13 April 2001

Ronald Schilling
Box 233
Black River Falls, WI
54615

Deirdre Morgan
Parole Commission Chairperson
2701 International Lane, Suite 201
Box 7960
Madison, WI 53707-7960

Re: Parole hearing rescheduling
for case file #32219

Dear Ms. Morgan:

I am writing with hopes of appealing to your sense of moral and ethical fairness, by laying all the cards on the table. There are many points which need to be addressed and elaborated upon for the future consideration of the commission. In light of the good things I have heard about you and your objectives, I anticipate only good can come of this.

To begin with, in lay terms, I was screwed out of my parole interview for 2001. My social worker was suspended during the parole-plan stage, and the social worker assuming her position mishandled matters and did not submit the parole plan, or my repeated requests to be interviewed in person. I wrote to the Unit Manager a couple of weeks ago but have heard nothing, and figured the next logical move would be to write you, personally.

As you might imagine, I feel severely deprived over the cancellation of the 2001 hearing, especially because as a Lifer it is my only opportunity to make my presentation. And I believe I was prepared to make my strongest showing yet for being parolable. There were virtually hundreds of concerned members of the public who wrote to various State Representatives supporting my release, and I have personally received a few letters of support from family and friends for the commission (also enclosed herewith) which I had planned to submit at the 2001 hearing. Unfortunately, that never occurred.

Also of particular import at the 2001 hearing would have been the fact that at the 2000 hearing Commissioner Melendez relied exclusively on "drug misconduct major" as the sole basis for not recommending a pre-parole investigation (PPI). That major urinalysis CR was reversed by the Dane County Circuit Court. In short, it should never have been written in the first place. Hence, it would have been imperative for this information to be

Ex: V-14

presented at the hearing. As a Lifer, a PPI request is a mandatory prerequisite, pursuant to §DOC 302.145, for being classified to a minimum facility.

Likewise, in the 2001 PCA form it clearly states "2 minor CR's since last review 5/3/00" (PCA form, ¶2), as a basis for inappropriately determining the Institution Conduct criteria. Both of those CR's (CR#1188201 issued 10.11.00, and CR#1231772, issued 01.10.01) were dismissed, one having been written in complete error. Naturally, I feel prejudiced by such a negative inference, and feel I should have been provided an opportunity to clarify the matter in person.

On a personal note, it was refreshing to learn Governor McCallum appointed you to Chair the Commission. I believe your prior social work with juveniles will be quite the asset in recognizing the incredible potential humans have to change and grow, especially when the personal initiative is there and they are provided an opportunity to do so. In every case I feel that when people know better, they generally do better. I further feel that recognition of, and reward for, one's efforts lies at the heart of the human condition, and failing to account for that would be antithetical to the ultimate responsibility vested upon the Commission.

In the past it was obvious that the primary considerations were mere historic circumstance; that is, static factors such as the severity of offense, sentence structure, etc. Of course, those factors are not only static and unchanging, but factors which the prisoner has absolutely no control over. I use my own case as a prime example; receiving fifteen (15) 12-month defers, and each and every one of which relied upon the time and risk (static influence) factors, when the contrary is the reality.

The reality of my situation is that I am a conscientious and peace-loving individual who would not knowingly harm a fly. I step over worms and ants, brake for frogs while cutting grass, and if I catch an insect indoors I always try to take it outdoors to freedom. I have always been this way, and strive to instill that respect for life in others as well. My offense was completely out-of-character for me. It would not have occurred absent any one of a number of circumstances, which just happened in a most bizarre sequence; most importantly, my co-defendant placed a knife in my hand while I was in a post-ictal confusional state (after an grand mal seizure), just as the victim grabbed me from behind with a bearhug. Even the State's psychiatrist testified that such an explosive response would be expected under those circumstances. I am not trying to minimize the offense, but we need to keep it in a real perspective.

The State's story of events was highly sensationalized and intended only to secure a conviction they could not have otherwise made because of my mental incompetence at the time. I feel it is important to stress that the victim in this case was not innocently preyed-upon; he was a known drug-dealing felon who was in the process of perpetrating a felony when he was killed. What is more, it was he who initiated the violence against me, not the other way around.

