by the parole examiner, during a field investigation, as required by **Chapter 947.1745 (1) F. S.**; and **947.174 (5)(b) F. S.** as part of the inmate's effective parole release date interview, the six factors above, investigated and established by the parole examiner, is what creates and satisfy's the "Reasonable Probability" requirements of **Chapter 947.18 F. S.**, which the respondent is required to determine, before authorizing the inmate's release on his "effective parole release date, (See **EXHIBIT-E**) pursuant to **Chapter 947.1745 (3) F.S.**

In other words, where a parole examiner has established that a parole eligible inmate's release plan is satisfactory, through a field investigation of the proposed plan, pursuant to **Rule 23-21.002 (45)(a) thru (f) F. A. C.**, a reasonable probability has been established pursuant to the requirements of **Chapter 947.18 F. S.** that;

- 1) The inmate will live and conduct himself or herself as a respectable law abiding person;
- 2) The inmate release will be compatible with their own welfare and the welfare of society; and

3) The inmate will not become a public charge.

(See Rule 23-21.002 (45)(a) thru (f) F. A. C. Cf. Chapter 947.18 F. S.)

(See also EXHIBIT-E)

Next, petitioner contends and submits here, that **Chapter 947.1745 (3) F. S.**, governs the respondent's ministerial duty at effective parole release date final hearings, after receiving the parole examiner's report, establishing the inmate's effective parole release date, pursuant to **Chapter 947.1745 (1) F. S.** (See **EXHIBIT-D**) and the parole examiner's field investigation report, establishing the inmate's parole release plan, pursuant to **Chapter 947.1745 (1) F. S.**, which is approved by the parole supervisor. (See **EXHIBIT-E**)

More specifically, **Chapter 947.1745 (3) F. S.**, states;

“Within 30 days after receipt of the inmate's parole release plan, the panel shall determine whether to authorize the effective parole release date. The inmate shall be notified of the decision in writing 30 days after the decision by the panel.

(See **Chapter 947.1745 (3) F. S.**)

Accordingly, the respondent's statutory obligation pursuant to the procedures outlined above, is to review the official record reports of the parole examiners, regarding the petitioner's (and or all other similarly situated inmate cases) established effective parole release date (See **EXHIBIT-D**) and the established parole release plan (See **EXHIBIT-E**) in making their required determination of whether the record meets the “reasonable probability” requirements of Chapter 947.18 F. S., and thus, whether to authorize the petitioner's (and or all other

similarly situated inmate's cases) established effective parole release date, which is how the Florida Legislature intended for Chapter 947.18 F. S. to be invoked.

However, ever since the respondent invalidly adopted **Rule 23-21.0155** in August 1983, (two months before parole was officially eliminated in October 1983) the respondents have been subjectively contravening the effective parole release date procedures during their final hearings, in such cases as petitioner's, where they arbitrarily choose not to parole, by ignoring both, the official record before them, and their ministerial statutory duty, pursuant to **Chapter 947.1745 (3) thru (6)** and, **947. 18 F. S.**, by entering a final order stating that, they decided not to authorize the inmate's effective parole release date, because they "could not make a positive finding," pursuant to **Chapter 947.18 F. S.** It is then at this time, that the respondent refers such cases back to themselves, and invokes their invalid **Rule 23-21.0155** and or **23-21.0161.** (See **EXHIBITS-F, G & H**)

Petitioner contends and submits here, that the First District Court of Appeal, has held in their decision of *South West Florida Water Management District v. Save The Manatee Club Inc.*, 773 So. 2d 594 (Fla. 1st DCA 2000) that;

[R]ulemaking is a legislative function, and as such it is within the exclusive authority of the Legislature, under the separation of powers provision of the Florida Constitution. See Florida Constitution, Article II Section 3. An administrative rule is valid only if adopted under a proper delegation of legislative authority. See *Askew v. Cross Key Waterways*, 372 So. 2d 913 (Fla. 1978), *Chiles v. Children A, B, C, D, E, and F*, 589 So. 2d 260 (Fla. 1991). It follows that the Legislature is free to define the standard for determining whether a rules is supported by legislative authority."

(Emphasis added)

(See, *South West Fla. Water Management Dist., Supra*)

(See also Chapter 120.536 (1) F. S. (1999)).

Petitioner contends and submits here, that well established law in Florida governing rules of statutory construction, recognizes the doctrine of “expressio unius est exclusio alterius,” which has guided Florida Courts for many generations in similar cases as in the instant case herein, that has relied on this Honorable Court’s holding in *Ideal Farms Drainage Dist. v. Certain Lands*, 19 So. 2d 234 (Fla. 1944) where the court stated in pertinent part,

“[W]e are requested to sustain the holding of the lower court by applying to the cited statute the well recognized rule of statutory construction ‘expressio unius est exclusio alterius’ meaning that where a statute enumerates the things upon which it is to operate, or forbids certain things, it is to be construed as excluding from its operation all those not expressly mentioned.”

(See *Ideal Farms*, at 239 *Supra*)

Again this Honorable Court held in its decision of *Thayer v. State*, 335 So. 2d 815 (Fla. 1976) that;

“[I]t is of course, a general principle of statutory construction, that the mention of one thing implies the exclusion of another, expressio unius est exclusio alterius. Hence, where a statute enumerates the things upon which it is to operate, or forbids

certain things, it is to be construed as excluding from its operation all those not expressly mentioned.”

(See *Thayer* at 817, *Supra*)

Petitioner contends and submits here, that the instant claim and issue here in, of the respondents construing **Chapter 947.18 F. S.**, to extend beyond the granted authority and duty conferred in the specific language of **Chapter 947.18 F. S.**, by the Florida legislature, in the adoption and invocation of their **Rule 23-21.0155** and **23-21.0161 F. A. C.**, respectively, was dealt with by this Honorable Court in the decision of *Dobbs v. Sea Isle Hotel*, 56 So. 2d 341 (Fla. 1952) where this Honorable Court held that;

[W]e have at times held that the rule “expressio unius est exclusio alterius is applicable in connection with statutory construction. This maxim, which translated from the latin means: express mention of one thing is the exclusion of another”

(See *Dobbs* at 341, *Supra*)

Finally, as recent as 2017, this Honorable Court has continued to hold this interpretation in the decision of *Joan Schoeff v. R.J. Reynolds Tobacco Company*, 42 Fla. Law Weekly, S95142, on December 14th, 2017, where the court stated;

“[O]ne cannon of construction requires this Court to presume that the Legislature intended the words it chose to include in the

statute. Under the cannon *expressio unius est exclusio alterius*, we exclude items not included in a list”

(See *Joan Schoeff, Supra*)

Petitioner contends and submits here, that the First District Court of Appeal, has held and settled in their decision of *South West Florida Water Management District v. Save The Manatee Club Inc.*, 773 So. 2d 594 (Fla. 1st DCA 2000) that;

[T]he authority for an administrative rule is not a matter of degree. The question is whether the statute contains a specific grant of Legislative authority for the rule, not whether the grant of authority is specific enough. Either the enabling statute authorizes the rule at issue or it does not”

(Emphasis added)

(See *Southwest Florida Water Mang. Dist* at 598, 599, *Supra*)

Petitioner contends and submits here, that the rule “*expressio unius est exclusio alterius*,” regarding the respondent’s construed agency actions, of invoking **Rules 23-21.0155 F. S. and 23-21.0161 beyond the authority of Chapter 947.18 F. S., granted to the respondents, governing the “Conditions of Parole,”** is cognizable under the requested writ of quo warranto and Petitioner’s request for immediate relief, as argued and set forth herein, which the Petitioner prays the court will apply in the instant case.

