Rand W. Gould C-187131
Central Michigan C.F.
320 N. Hubbard St.
St. Louis, MI 48880-1926

22 September 2020

Michigan Parole Board
P.O. Box 30003
Lansing, MI 48909

Re: Notice of Pending Legal Action: Notice of Parole Board Decision, Sandra A. Wilson and Brian J. Shipman, 8/31/2020

Dear Parole Board Members:

Please take notice, unless you reconsider your above-referenced unlawful decision to deny my parole for another twelve (12) months and issue a new decision granting parole, I will take legal action against you in your official and individual capacities for your violation of state and federal law, as well as your violation of my state-created liberty interest in parole releases, via your decision to unlawfully depart, *for the third time*, from my parole guidelines score of "High Probability of Parole," without "substantial and compelling objective reasons stated in writing" as required by MCL 791.233e(6). See *In re Parole of Elias*, 294 Mich. App. 507,539 (2011); and *Inmates of Orient Corr. Inst. v. Ohio State Adult Parole Authority*, 929 F.2d 233,235 (6th Cir. 1991).

Again, for the third time, instead of complying with MCL 791.233e, Parole Board members, in this case Sandra A. Wilson (Wilson) and Brian J. Shipman (Shipman), after realizing their "no jurisdiction" ploy failed, intentionally chose to perpetuate a fraud by materially misrepresenting facts and law in an effort calculated to deceive, then acting upon them to cause me to suffer the injury of a third denial of parole release, placing me in danger of likely infection with SARS-CoV-2 and possible death from COVID-19. See *Roberts v. Saffell*, 280 Mich. App. 397,403 (2008); MCL 750.505; and MCL 750.478.

Wilson and Shipman's reason for departure was admittedly not "objective," as indicated by the word being tellingly omitted from their decision. Neither was it "substantial and compelling", yet MCL 791.233e(6) or (7) requires "substantial and compelling objective reasons" for a departure when a prisoner's parole guidelines show a "High Probability of Parole." Instead, their reason was I had "not yet completed programming ordered by the Department to reduce prisoner's risk." As the Parole Board well-knows, this is *not* one of the eleven (11) specific reasons for a departure that it is "limited to" for departure from the parole guidelines by MCL 791.233e(7)(a-k). What it is, in fact, is a duplicitous partial quotation of MCL 791.233e(7)(h), which states in full:

(h) The prisoner has not yet completed programming ordered by the department to reduce the prisoner's risk, *and the programming is not available in the community and*

the risk cannot be adequately managed in the community before completion. [emphasis supplied]

Said uncompleted "programming" is Phase II Substance Abuse, which Wilson and Shipman well-know is widely available in the community, thus their duplicitous omission of the emphasized language. They also well know, I had served fifteen (15) substance abuse-free years (n.b., no positive urine tests, no substance abuse-related Misconduct Reports), before the department added Phase II Substance Abuse to my programming requirements on September 23, 2013, and have remained substance abuse-free for the last twenty-two (22) plus years, despite the department's refusal to allow me to enroll in said programming. Every time I've requested to be enrolled, at multiple prisons over the past seven (7) years, I've been told I'm "on the waiting list". A classic "Catch-22" scenario, which Wilson and Shipman have tried to take advantage of to unlawfully deny my release to parole.

As such, this Parole Board has shown itself incapable of following the parole laws as written, and has acted duplicitously, with malice aforethought, to deny my release to parole. This is especially so, as I have a near-perfect institutional record, as reflected in my Parole Eligibility Report, 2/12/2020, and Parole Guidelines Scoresheet, 4/06/2020, with no Class I Misconducts in over twenty-two (22) years, low COMPAS scores, the ability to follow the rules and listen to staff, and have completed all other required programming and then some. I'm also 67 years of age, suffer from macular degeneration, an untreated inguinal hernia, an untreated broken left hand, since 2015 and 2019, respectively, and carpal tunnel syndrome. The failure to treat my hernia and broken left hand, which has since mended and is deformed, is due to the department's refusal to provide me with the community standard of health care required by policy and *Estelle v. Gamble*, 429 U.S. 97, 103 (1976).

Consequently, this third parole denial can only be construed as retaliation for my consistent exercise of my First Amendment rights. Particular, my right to seek legal redress by filing a 42 USC § 1983 complaint against the Parole Board, and Parole Officer Beatriz Lunde, for the illegal revocation of my parole in 1994, which means there was no "parole failure". Further, there was no "failure to complete a delayed sentence opportunity" because I've never been subject to a delayed sentence. These are what is known as *a priori* lies. I've also exercised my right to freedom of speech and press by writing numerous articles critical of the department in the national press. See *Thaddeus-X v. Blatter*, 175 F.3d 378,386-387 (6th Cir. 1999); and *Pell v Procunier*, 417 US 817, 822 (1974).

This notice of pending legal action, along with the previous notice of 7/27/20 and letters of 4/24/19 and 4/28/20 to the Parole Board, constitute more than "fair warning" of your unlawful and unconstitutional conduct as required by *Hope v. Pelzer*, 536 US 730,741 (2002). Thus warned, any immunity you may have had in this matter has been nullified. See *Saucier v. Katz*, 533 US 194,201 (2001); and *Harlow v. Fitzgerald*, 457 US 800,818 (1982).

Pursuant to 28 USC § 1746, I declare under penalty of perjury the foregoing is true and correct.

Signed,
Rand W. Gould

Executed on: 22 September 2020

Cc: Gov. Gretchen Whitmer
Atty. Gen. Dana Nessel
File