What I am attempting to shed light on above is that I have had my risk-factor reduced and been transferred to minimum some five (5) times since I prevailed in **Schilling v. Goodrich, et al.**, Dane County Case No. 89-CV-2911 (12 July 1990), which prohibited the use of §DOC 302.145 at my PRC hearings. Each and every time I was administratively returned to medium because of implied recommendations from the Parole Commission (while I was at GCC, Chairman Husz sent a "written memo" stating I would not be considered for parole for "5+ years," and while at FLCI he wrote a letter stating he wanted "25 years" out of me). As you are aware, such statements and recommendations dramatically affect a prisoner's progress through the system. Each and every opportunity at minimum was wisely used by working harder than ten (10) men, by pointedly obeying each and every rule, remaining cheerful in the face of perverse adversity, and attempting to make a positive showing of my parolability. Each time, however, any favorable consideration of my efforts was neglected at the request of the Assistant District Attorney Burr, and the victim's family with face-to-face meetings with the Commission.

What I find particularly perplexing is that of those imprisoned for this offense (my two co-defendants) I was probably the least culpable/responsible because of the seizure I suffered just prior to the incident; I was the only one who, in the words of my co-defendant, was "just along for the ride on that day" (because of my post-ictal state). And yet Zelenka was paroled in 1992, Stanton received a PPI from Chairman Smith on 08.08.00 and is currently at minimum, and here I sit locked into a perpetual catch-22 medium classification.

Which leads me to my current situation; as it is, since 1998 §DOC 302.145 has prevented the PRC from again considering me for minimum classification. They state that they are absolutely precluded from reducing my classification pursuant to §DOC 302.145, until the Parole Commission requests a PPI. And yet the Parole Commission continues to suggest that I "re-earn minimum," but does not request a PPI. And when I inquire about it I receive the standard form citing that the Commission "**doesn't** handle inmate movement." Hence, the perpetual catch-22.

As compared to other offenses committed by Lifers, my few moments of unintentional indiscretion are mild in comparison. I have read about truly gruesome murders with the most heinous intent, sicko-sex murderers, multiple cop-killers, who were convicted after my offense, but who have been released for some time now. How is this possible? What makes my offense so inordinate and worthy of such disproportionate punishment? The Legislature equated the time factor at 11.3 years, or eleven (11) years, three (3) months; thirteen (13) years was the average 26 years ago, absent extenuating circumstances such as bad conduct, etc. I feel, as do many members of the public and DOC staff who know me, that I have more than satisfied my obligation of time, as well as establishing a low risk factor. Christ, while I was at GCC I was attending church in Rhinelander without staff escort; it doesn't get much lower than that. The manner in which my situation is being dealt with is quite saddening.

What saddens me the most, beyond my own personal loss, is the wretched story the victim's family has had to live with for the past 26 years. The State's fictional story still to this day causes them to suffer great pain, as their letters to, and face-to-face meetings with the Commission will bear out. I feel if they knew the truth about the whole ordeal (what happened, how, why) they would most probably discover a change of heart which, I believe, would greatly ease their pain and suffering.

My perception of what we generally accept as "coincidence" has developed over the years to the belief that it is but a mere lack of vision. As regards the above paragraph, there have been many marvelous circumstances of "coincidence" that cannot be explained absent the hand of God. I have recently been reunited with my Uncle, Fr. Robert Oldershaw, of Saint Nicholas Church, Evanston, IL, after seeing him do a segment entitled "A Justice That Heals," on Nightline, dealing with restorative justice. At this point we are contemplating the possibility of having him facilitate a conference between myself and the victim's families, both the Posthuma and Cook families. Albeit I was acquitted in the Cook case, I still feel responsible because if Posthuma had not died, my co-defendants would probably not have killed Cook. At this point I am not exactly certain what transpired with the Cook tragedy; the only information I have was provided by my co-defendants. Apparently, Zelenka felt Cook had to be silenced, took him in the woods and shot him with his friend's handgun. He was also acquitted. I was told I was present at the scene but I could not swear to it. I had no control over the situation, their actions, certainly not my actions; I was not coherent and was "just along for the ride" at that point.