CONCLUSION

WHEREFORE, the petitioner prays that this Honorable Court will grant the immediate relief sought herein, upon the court applying the rule “expressio unius est exclusio alterius” herein, and adjudicating officially, that the actions of the respondent’s described and set forth in the instant case, affirmatively go beyond the authority of **Chapter 947.18 F. S.**, governing “Conditions of Parole” granted by the Florida Legislature, as asserted herein.

Respectfully Submitted,



Anthony Ray Peek, 850039/ E-1157S
Marion Correctional Institution
Post Office Box 158
Lowell, Florida 32663

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true copy of this foregoing *Petition for Writ of Quo Warranto*, was furnish to the Marion Correctional Institution mailroom staff, to be mailed to: the Honorable Ashley Moody, Attorney General, Office of the Attorney General, PL – 01, The Capitol, Tallahassee, Florida, 32399 – 1050; Ms. Rana Wallace, General Counsel, Florida Commission on Offender Review, 4070 Esplanade Way, Tallahassee, Florida 32399-2450; the Honorable John A Tomasino Clerk of the Court, 500 S. Duval Street, Tallahassee, Florida, 32399, on this 12th day of June 2019.


Anthony Ray Peek, 850039/ E-1157S
Marion Correctional Institution
Post Office Box 158
Lowell, Florida 32663-0158

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EXHIBIT A

DEPARTMENT OF THE TENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR POLK COUNTY

77-3666-F/ALCOTT/jm

STATE OF FLORIDA

v.

ANTHONY RAY PEEK

INFORMATION FOR

1. BURGLARY
F. S. 810.02 (F 3)
2. SEXUAL BATTERY
F. S. 794.011 (LF)
3. ROBBERY
F. S. 812.13 (F1
(LF))

In the Name and by Authority of the State of Florida

QUILLIAN S. YANCEY, as State Attorney of the Tenth Judicial Circuit of the State of Florida,
prosecuting for the State of Florida, in the County of POLK, under oath
information makes that

ANTHONY RAY PEEK

on the 6th day of July, 1977, in the County and State aforesaid
did enter or remain in a structure, to-wit: a dwelling, a further
and better description of which is to the State Attorney unknown,
the property of Lynda Gail Jamison, with the intent to commit
therein an offense, to-wit: involuntary sexual battery, and
there was then and there a human being in said structure, or
did make an assault on and upon one Lynda Gail Jamison in
violation of Section 810.02, Florida Statutes,

COUNT TWO

QUILLIAN S. YANCEY, as State Attorney of the Tenth Judicial
Circuit of the State of Florida, prosecuting for the State of
Florida, in the County of POLK, under oath information makes that
ANTHONY RAY PEEK on the 6th day of July, 1977, in the County and
State aforesaid did commit sexual battery upon one Lynda Gail
Jamison in that the said Anthony Ray Peek with his penis did
penetrate the vagina of the said Lynda Gail Jamison, without the
consent of the said Lynda Gail Jamison, and in the process thereof
did use a deadly weapon, to-wit: a knife, in violation of Section
794.011, Florida Statutes,

...to the State in such cases made and provided, and against the peace and dignity of the

COUNT THREE

QUILLIAN S. YANCEY, as State Attorney of the Tenth Judicial Circuit of the State of Florida, prosecuting for the State of Florida, in the County of POLK, under oath information makes that ANTHONY RAY PEEK on the 6th day of July, 1977, in the County and State aforesaid unlawfully, by force, violence, assault, and putting in fear, feloniously did take from the person and custody of another, to-wit: ~~Lynda Gail Jamison~~, money or other property, the subject of larceny, to-wit: money in currency and coin of the United States of America, a further and better description of which is to the State Attorney unknown, the property of ~~Lynda Gail Jamison~~, and of the value of less than One Hundred Dollars (\$100.00), and the said Lynda Gail Jamison was then and there entitled to the possession of the said money in currency and coin of the United States of America, as against the said ANTHONY RAY PEEK, and the said ANTHONY RAY PEEK was not then and there the owner nor entitled to possession of said money in currency and coin of the United States of America, and in the course of committing the robbery as aforesaid, the said ANTHONY RAY PEEK carried a deadly weapon, in violation of Section 812.13, Florida Statutes,

contrary to the Statute in such cases made and provided, and against the peace and dignity of the State of Florida.

[Signature]
As Assistant State Attorney

STATE OF FLORIDA
COUNTY OF POLK

Personally appeared before me ROGER A. ALCOFF, as Assistant State Attorney of and for the Tenth Judicial Circuit of the State of Florida, who, being duly sworn, says that the allegations set forth in the foregoing information are based upon facts which have been sworn to as true and which, if true, would constitute the offense therein charged, that he has received testimony under oath from a material witness for the offense, and that this prosecution is instituted in good faith.

[Signature]
As Assistant State Attorney

Sworn to and subscribed before me this 8th day of July, A.D. 1977

Notary Public, State of Florida at Large
My Commission Expires Nov. 3, 1980

[Signature]
Notary Public

FILED - ORIGINAL DIVISION
E. D. "BOB" DIXON, CLERK
CIRCUIT AND COUNTY COURTS

18 JUL 4 8 11 PM '77

CERTIFIED TO BE A TRUE COPY

Attest: E. D. "BOB" DIXON, Clerk
District Court - Criminal Division

[Signature]
Deputy Clerk
April 7, 1978

IN THE CIRCUIT COURT

TENTH JUDICIAL CIRCUIT OF FLORIDA

IN AND FOR POLK COUNTY

STATE OF FLORIDA

vs.

Anthony Ray Peek Defendant

CASE NO. 04-165871

TERM SPRING 19 78 FILED AND RECORDED

BOOK PAGE

APR 04 1978

JUDGMENT AND SENTENCE

E. D. "BUD" DIXON, Clerk

BY

The Defendant ANTHONY RAY PEEK being personally

before this Court, represented by ASSISTANT PUBLIC DEFENDER PAUL MARTIN

his attorney of record, been tried and found guilty of the crime of having entered a plea of guilty to the crime of entered a plea of Not Contendere to the crime of

- 1. Burglary 2. Sexual Battery 3. Robbery

and the Court having inquired and given the Defendant an opportunity to be heard and show cause why he should not be adjudged guilty and sentenced as provided by law, including an opportunity to offer matters in mitigation of sentence, and no cause being shown, it is thereupon:

Ordered that the Defendant ANTHONY RAY PEEK is hereby adjudicated guilty of the crime of 1. Burglary 2. Sexual Battery 3. Robbery

It is the sentence of the law that said Defendant be committed to the custody of the Department of Offender Rehabilitation of the State of Florida, to be imprisoned for a term of Fifteen (15) years, State Prison Count 1; Life in State Prison Count 2; Fifteen (15) years State Prison Count 3; Count 1 and 3 to run consecutively with Count 2 in the institution in the State Correctional System to which said Department may cause you to be confined.

It is further ordered that you shall be allowed two-hundred seventy three (273) days credit for such time as you have been incarcerated prior to the imposition of this sentence for this offense. (No credit should be allowed if the Defendant is already under sentence or if credit has been previously given for another offense. Strike if not applicable.)