Shortly after the 2000 interview, the social worker questioned Commissioner Melendez about why he had not paid due heed to the written comments on the 2000 parole plan, which read: "Mr. Schilling has a keen mind and a good heart. If he is not a successful candidate for restoration to the community, then no one on my caseload could possibly be!" Commissioner Melendez responded that it was a "double homicide," but that he did not understand how they were connected. Hopefully, the above will clarify the matter, albeit the Commission's consideration of charges a prisoner is acquitted of it inherently unlawful.

Commissioner Melendez also commented to the social worker that I am supposedly overly "litigious" as a basis for his deliberation. I can only state for the record that I detest being forced into court litigation, but it is the only viable means a prisoner has for challenging false-charge CR's, unconstitutional rules, various conditions of confinement, et al. Personally, I would much, much prefer writing music and praising God.

For what it's worth to the Commission's deliberation, I am a born-again Christian, and gladly adhere to what our Lord taught about God, life, the light of Christ, and how it all functions with our personal responsiveness. I am also an accomplished and published musician/guitarist, singer, songwriter/composer. I have compiled thousands of Christian songs over the years, many of which I have tried out on the congregations at various institutions and public churches when I was allowed to do so at minimum, and they were all well-received. A good many of these songs would be easily publishable, especially with current technology. I plan to pursue the music ministry upon release. There's a powerful message that needs to be spread, and I've found the music medium is an incredibly effective means of accomplishing that.

I would be remiss to neglect mentioning my personal sentiments regarding the offense. It is difficult to express the horror and shock of discovering I had been involved in whatever capacity with the taking of a human life. I went through many years of devastating inner guilt, remorse, shame and utter disgust over what I had allowed myself to become involved with. But even though I still live with the nightmare of it all, I have managed to grow beyond it. I have come to understand both sides of what the deprivation has to offer and have made the best of it. Personally, it has not been a waste of time in any respect; I have come to appreciate how precious time is, and I strive to make the best possible use of it. I have claimed plural college degrees, and have come to understand so much of life that I could

not have possibly understood if on the streets. I feel my physical and spiritual experience needs to be shared; there are many who would benefit from it. And I trust it will occur with Godspeed.

It is my hope that the new goals of the Commission would include due consideration of one's personal characteristics, traits, talents, spiritual evolution, educational achievements and other personal accomplishments, and that the Commission would release those who have made substantial and honest efforts at redeeming themselves. Unfortunately, from what I have witnessed over the past 26 years in here, most prisoners do not partake of endeavors which would assist in their becoming productive and law-abiding citizens. Those who do, however, should be dealt with compassionately, and with the same level of dignity and grace you would desire in the same circumstance.

In closing, I was hoping to meet with Commissioner Paul at a 2001 interview, albeit it is awkward developing a good rapport with Commissioners Melendez, Huibregtse and Gonnering, only to move and be forced to start from scratch, so to speak. As it is, I am still hopeful a personal interview can be rescheduled for the near future, especially, given the way I was inadvertently screwed out of it.

I want to thank you in advance for your time, patience and consideration of the above. God bless!

Sincerely,

Ronald Schilling

Ronald Schilling #32219

Enclosures

cc: ✓file

Ex: V-14,6

Correspondence/Memorandum
State of Wisconsin
Parole Commission

Date:

Institution: JCI

Inmate: SCHILLING, Ron

DOC I.D. #: 032219

P.E.D. : 5-13-02 (Life)

- [X] Your correspondence was received and reviewed by the Parole Commission. It will be placed in your Social Service file.
- [ ] You may discuss your points at your next Parole Commission interview.
- [ ] Discuss your concerns with your Social Worker or the Program Review Committee.(PRC).
- [ ] Check with your Social Worker.
- [ ] Check with your Institutions Record's Department.
- [ ] This is not an issue the Parole Commission handles.
- [ ] This request must come through your Institution.
- [ ] There are NO Appeals of Parole Commission decisions to the Chairman.
- [ ] There are NO MR Reconsideration's.
- [ ] The Parole Commission doesn't handle inmate movement.
- [X] Your case was reviewed 3/19/01 D-1

Always include your WI DOC I.D. number on all Correspondence!

Ex: V-14,7

16 May 2001

Ronald Schilling
Box 233
Black River Falls, WI
54615

Deirdre Morgan
Parole Commission Chairperson
2701 International Lane, Suite 201
Box 7960
Madison, WI 53707-7960

Re: Parole hearing for #32219, or
lack thereof

Dear Ms. Morgan:

This date I received a copy of a form stating that my correspondence of 13 April 2001 was received and reviewed by the Commission. For ease of reference, I am submitting herewith copies of both the form, and resubmitting my 13 April 2001 letter.

To say that this rote form dashed my anticipation of expecting ~~of~~ some sort of meaningful response to my letter would be an understatement. It merely adds insult to injury to be deprived of my 2001 parole hearing through no fault of mine, and then receive such a form which addresses absolutely nothing of the important matters presented in my letter.

I am writing again because I am not certain that my 13 April 2001 letter even left the institution. The form, after all, is unsigned, undated, and did not even arrive in an envelope.

Keeping this short, I still have hopes the Commission will compassionately consider the many points mentioned in my enclosed letter, and will subsequently schedule a date for a 2001 parole interview. At a minimum, I believe that much process is due.

Thank you again for your time and consideration.

Sincerely,

Ronald Schilling

Ronald Schilling #32219

Enclosures

cc: ✓file

Ex: V-15

Correspondence/Memorandum
State of Wisconsin
Parole Commission

Date: 5/22/01

Institution: JCI

Inmate: SCHILLING, RON

DOC I.D. #: 032219

P.E.D. : 5/13/02 (Life)

☒ Your correspondence was received and reviewed by the Parole Commission. It will be placed in your Social Service file.

☐ You may discuss your points at your next Parole Commission interview.

☐ Discuss your concerns with your Social Worker or the Program Review Committee.(PRC).

☐ Check with your Social Worker.

☐ Check with your Institutions Record's Department.

☐ This is not an issue the Parole Commission handles.

☐ This request must come through your Institution.

☐ There are NO Appeals of Parole Commission decisions to the Chairman.

☐ There are NO MR Reconsideration's.

☐ The Parole Commission doesn't handle inmate movement.

☒ You will be reconsidered per your PED.

Always include your WI DOC I.D. number on all Correspondence!

Recd 5/30/0

EX: V-15, 2

27 November 2001

Ronald Schilling
Box 233
Black River Falls, WI
54615

Stephen M. Puckett, Director
Office of Offender Classification
Box 7925
Madison, WI 53707-7925

Re: Classification of file #32219

Dear Bill:

With each passing year it is more difficult to imagine a rational basis for continuing to hold my classification in this perpetual "catch-22" limbo. I know we've been around this block before but I feel the issue is worth another review in light of the following circumstances.

Enclosed please find copies of the PCA forms from the last three years (Exhibits 1 - 3, respectively), all depicting the obvious need to "re-earn minimum." They are consistent with other minimum requests since the 1980's.

Also enclosed is a copy of my letter to the Parole Commission Chairperson (Exhibit 4 - 4f) inquiring about the manner in which I was effectively deprived of the parole interview for 2001. The letter also contains previously unknown and confidential information as well as some deeply personal sentiments which I feel would be most appropriately considered by your office in determining my appropriate classification.

Please peruse the enclosures and possibly contact the Commission regarding their recommendation for minimum. In the alternative, I am requesting a classification override so I can return to minimum.

Thank you again for your time, Bill; I appreciate your consideration.

Sincerely,

Ronald Schilling

Ronald Schilling

Enclosures

cc: ✓file

Ex: V-16

DEPARTMENT OF CORRECTIONS
Division of Program Planning & Movement
DOC-1292 (Rev. 10/96)

WISCONSIN
Administrative Code
Chapter DOC 302

REQUEST FOR REVIEW OF
ASSESSMENT AND EVALUATION OR PROGRAM REVIEW ACTION

INSTRUCTIONS:
1. *Only* reviews of *custody classification* and *institution placement* are to be submitted on this form. Mail to the Director, Office of Offender Classification, Post Office Box 7925, Madison, WI 53707-7925.
2. Concerns regarding Program assignment within an institution are to be appealed to the Warden or Center's Superintendent.
3. A copy will be returned to you when a decision is reached.