It is further ordered that this sentence be (concurrent) (consecutive) with the sentence imposed for the crime of

County, Fla. (Strike if not applicable)

It is further ordered that the Sheriff of Polk County, Florida, is hereby ordered and directed to deliver said Defendant to the Department of Offender Rehabilitation together with a copy of this Judgment and Sentence. It is further ordered and adjudged that said Defendant be released by the Sheriff of Polk County, Florida, on the date of 04/04/78.

The Defendant in Open Court was advised of his right to appeal from this Judgment and Sentence within thirty days from this date, and the Defendant's entitlement to the assistance of counsel in taking said appeal upon a showing that said Defendant was entitled to an attorney at the expense of the State.

The following are the fingerprints of the above-named Defendant, ANTHONY RAY PEEK

		FINGERPRINTS					
		1. Thumb	2. Index Finger	3. Middle Finger	4. Ring Finger	5. Little Finger	
RIGHT HAND							
	LEFT HAND						

DONE AND ORDERED IN Open Court at POLK County,

Florida, this 4th day of April, A.D. 1978.

I HEREBY CERTIFY that the above and foregoing fingerprints on this Judgment and Sentence are the fingerprints of the Defendant, Anthony Ray Peek

and that they were placed thereon by said Defendant in my presence in Open Court this date.

Susan Wood
JUDGE

FILED AND RECORDED
BOOK _____ PAGE _____

APR 04 1978

E. D. "BUD" DIXON, Clerk

BY _____

CERTIFIED TO BE A TRUE COPY

Attest: E. D. "BUD" DIXON, Clerk
Circuit Court - Criminal Division

By: *Julius D. Stearns*
Deputy Clerk

This: April 7, 1978

EXHIBIT B

OT11 850039
OTSB011

PAROLE EVENTS

F000AAY

01/03/2012 09:03:23
PAGE 01

DOC NO: 850039 NAME: PEEK, ANTHONY R.
PPRD 09/29/2010 TRD 99/98/9999 MAX LIFE
NID 05/15/2017 SCHEDULED TERM DATE
NEXT REVIEW DATE SUPERVISING OFFC#

LOC: SUMTER C.I.
MPP 00/00/0000

INQ	ACTION-DTE	ACTION	TYPE	PPRD	COMMISSIONERS	COMMENT
-	10/10/1984	90	ACTION BY MEMOR			
-	04/13/1987	90	ACTION BY MEMOR			
-	07/29/1987	01	INITIAL INTERVI	09/29/2008		
-	08/07/1987	90	ACTION BY MEMOR	09/29/2008		
-	10/28/1987	04	SPECIAL/INTV/R	09/29/2000		
-	11/09/1988	02	SUBSEQUENT INTE	09/29/2000		
-	05/10/1989	04	SPECIAL/INTV/R	09/29/2000		
-	11/01/1989	02	SUBSEQUENT INTE	09/29/2001		
-	01/03/1990	35	REVIEW REQUEST	09/29/2001		
-	08/21/1991	02	SUBSEQUENT INTE	09/29/2000		
-	06/23/1993	02	SUBSEQUENT INTE	09/29/2002		
-	04/12/1995	02	SUBSEQUENT INTE	09/29/2005		

PRESS ENTER KEY FOR NEXT PAGE

OT11 850039
OTSB011

PAROLE EVENTS

F000AAY 01/03/2012 09:03:38
PAGE 02

DOC NO: 850039 NAME: PEEK, ANTHONY R.
PPRD 09/29/2010 TRD 99/98/9999 MAX LIFE
NID 05/15/2017 SCHEDULED TERM DATE
NEXT REVIEW DATE SUPERVISING OFFC#

LOC: SUMTER C.I.
MPP 00/00/0000

INQ	ACTION-DTE	ACTION	TYPE	PPRD	COMMISSIONERS	COMMENT
-	03/19/1997	02	SUBSEQUENT INTE	09/29/2005		
-	01/13/1999	00	DATA ENTRY	09/29/2005		
-	03/31/1999	02	SUBSEQUENT INTE	09/29/2010		
-	11/12/2003	02	SUBSEQUENT INTE	09/29/2010		
-	10/01/2008	02	SUBSEQUENT INTE	09/29/2010		
-	06/23/2010	00	DATA ENTRY	09/29/2010		
-	09/01/2010	03	EFFECTIVE INTER	09/29/2010		
-	09/01/2010	14	DECLINED TO AUT	09/29/2010		
-	10/20/2010	04	EXTRAORDINARY R	09/29/2010		
-	10/20/2010	22	CASE CONTINUED	09/29/2010		
-	11/03/2010	04	EXTRAORDINARY R	09/29/2010		
-	11/03/2010	38	PPRD SUSPENDED	09/29/2010		

END OF REPORT

EXHIBIT C



FLORIDA PAROLE COMMISSION

2601 Blair Stone Road, Building C, Tallahassee, Florida 32399-2450

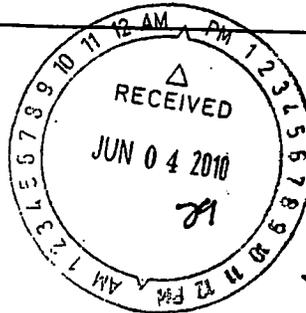
FREDERICK B. DUNPHY
Commissioner/Chairman

TENA M. PATE
Commissioner/Vice-Chairman

MONICA DAVID
Commissioner/Secretary

May 24, 2010

The Honorable J. David Langford
Chief Judge, Tenth Judicial Circuit
255 N. Broadway Avenue
P.O. Box 9000, Drawer J-161
Bartow, Florida 33831



RECEIVED

JUN 1 2010

Judge Langford

RE: State vs. Peek, Anthony
Case Number: CF77-1658
DC #: 850039

Dear Chief Judge Langford:

The Parole Commission is required by Section 947.1745 (6) Florida Statutes, to notify the sentencing judge when an inmate is within ninety (90) days of his effective parole release date interview. The sentencing judge, Judge Susan Wadsworth Roberts, in this case is no longer serving. The statute provides that in cases where the sentencing judge is no longer serving, the notice must be sent to the Chief Judge of the circuit in which the offender was sentenced. The Chief Judge may designate any circuit judge within the circuit to act in the place of the sentencing judge. **However, due to a court ruling, it is necessary that the Commission be made aware that the Chief Judge has designated another judge to review the notice that is sent and any correspondence in response to this notice should contain an affirmative statement that the responding judge was designated by the Chief Judge of the Circuit.** As Chief Judge, this is to advise you that the Commission has scheduled an effective parole release date interview for this inmate during the month of June 2010. This interview begins the Commission's statutory responsibility for making its factual conclusion in determining whether or not to authorize this inmate's release on parole.

Attached you will find documentation to assist you, or your designee, in making an informed decision. We respectfully inform you that, **should you or your designee choose to object to parole release, you or your designees have thirty (30) days after receipt of this notice to send us a written response citing your reasons for objection. However, a final decision will be made at a later date.** Please observe the confidentiality of Section 945.10, Florida Statutes, regarding these records after you have completed your review.

Written notice of a judicial objection or other comments should be mailed to my attention at the above address.

If you have any questions or need additional information, please contact me at (850) 488-1293.

Sincerely,

Blair A. Keels

Blair A. Keels
Parole Technician II
Office of Release Services

6-1-2010

The court takes no position in regard to this matter. It appears the defendant has been continuously incarcerated since his arrest in 1977. The court defers to the Parole Commission. *J. David Langford*

CASE SUMMARY

INMATE NAME: Peek, Anthony DC#: 850039
CURRENT LOCATION: Sumter C.I. CUSTODY STATUS: Close

BACKGROUND INFORMATION

This inmate is within 90 days of his established Presumptive Parole Release Date of 09/29/2010. There is a possibility that the Commission may parole this inmate with supervision to his Max Supervision Date of Life.

SENTENCE STRUCTURE:

*Sentenced by the Honorable Susan Wadsworth Roberts, on April 4, 1978
Polk County Case #CF77-1658, Ct 1, Burglary, 15 years C/S
Ct 2, Sexual Battery, Life C/S
Ct 3, Robbery, 15 years C/S*

COMMENTS:

History:

Inmate Peek has never been paroled.

The Commission last reviewed this case on October 1, 2008, at which time the Commission made no change to Inmate Peek's presumptive parole release date.

The Department of Corrections progress report dated March 31, 2010, rated Inmate Peek as above satisfactory in his current assignment in a *Transitional Program*, as well as above satisfactory in his overall institutional adjustment. He has completed the following programs: Law Clerk, Residential Electric, Vital Issues Project, Non-Residential Intensive, Wellness Marriage, Wellness Education and Re-Entry Seminar.

Inmate Peek has received seventeen disciplinary reports during his incarceration. He has remained disciplinary report free since November 1997.

ATTACHMENTS:

- Applicable Pre/Post Sentence Investigation
- Other: Examiner's Rationale and Commission's Action.
- Commission Case Summary: Blair A. Keels - May 5, 2010

EXHIBIT

D



FLORIDA PAROLE COMMISSION

Memorandum

DATE: 07/20/2010
 TO: THE COMMISSION
 FROM: Felix Ruiz, Parole Examiner OFFICE: Region III – Ocala Field Office
 RE: Peek, Anthony DC#: 850039

**PAROLE INTERVIEW
 RATIONALE / BASIS FOR RECOMMENDATION**

Interview Date: 7/20/10 Location: Sumter Correctional Institution

Initial Subsequent Special Effective Extraordinary

Last Interview Date: 7/24/08 Last Commission Action: 10/01/08

Date of Sentence	Case# and Offense	County	Sentence Structure	Guideline
4/04/78	77-1658, Ct. II Sexual Battery Ct. I, Burglary Ct. III, Robbery	Polk	Ct. II, Life Ct. I, 15 yrs cs Ct. III, 15 yrs cs	No
5/12/78	76-1842, Cts. I, III, Burglary Ct. V, Grand Theft	Polk	Cts. I,III, 5 years cc Ct.V,5 years cc	No

In case #77-1658, the presentence investigation reflects, that on 7/6/77 at approximately 10:00 am the victim heard her front door shut and thought it was her husband. She observed a black man standing in her kitchen with a fork in his hand. He placed the fork down a grabbed a knife out of the kitchen drawer, went over to the victim and placed his arm around her neck from behind and placed the knife to her throat. He forced her into the bedroom at which time he sexually assaulted her. The subject then went back into the kitchen got her purse and brought it back to the bedroom, opened the purse and went through it's contents, then went back into the kitchen. The victim then got up and locked the door and got a pistol out of her closet. Then the subject returned telling the victim if she did not open the door he would kill her. He forced the door open to encounter the victim pointing a gun at him. He immediately ran from the home and she pursued him while naked and fired five shots, which all missed. She then called her husband, who notified police and as a result of a positive identification, Peek was arrested.

In case # 76-1842, on 9/22/76 in Auburndale, the police responded to a call from a local Hotel. The subject was asked to leave the premises by the hotel employee. An argument ensued; the subject stated he had no place to stay. It was subsequently discovered the subject broke into a room and took a suitcase. The suitcase was found to contain items from the hotel as well as items taken from a previous burglary.

Since his last interview, Peek has not received any DR's. The DC progress report dated 7/6/16/10 rates Peek above satisfactory in his quarters adjustment and work assignment of wellness aid. Based on the severity of the offense no change is recommended. Peek is in-close custody status.

Peek continues to participate in the Lifer's program as well as the gavel club. He has completed the following courses:
 11/22/08, Healing for Damaged Emotions
 07/31/09, Social Reintegration

Name Peek, Anthony, dc 850039
07/01/09, Certificate of Facilitation

07/31/09, Certificate of Appreciation – Lifers Graduation Ceremony
12/05/09, Certificate of Appreciation - Participation in the 12/04/09 Graduation Class
12/04/09, Certificate of Appreciation – Facilitator in Social Reintegration Class

The following certificates from the Department of Corrections Transition program:

05/08, Mastery of Wellness
05/07/10, certificate of completion, 100 hour Transitional Release program.

Gavel Club Certificates:

10/23/09, Competent Gavalier Communicator
08/04/09, Performance Leadership Program
06/16/09, Evaluator of the Year certificate
06/16/09, Certificate of Achievement- Office of Vice President and Public Relations
11/18/08, Certificate of participation – Executive Seminar

Education Enhancement and Certificates of Completion

04/03/09, the Mysteries and Splendor of the Ancient Egyptians
07/10/09, the American Revolution
08/28/09, Lewis and Clark
11/06/09, Great Indian Nation
03/01/10, Certificate of Appreciation, Education Department's 2010 Black History Month Celebration.
03/31/10, The 2010 Women's History month: winning battle of the Gospel Band "Vocals"
03/31/10, Certificate of Appreciation: 2010 Women's History Month

At the time of his interview Peek exhibited a calm and respectful demeanor. He wants the Commission to know he is not the same person incarcerated 33 years ago. That person was a 19 year old vagrant who came from New York with no place to live. He was living at a half way house at the time and was attempting to obtain work when he committed this offense. Peek feels his side of the story is not told. He did not seek to commit a rape of his victim. He approached the house to see if he could be hired to do some yard work or clean up the area. He found a fork on the porch and he thought he could rob her. He threatened her for money and the incident escalated. He then threatened to rape her to see if she would give him money, but it continued to escalate. The act as he learned in therapy was about power and not sex. He has never denied his involvement with this crime and this was not something he preplanned. This was the act of a stupid 19 year old. He is not a violent person and had never committed a violent act prior to this.

He admits to past property crimes and has committed petit theft.

Peek has no job offer but he plans to seek employment in all fields. He has learned to do many things while in prison. He has a certificate as a paralegal from DOC. He can do carpentry, brick and block work, and he can also cook. He's aware of the difficulty in seeking employment during these difficult economic times, but he is committed to getting work where ever it's available. His wife will not permit him to sit at home and not be productive.

His release plan is to live with his wife, Helen Peek at 1808 S.W. 67th Terrace, Gainesville, Fl. 32607, tel. # (352) 332-1709. His alternate plan is the Prisoner's of Christ Transition Program P.O. Box 28159 in Jacksonville, Florida, 32226, Tel.# (904) 358-8866

He has no reasonable offer of employment at this time.

Should this release plan be acceptable to the Commission, the following special conditions of supervision are recommended:

Obtain a sex offender evaluation and attend counseling if indicated.

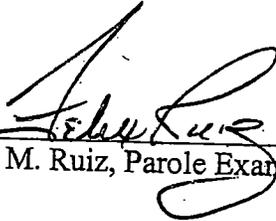
Remain on curfew for the first year of supervision from 7:00PM thru 7:00AM except for work, religious, counseling or educational needs.

Undergo random drug screen testing upon the P.O discretion.

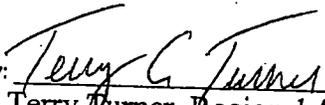
Name Peek, Anthony, dc 850039
Abstain from use of Alcohol.