OFFENDER NAME	DOC NUMBER	INSTITUTION	DATE OF COMMITTEE ACTION	TYPE OF COMMITTEE
Ronald Schilling	32219	JCI		☐ A&E ☐ PRC

CHECK ACTIONS YOU ARE REQUESTING TO BE REVIEWED

☐ Custody Classification ☐ Institution Placement

STATEMENT OF REASON(S) FOR REVIEW

Per letter of appeal.

OFFENDERS SIGNATURE | DATE SIGNED

OFFICE OF OFFENDER CLASSIFICATION 'S RESPONSE

☐ ORIGINAL ACTION IS AFFIRMED:

A review of your current custody, placement and program was undertaken. Your custody and placement are appropriate based on the information from your last classification report as applied against DOC 302.14 and 19. This included information on your offense, offense history, programs, conduct, time served and time to be served.. Any future consideration for minimum must be discuss with the PRC at your recall next month. No consideration will be given without their concurrence.

☐ ORIGINAL ACTION IS ALTERED OR MODIFIED to the following extent:

DATE REQUEST RECEIVED	DIRECTOR'S SIGNATURE	DATE OF DECISION
	SM Puckett	12/03/01

DISTRIBUTION: Original – Offender; Copy – A7E/PRC; Copy – Institution Case File; Copy – CRU; Copy - OOC

Ex: V-17

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WISCONSIN

RONALD S. SCHILLING,

Petitioner,

-v- Case No. 98-C-565-C

DONALD W. GUDMANSON, Warden
Jackson Correctional Institution,

Respondent.

MOTION FOR PRELIMINARY INJUNCTIVE RELIEF

COMES NOW, the above-named and undersigned petitioner, pro se, pursuant to Title 18 U.S.C. §3626(a)(1) and (2), and respectfully moves this Honorable Court to enter an order granting prospective preliminary injunctive relief.

The order is requested to include an injunction prohibiting and enjoining the respondents from implementing the rules submitted in their instant proffer (Resp. Ex.101), as well as prohibiting and enjoining the respondents from the continued application of the currently applied rules at issue, pending the completed litigation in the above-captioned matter.

Said relief is requested to protect petitioner's Federal rights by restraining the respondents from further violating those protected Federal rights.

In support of this Motion, and in addition to the Personal Affidavit In Support, the movant presents the following:

That petitioner has had a state certiorari court previously

enter an order which remedied the deprivation of his Federal rights. (See, Exhibit B)

That the respondent knew precisely what the nature of the relief was supposed to accomplish, and granted that relief for a period of eight years before reapplying those rules and violating petitioner's Federal rights once again. In contempt proceedings in the same court, the respondents had a new Judge on the bench who had just completed some 26 years working with the state's lawyers in this case. That Judge, of course, proved tendentious because of the conflict of interest and granted favor to his colleagues by rescinding the relief granted in the original court order.

That fact notwithstanding, the respondents have had more than a reasonable amount of time to comply with the previous court orders, but have done everything in their power to negate the relief granted to petitioner vindicating his Federal rights as protected by said court order.

The respondents currently have petitioner is a "catch-22" situation where he cannot possibly be classified to a lower custody where he could be paroled. The respondents' actions have effectively eliminated the function of his due process classification hearings through the inflexible use of the mandatory rules at issue.

The respondents' unlawful activities have also effectively caused the elimination of the proper function of his parole hearings, because parole cannot possibly be granted absent the mandatory minimum classification. Ergo, the classification

committee (PRC) is prohibited from even considering a reduction of petitioner's classification pursuant to §DOC 302.145, WAC, the rules at issue, and the parole commission (PC) is absolutely precluded from even considering granting a parole in the face of that unmet substantive predicate criteria.