Peek has demonstrated a positive change in his life while an inmate at Sumter Correctional, not just at this interview but in previous interviews as demonstrated by his participation in the various programs offered. Should his release plan reveal a positive environment that will continue to facilitate Peek in his transition in society and if this release plan does not pose a risk to public safety, Parole is recommended to his established PPRD on 09/29/10.

Completed by:


Felix M. Ruiz, Parole Examiner

Reviewed & Approved by:


Terry Turner, Regional Administrator

Date: 7/28/2010

**EFFECTIVE PAROLE RELEASE DATE INTERVIEW WORKSHEET
EXTRAORDINARY INTERVIEW**

Interview Date: 07/20/10 Location: Sumter Correctional Institution

Inmate Name: Peek, Anthony DC # 850039 Race Black Sex M

DOB 03/18/58 Total Sentence Life

TRD Life MAX Life PPRD 09/29/10 MPP N/A

Mandatory Minimum/Expired N/A Retained Jurisdiction/Expired _____

Detainer: No Yes If yes, where? _____

Institution Conduct: Satisfactory Unsatisfactory Explain: _____

Department of Corrections Recommendations (if any): None

Recommended (Effective Parole Release Date): 09/29/10

RELEASE PLAN

Florida Alachua County Out of State _____

Residence: 1808 S.W. 67th Terrace, Gainesville, FL. 32607

Person Residing With: Helen Peek tel.# (352) 332-1709

Relationship: Spouse

Other Resource Person: _____

Employment: Has no reasonable offer of employment

Alternate Plan: Prisoners of Christ Ministries, P.O. Box 28159 Jacksonville, Fl. 32226, tel# (904)358-8866

Savings: 0 Health: Good

Restitution: To be Determined

Special Supervision Conditions: Obtain a sex offender evaluation and attend counseling if indicated.
Remain on curfew for the first year of supervision from 7:00PM thru 7:00AM
except for work, religious, counseling or educational needs.
Undergo random drug screen testing upon the P.O discretion.
Abstain from use of Alcohol.

Comments/Terms of Parole: Life Term

Plan Verified, Recommended Satisfactory Plan Developed, Recommended Satisfactory
 Plan Recommended Unsatisfactory: _____

Officer _____

07/20/10 2:32 PM

PCG-6 (Revised April 1996)

Data Entry: _____ Date Certified: _____
DOC No. 850039 Name: Peek, Anthony
(Print - Last, First, MI)

HEARING EXAMINER:

Interview Date: 07/20/10 Action: 03 EX1: 309 Location Code: 307
Time Rec. _____
PPRD/~~EPRD~~ Recommended: 09/29/10 REC-CHG: 02 REC-CDE: _____

(Change - Yes = 01; No = 02)

(Code — 01 = Poor Institutional Adjustment; 02 = No or Poor Release Plan; 03 =
New Commitment — New Initial; 04 = Mitigation; 05 = Other)

COMMISSION ACTION:

Action Date: _____ Vote: 1 _____ 2 _____ 3 _____ 4 _____ 5 _____ 6 _____ 7 _____
Minimum _____ Maximum _____ To Serve: _____ Depart Code: _____ Codes: _____
PPRD-COM: _____ Next Interview: _____
Effective Date: _____ To Serve: _____ Special Conditions: _____

EXHIBIT

E

To: Florida Parole Commission

From: **ANTHONY PEEK, DOC #850039**

Date: June, 2010

PAROLE RELEASE PLAN

I, **ANTHONY PEEK**, do hereby aver in the affirmative, that the below submitted "**PAROLE RELEASE PLAN**", is a "Satisfactory Parole Plan which meets all of the defined requirements for such, pursuant to the Commission's rule under Chapter 23-21.002 (45) F.A.C., in compliance with the Legislature's intent and mandate, pursuant to Section 947.174 (5) (b), which is verifiable by the Commission's parole examiner's pre-parole field investigation, pursuant to Section 947.1745 (1) F.S., and Chapter 23-21.002 (45) F.A.C.

Specifically, this Parole Release Plan is satisfactory;

1) Whereas, it clearly meets the specific requirements of Chapter 23-21.002 (45)(a) F.A.C., where my wife of fifteen years, (Mrs. Helen Peek) and I do own a mortgage free residence at 1808 S.W. 67th Terrace, Gainesville, Florida (See Exhibit -A), and/or where I have been approved to go to the 20/20 World Vision Ministries Transition House, located in Jacksonville, Florida, (See Exhibit-B), which can be verified by the Commission's Parole Examiner's Pre-Parole field investigation, in compliance with the Florida Legislature's intent, pursuant to Section 947.174 (5)(b); 947.1745 (1); 947.18 F.S. and Chapter 23-21.002 (45)(a) F.A.C.

2) Whereas, it meets the specific requirements of Chapter 23-21.002 (45)(b) F.A.C., where I clearly have "financial support" from my wife, (Mrs. Helen Peek), whom has two self-owned businesses; and/or, I have been approved to go to the 20/20 World Vision Ministries Transition House, located in Jacksonville, Florida, (See Exhibit-B), which will help me secure employment, both which are sufficient

to preclude me from becoming a public charge, which can be verified by the Commission's Parole Examiner's Pre-Parole field investigation, in compliance with the Florida Legislature's intent, pursuant to Section 947.174 (5)(b); 947. 1745 (1); 947 .18 F.S. and Chapter 23-21.002 (45)(b) F.A.C.

3) Whereas, it meets the specific requirements of Chapter 23-21.002 (45)(c) F.A.C., where both my "outstanding support" by my wife, (Mrs. Helen Peek), at our residence in Gainesville, Florida, (See Exhibit A), and/or, the Transition House located in Jacksonville, Florida, (See exhibit B), as mandated and defined by Chapter 23-21.002 (45) (a) and (b), F.A.C. "are located in a community that does not represent individual, collective, or official resentment, or hostility to an extent that, it would impair the opportunity for the lawful and peaceful existence of myself or any individual in the community," which can be verified by the Commission's Parole Examiner's Pre-Parole field investigation, in compliance with the Florida Legislature's intent, pursuant to Section 947.174 (5)(b); 947. 1745 (1); 947 .18 F.S. and Chapter 23-21.002 (45)(c) F.A.C.

4) Whereas, it meets the specific requirements of Chapter 23-21.002 (45)(d) F.A.C., where neither my residence with my wife, (Mrs. Helen Peek), as evidenced in Exhibit-A, or the approving Transition House located in Jacksonville, Florida (See Exhibit-B), "has any children residing there," which can be verified by the Commission's Parole Examiner's Pre-Parole field investigation, in compliance with the Florida Legislature's intent, pursuant to Section 947.174 (5)(b); 947. 1745 (1); 947 .18 F.S. and Chapter 23-21.002 (45)(d) F.A.C.

5) Whereas, it meets the specific requirements of Chapter 23-21.002 (45)(e) F.A.C., where neither the sole occupant of my residence, (Mrs. Helen Peek), as evidenced in Exhibit-A; and/or the occupants of my approved Transition House located in Jacksonville, Florida, (See Exhibit-B), "pose any undue risk to my ability to reintegrate into society", which can be verified by the Commission's

Parole Examiner's Pre-Parole field investigation, in compliance with the Florida Legislature's intent, pursuant to Section 947.174 (5)(b); 947.1745 (1); 947.18 F.S. and Chapter 23-21.002 (45)(e) F.A.C.