The same result will doubtless manifest pursuant to the pending rules in the respondent's proffer (Resp. Ex. 101), where the PC still remains the de facto PRC for petitioner. Section DOC 302.145 was repealed in number only; it still manifests in the respondent's proffer under a different number and phraseology. See, §DOC 302.07(12), which retains the PC action as a crucial factor determining classification. What is worse, the PC has no authority to render classification decisions and do not have any criteria guiding their actions. Moreover, by shifting the decision-making burden onto the PC, the rules ultimately deprive petitioner his substantive rights as secured under the due process Clause and deny him equal protection of law. The PC is an administrative agency not even under the direction of DOC; an agency having no authority to render such decisions, or criteria guiding their action. Nor do they have access to the valuable hands-on information enabling them to determine the all-important Risk Rating factors. And, in fact, the PC flatly states they do not work for DOC, or function under DOC direction, and do not make classification decisions. (See, Exhibit V-4.) A classic "catch-22" situation is created that is not only unlawful, but constitutionally offensive as well.

Additionally, there is no rational distinction to justify

requiring lifers (§DOC 302.145), or prisoners in general (§DOC 302.07(12)), to a different classification approving authority, which may or may not have an entirely different viewpoint on whether to grant such a status and/or transfer. As a lifer, petitioner is now at the mercy of an inexperienced and pragmatically defunct PC whose sole experience will occur when it is called upon to determine such a minimum classification. Not only does the PC lack the valuable hands-on information, but it lacks the vast experience of the PRC in making security classifications reductions; the PC will not see other prisoners with possibly worse crimes but different sentences being approved for classification reduction and leaves petitioner at the mercy of the PC's inevitably skewed judgment. In the current situation, petitioner has no chance of equal protection of law and, subsequently, has no chance of proving his qualifications for parole.

From an equal protection perspective, just as the current rules put lifers at a distinct disadvantage with other classes of prisoners, so too will the proposed rules have a similar effect for any "Truth In Sentencing" prisoners because they will never be able to meet the §DOC 302.07(12) criteria. The bottom line is that for lifers, again, both batches of rules allow the PC to make the crucial decision for classification, allowing for the "catch-22" to continue, potentially, forever. Although the respondent's proffer suggests that the rules will now apply evenly to everyone, the reality is that an even-handed application of the law is impossible.

As to the issue of reasonableness, prisoners with extensive numbers of years already served will be unfairly discriminated against. "Old-timers," as they are known, should actually have less requirements to meet when requesting a reduction in security classification. Experience has shown, and DOC records and statistics will prove, that old-timers are the most productive, well-behaved group of prisoners in the entire system. They have the most to lose by any misconduct. It is patently absurd to retroactively implement more stringent requirements to screen the one class of prisoners that cause the least trouble within the system, are the best parole risks and enjoy the lowest recidivism.

Generally, to require petitioner to stay at a medium security classification until the PC somehow decides he is ready for parole, is to undermine the entire custody/security classification system by eliminating the last step before freedom, and making it a mere formality to be completed after petitioner's parolability is somehow proven at a medium security classification. An absurd notion under both sets of rules, and certainly not how the prison classification system was intended to function.

Prior to the new rules, petitioner had the opportunity to earn and work his way through the system and obtain a minimum classification, and to use his successful tenure at that classification to prove his worthiness for parole to the PC. The intent and purpose of the security classification system is at odds with the attempt to use a minimum security classification as

a procedural formality incident to a preordained parole for petitioner.

As provided in respondents' proffer, p.2, under "Custody Classification," "(u)nlike the current rule, this rule clearly establishes that custody classification is defined by an inmate's level of risk." . . . "This rule also adds community concerns relating to an offender's risk as one of the factors considered when determining custody classification. This rule also allows parole commission actions and stated expectations such as the likelihood of release during the review period to be considered as factors in assigning a custody classification." Clearly, the respondents are intending to maintain that the PC will remain the de facto PRC for petitioner.

It is important to realize just how the application of §DOC 302.145 has stripped petitioner of any meaningful due process at his PRC hearing, because so too will the application of §DOC 307.07(12) result in the same effect. The current rules foreclose petitioner's right to a meaningful due process hearing at least every six months. As Exhibits V through V-17 demonstrate, the PRC is prohibited from properly assessing or even considering petitioner's rightfully earned classification. Likewise, the documents also show the PC is also precluded from considering parole absent the required minimum classification. It has left petitioner with an empty, hollow ritual devoid of the substance once attending those proceedings. Pursuant to §§DOC 302.18 and DOC 302.19, petitioner was entitled to a regular six-month due process review of his custody rating and placement