6) Whereas, it meets the specific requirements of Chapter 23-21.002 (45)(f) F.A.C., where neither, my residence with my wife, (Mrs. Helen Peek), as evidenced in Exhibit-A or the approving Transition House located in Jacksonville, Florida (See Exhibit-B), "contains any firearms", which can be verified by the Commission's Parole Examiner's Pre-Parole field investigation, in compliance with the Florida Legislature's intent, pursuant to Section 947.174 (5)(b); 947.1745 (1); 947.18 F.S. and Chapter 23-21.002 (45)(f) F.A.C.

The above "criteria" provides clear competent persuasive evidence, supporting that my "Parole Release Plan", meets all of the defined requirements for a "Satisfactory Parole Plan" by the Florida Parole Commission, pursuant to Chapter 23-21.002 (45) (a) -(f) F.A.C., in compliance with the mandate of the Florida Legislature, pursuant to Section 947.174 (5)(b) F.S.

Wherefore based upon the criteria of my "Parole Release Plan", which is the "official record" pursuant to Chapter 23.21.015 (9), F.A.C., my proposed parole release plan, clearly provides sufficient competent persuasive evidence for the Commission's "reasonable probability findings", pursuant to the strictures of Section 947.18 F.S., that;

1. I will live and conduct myself as a "respectable law abiding person";
2. That my release will be "compatible with my own welfare and the welfare of society.";
3. That I do have outstanding support "sufficient to preclude me from becoming a public charge."

Respectfully submitted,



Anthony R. Peek
FDOC# 850039/G-3111-U
Sumter Correctional Institution
9544 CR 476 B
Bushnell, Florida 33513

Proposed Residence Address

Mrs. Helen Peek
1808 S.W. 67th Terrace
Gainesville, Florida 32607
(352) 332-1709

Mr. Billy Edison
20/20 World Vision Ministries
Post Office Box 351179
Jacksonville, Florida 32235
(904) 476-6729

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that the original of the foregoing "parole Release Plan" and a copy thereof, has been hand delivered to the Parole Commission's duly delegated parole examiner, at the Effective Parole release date final interview held on this 20th day of June 2010, to be attached to the official record going before the Florida Parole Commission, at its final effective parole release date hearing for the below assigned.



Anthony R. Peek
FDOC# 850039/G-3111-U
9544 CR 476 B
Sumter Correctional Institution
Bushnell, Florida 33513



FLORIDA PAROLE COMMISSION

Memorandum

DATE: July 29, 2010
TO: Ms. Teresa Martin, Release Services
FROM: Ralph M. Moulder, Parole Examiner – Region II Lawtey
RE: PEEK, ANTHONY DC#850039

PRE-PAROLE INVESTIGATION:

I. Offense:

The subject received his O# commitment in Case #77-01658, Count I, Burglary, Count II, Sexual Battery, Count III, Robbery, for which he received a sentence of LIFE in Count II and a sentence of 15 years consecutive in Count I and III. The circumstances reveal that on the morning of 07/06/1977, the female victim heard the front door of her home shut and upon checking observed the subject standing in the kitchen with a fork in his hand. The subject laid the fork down and took a knife from a kitchen drawer, placing the knife against the throat of the victim. He then forced her into the bedroom at which time he sexually assaulted her. After the assault the subject went to the kitchen finding the victim's purse opening it and going through its contents. The subject attempted to go back into the bedroom but found the victim had locked it. Upon forcing the door open the victim was found to have armed herself with a pistol which was pointing at the subject causing him to immediately run from the home. The victim pursued the subject while naked and fired five shots all of which missed the subject.

In Case #76-1842, on 09/22/1976, police responded to a hotel where the subject had been asked to leave by an employee. An argument ensued with the subject indicating he had no place to stay. It was subsequently discovered that the subject had broken into a room and took a suitcase where when located by police was found to contain items taken from the hotel as well as items taken from a previous burglary.

II. Personal History:

The subject was born in New York, the youngest of five children. He has been married for fifteen (15) years to Helen Peek who resides in Gainesville, Florida. No children have been fathered by the subject.

III. Residence:

A. Subject's proposed residence is to reside with his wife, Helen Peek, DOB: 06/09/1948, at 1808 S.W. 67th Terrace, Gainesville, Florida 32607, phone number (352) 332-1709. The residence is located in the southwest section of Gainesville, Florida, in a low crime area. The residence can be located by traveling south on 34th Street in Gainesville, Florida, taking a right on S.W. 20th Avenue, crossing over I-75, making a right on S.W. 19th Court and immediately turning right on S.W. 67th Terrace. The townhouse is located on the left within a half a block of making the turn on 67th Terrace. The home is a combination concrete block and wood and has two floors. The two bedrooms are located upstairs with one bathroom upstairs and one downstairs. The subject's wife owns the home and it is well maintained, nicely furnished in a relatively quiet neighborhood.

PRE-PAROLE INVESTIGATION

RE: PEEK, Anthony DC#850039

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B. The residence is occupied by the subject's wife, Helen Peek who lives alone. Ms. Peek relates that her son who lives in California and her daughter who lives in Holland visit with her occasionally but there are no permanent residents other than herself.

C. Subject's wife relates that she would be able to provide economically for the subject and that would not be a problem. The subject's wife further indicates that she has a valid driver's license, #P200-380-43-709-0, which will expire on 06/09/2011. She further owns a 2004 four door Ford automobile in which she could provide any transportation the subject might need until he can obtain a driver's license.

D. The proposed residence appears to be adequate for the subject's needs and he would certainly enjoy considerable support from his wife who is prepared to assist him in any way needed. The subject's wife has resided in her townhouse, which she owns, for the past thirteen (13) years.

IV. Employment:

Subject does not have, at this time, a firm offer of employment, although the subject's wife indicates that she has friends who could assist her in developing employment.

V. Background of Occupants:

Background checks conducted on FCIC/NCIC and CCIS failed to reveal any criminal record for the subject's wife. A check with the Florida Highway Safety and Motor Vehicles reveals only three traffic violations in the past which are: 07/15/1999, ran a red light, 09/06/2002, unlawful speed and 12/03/2007, failing to stop at a red light. She received fines for these violations.

Additional information regarding the subject's wife would reflect that she was born in the United Kingdom moved to the United States with her American husband whom she was married to for approximately twenty-five (25) years. She indicates her daughter who lives in Holland was a member of the Amnesty International and encouraged her to become involved which ultimately led to her meeting the subject whom she married some fifteen (15) years ago. Ms. Peek also owns her own business which is known as the "Happy Homemakers Cleaning Service" in Gainesville, Florida, where cleaning service includes homes, realtors, commercial condos and apartments. She additionally works with some elderly clients for which she is compensated by Medicaid.

VI. Special Programs or Treatment Features:

Due to the nature of the crimes which led to the subject's incarceration it is felt that if parole is granted he should undergo a sex offender evaluation and attend counseling as indicated, curfew, and substance abuse evaluation.

VII. Recommendations:

The subject will obviously receive considerable support from his wife, Helen Peek. She expressed considerable enthusiasm about the possibility of the subject's release on parole and feels that she has seen a change in the subject into the person that he is today and feels that after thirty-three (33) years of incarceration he deserves a chance on parole. It is noted that she acknowledged the subject's possible placement with the Prisoners of Christ Program in Jacksonville, Florida, as this might provide for him the transitional assistance that he might need prior to being totally released to her residential arrangement.

PRE-PAROLE INVESTIGATION

RE: PEEK, Anthony DC#850039

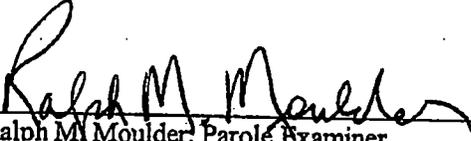
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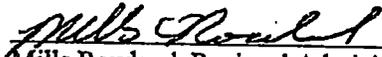
The residence would certainly appear to be acceptable in an environment in which the subject would be residing with his supportive wife who would seem to be a positive one. Due to the subject's long period of incarceration and taking into account his involvement in the Lifer's Program his release to a transitional program might be in his best interest as he moves towards parole to the street.

If granted parole it is felt subject should be under supervision with continued evaluation and treatment as needed for LIFE.

Respectfully submitted,

Approved by,


Ralph M. Moulder, Parole Examiner


Mills Rowland, Regional Administrator

RMM/dm

EXHIBIT

F

FLORIDA PAROLE COMMISSION



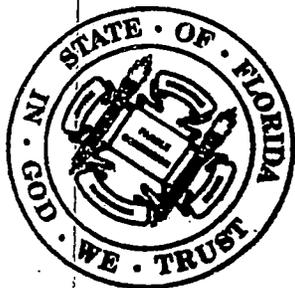
EFFECTIVE PAROLE RELEASE DATE INTERVIEW
COMMISSION ACTION

Inmate Name: PEEK, Anthony DC #: 850039 Date of Interview: 7/20/2010
Institution: Sumter Correctional Institution Presumptive Parole Release Date: 9/29/2010

The Commission has decided NOT to authorize your effective parole release date for the following reason(s):

- A. New Information [see Rule 23-21.002(29), F.A.C.] received on _____, 2010.
- B. Unsatisfactory Institutional Conduct [see Rule 23-21.002(48), F.A.C.] as evidenced by:
- C. Failed to make a positive finding as required by s. 947.18, Florida Statutes, and has referred your case to the Commission for an extraordinary review [see Rule 23-21.0155, F.A.C.].

At the meeting held on 9/1/2010, your Presumptive Parole Release Date remains 9/29/2010.
YOUR CASE IS BEING REDOCKETED FOR 10/20/2010 FOR EXTRAORDINARY REVIEW.



Certified and mailed by M. Maddox Commission Clerk, this 2nd day of September, 2010.

Copy to visitor notified (5)

mm

EXHIBIT

G



FLORIDA PAROLE COMMISSION
4070 Esplanade Way
Tallahassee, Florida 32399-2450

EXTRAORDINARY REVIEW
Commission Action

Inmate Name: Peek, Anthony

Date of Interview: July 20, 2010

Inmate Number: 850039

Institution: Sumter C. I.

Presumptive Parole Release Date: 09/29/2010

The Commission has decided NOT to authorize your Effective Parole Release Date.

After reviewing all the information in your Department of Corrections' record, the Commission has been unable to find that there is a reasonable probability that, if you are released on parole, you will live and conduct yourself as a respectable and law-abiding person and that your release will be compatible with your own welfare and the welfare of society. This action is based upon the following information:

The Commission finds, according to the Judgments and Sentences in the Department of Corrections' record, inmate Peek was convicted and sentenced as follows:

April 4, 1978 - Case #CF77-1658A1, For a term of Fifteen Years for the offense of Burglary, Count I; Life for the offense of Sexual Battery, Ct. II; Fifteen years for the offense of Robbery, Ct. III. Count I and Count III to run consecutively with Count II. The foregoing action occurred before the Honorable Susan Wadsworth Roberts, Tenth Judicial Circuit Court, Polk County, Florida.

- CONTINUED -

At the Commission meeting held 11/3/2010, your Presumptive Parole Release Date REMAINS 9/29/2010, suspended. You will be Reinterviewed for your extraordinary interview during the month of May, 2017.

The Commission finds that your next interview date shall be within seven (7) years from your last interview based on your conviction/sentence for Sexual Battery and the Commission's finding that it is not reasonable to expect that you will be granted parole during the following years. The basis for this finding is as follows:

1. Extent of physical and psychological trauma to the victim(s) due to the criminal offense.
2. The offense involved exceptionally brutal or heinous behavior indicative of wanton cruelty.
3. The offense was committed against a victim known to be particularly vulnerable such as elderly persons, physically or mentally handicapped persons or children.
4. Any release would pose a risk to the public.

Certified and mailed by M. Maddox Commission Clerk this 9th day of November, 2010.

FPC-C-001 - 6 Copies to Visitors Notified
1 Copy to Inmate
1 Copy to Institution File
1 Copy to Central Office File



EXTRAORDINARY REVIEW

Anthony Peek, DC# 850039

Page 2 of 3 Pages

May 12, 1978 - Case #CF76-1842, For a term of Five (5) Years for the offense of Burglary, Ct. I; Five (5) years for the offense of Burglary, Ct. III; and Five (5) Years for the offense of Grand Larceny, Ct. V; each count to run concurrent one with the other and concurrent with any other sentence now serving. The foregoing action occurred before the Honorable J. Tim Strickland, Tenth Judicial Circuit Court, Polk County, Florida.

The Commission finds according to the Judgment & Sentence dated April 4, 1978, and May 12, 1978, the Presentence Investigation Reports dated January 3, 1977, and January 31, 1978, and information contained in the Department of Corrections' record, the circumstance of inmate Peek's offenses are particularly serious and described as follows:

Case # CF77-1658A1 - the Presentence Investigation, dated January 31, 1978, and information contained in the Probable Cause Summary reflect that on the morning of July 6, 1977, at approximately 10 a.m., the victim who was at home alone at the time heard her front door shut and thought it was her husband. When she went to see him, she observed a black male standing in her kitchen with a fork in his hand. He told her that if she screamed, he would kill her. He put the fork down and grabbed a butcher knife out of the drawer, went over to her, put his arm around her neck from behind and a knife to her throat. He went through the house closing the doors to the outside and the curtains in the living room, and then forced her into the bedroom at which time he sexually assaulted her three (3) times. The subject got up, went back to the kitchen, got her purse and brought it back to the bedroom. He opened the purse and went through the contents taking \$14.00, and then returned to kitchen. While the subject was in the kitchen, the victim got up, locked the bedroom door and retrieved a pistol out of her closet. The subject returned telling the victim if she did not open the door he would kill her. He forced the door open to encounter the victim pointing a gun at him. He immediately ran from the home at which time she pursued him while naked. She stepped outside, fired five shots at the subject missing each time. She returned to the inside of the house and called her husband who in turn called the police. A description of the subject was given and subsequently he was arrested and charged with the above. The subject was positively identified by the victim in a line-up and through latent fingerprints found at the victim's residence.

Case #CF76-1842, Count I, II - the Presentence Investigation reflects that on September 21, 1976, the subject entered the victim's dwelling with the intention to commit larceny and that he took personal property belonging to the victim which was valued less than \$100. Count III, IV - On the same date, the subject entered Rice's Apple Market and stole food belonging to Harold Rice which was valued less than \$100. Count V - On September 22, 1976, the Auburndale Police were called to the Ariana Hotel and spoke with the victim about a prowler. Investigation showed the subject had been on the upper floors of the hotel and was asked to leave by the victim. An argument followed and the subject said he had no place to stay. It was later determined that the subject had broken into a room and taken a suitcase which was found to contain items from the hotel as well as items taken during two-previous burglaries the day before.

In Case #CF76-1842, Department of Corrections' records indicate inmate Peek was sentenced on November 15, 1976, in a negotiated settlement on Counts I, III, & V to five (5) years probation to run concurrent with each other with the first six (6) months to be spent in the county jail. Per Order of Revocation of Probation, dated May 12, 1978, due in part to new charges in Case #CF77-1658A1 and Case #CF78-0445A1, inmate Peek's probation was revoked.

The Commission finds that during his incarceration, inmate Peek has had a record of unsatisfactory institutional conduct, as evidenced by receipt of the following processed disciplinary reports:

Date	Charge	Disposition
06/04/1978	Disobeying Order	30 days Lost Gain Time
07/14/1978	Disobeying Order	30 days Lost Gain Time, 30 days Confinement
02/15/1980	Disobeying Order	30 days Lost Gain Time
12/14/1980	Disobeying Order	30 days Lost Gain Time
01/02/1982	Possession of Contraband	15 days Confinement
02/08/1983	Disorderly Conduct	10 days Confinement
06/25/1987	Disrespect to Official	40 days Lost Gain Time
10/23/1987	Theft	30 days Lost Gain Time, 30 days Confinement
03/24/1989	Obscene Profane Act	30 days Lost Gain Time, 30 days Confinement
05/30/1989	Obscene Profane Act	30 days Lost Gain Time, 30 days Confinement
08/19/1991	Disobeying Order	20 days Lost Gain Time, 20 days Confinement
02/14/1993	Obscene Profane Act	90 days Lost Gain Time, 30 days Confinement

EXTRAORDINARY REVIEW

Anthony Peek, DC# 850039

Page 3 of 3 Pages

<u>Date</u>	<u>Charge</u>	<u>Disposition</u>
04/20/1993	Destruction of State Property	15 days Lost Gain Time, 15 days Confinement
04/20/1993	Obscene Profane Act	15 days Confinement
08/11/1993	Obscene Profane Act	30 days Lost Gain Time, 30 days Confinement
11/12/1997	Telephone Violation	30 days Lost Gain Time, 30 days Confinement
11/13/1997	Breaking & Entering	90 days Lost Gain Time, 30 days Confinement

The commission finds that this failure to abide by the rules and regulations while confined to the structured setting of a correctional institution is a strong indication of a propensity for criminal conduct, and finds there is still a doubt whether inmate Peek might be able to perform well under the conditions of parole supervision.

The Commission further finds that inmate Peek was sentenced to five (5) years probation in Case #CF76-1842 per the Judgment of Guilt Placing Defendant on Probation dated November 15, 1976. On May 12, 1978, inmate Peek's probation was revoked due to his violation of Condition #4 which states, "You shall live and remain at liberty without violating any law; in that the aforesaid was convicted on April 4, 1978, on charges of Burglary, Sexual Battery and Robbery for which he was convicted." The Commission finds inmate Peek has been given a reasonable opportunity to demonstrate that he is capable of successfully living under community-based supervision and finds nothing contained in the Department of Corrections' record that would cause the Commission to determine inmate Peek is now changed and ready to abide by the required guidelines of parole.

The Commission concludes that although inmate Peek's coping skills may be somewhat adequate for a structured setting, such as provided by a correctional institution, the Commission finds he has a propensity for criminal conduct, representative of a repeat offender. Thus, the Commission forecasts a negative prognosis for acceptable re-socialization.

Based on the foregoing, the commission is drawn to the conclusion that a reasonable doubt exists with regard to whether inmate Peek would remain free of any criminal conduct should parole be granted in his case. The Commission, therefore, by this action, suspends inmate Peek's presumptive parole release date of September 29, 2010, pursuant to Section 947.18, Florida Statutes.

EXHIBIT H

EXHIBIT H

FLORIDA COMMISSION ON OFFENDER REVIEW



EXTRAORDINARY INTERVIEW COMMISSION ACTION

INMATE NAME: Peek, Anthony R. DC#: 850039
INSTITUTION: Marion C.I. ESTABLISHED Presumptive Parole Release Date: 09/29/2010
Suspended

COMMISSION ACTION:

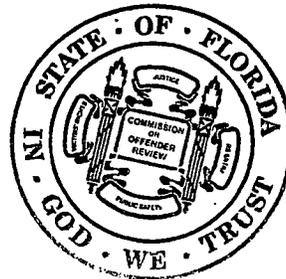
On the basis of your Extraordinary Interview of 05/19/2017 the Commission finds, in accordance with Rule 23-21.0155 Florida Administrative Code, that it is leaving intact the suspension of your assigned Presumptive Parole Release Date of 09/29/2010. **The Commission continues to be unable to make a finding that there is a reasonable probability that if you are placed on parole you will live and conduct yourself as a respectable and law-abiding citizen and that your release will be compatible with your own welfare and the welfare of society as required by Section 947.18, Florida Statutes.**

1. A review of the entire Department of Corrections records reveals:
 - a. N/A
2. A review of the prior Negative 947.18 finding reveals that the following factors are still of concern to the Commission:
 - a. The serious nature of the offense. Per the PSI.
 - b. A parole supervision violator.
3. Additional Factors:
 - a. Unsatisfactory release plan, in which one was not submitted.
 - b. The inmate refused to participate in the extraordinary interview process.

At the Commission meeting held 06/28/2017, your Presumptive Parole Release Date remains suspended at 09/29/2010. You will be reinterviewed for your extraordinary interview during the month of March, 2024.

The Commission finds that your next interview date shall be within 7 years, rather than within 2 years from your last interview based on your conviction/sentence for Sexual Battery and the Commission's finding that it is not reasonable to expect that you will be granted parole during the following years. The basis for the finding is as follows:

1. Vulnerable victim: to-wit; an elderly person
2. Brutal and heinous behavior
3. Physical and psychological trauma to the victim
4. Unreasonable risk to others



Certified & mailed by [Signature]
Copy to visitors notified (6)

, Commission Clerk this 5th day of July, 2017.

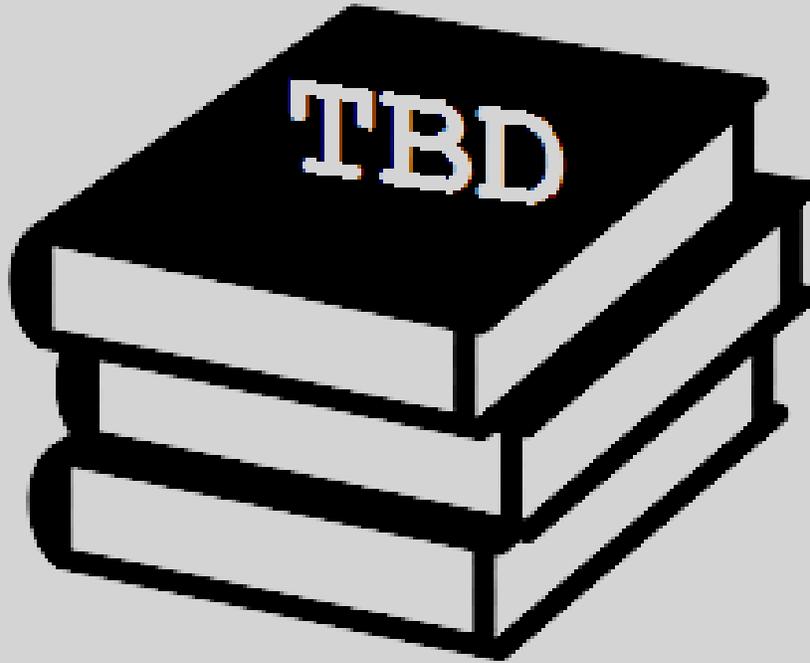
1 copy to inmate; 1 copy to institution file; original to Central Office file

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