



Parole hearing

Under section 21(1) of the Parole Act 2002

Rodney Michael Petricevic

Hearing: 9th February 2015
at (withheld)

Members of the Board: Judge J P Gittos QSO (Panel Convenor)
Mr L Comer
Ms L Nathan

Counsel: (withheld)

Support People: (withheld)

DECISION OF THE BOARD

1. Following a defended hearing in the High Court, Mr Petricevic was convicted on six counts laid under Crimes Act 1961 of making false statements, two counts laid under Companies Act 1993 of making false statements and director certificates, and 10 counts laid under Securities Act 1978 of distributing offer documents containing false statements.
2. On 26 April 2012 he was sentenced in respect to these matters to six years and six months' imprisonment. On 18 July he was sentenced on four further charges; namely, two charges of making a false statement, one of using a document for pecuniary advantage and one of theft by a person in a special relationship. On these matters he was sentenced to a further four months on each charge to be served cumulatively upon the earlier sentence of six years and six months. His total sentence, therefore, is one of six years and 10 months' imprisonment.
3. He became eligible to be considered for parole in July 2014 and the Parole Board heard an application for parole a little ahead of his actual parole eligibility 18 June 2014. The Board reserved its decision and delivered a written decision on 31 July 2014.

4. The charges arose out of Mr Petricevic's actions as Managing Director of the Bridgecorp group of companies. The detail of the offending is set out in the sentencing notes of the trial Judge, Justice Venning, dated 26 April 2012 and set forth in summary in the Board's reserved decision of 31 July and need not be adverted to further here. In order to convict Mr Petricevic on these charges it was necessary for the trial Judge to find, as a matter of fact, that Mr Petricevic deliberately and knowingly acted dishonestly. In his sentencing notes at paragraph 41 he has this to say:
"Mr Petricevic I accept you did not set out to cause any of the investors harm, but you did deliberately make false statements with the intention of inducing people to invest in Bridgecorp at a time when you knew the company was in serious financial trouble. It had even ceased new lending which was its principal activity. The new money was effectively used to keep the company going and to meet the repayments of investors who wished to withdraw their monies."
5. In its carefully considered reserved decision of 31 July 2014, the Board reviewed all of the relevant material which had been presented to it including the Board's impressions of its interview with Mr Petricevic at the hearing.
6. The Board reached the decision that despite Mr Petricevic's age and expressions of remorse, and his contention that he had learned from his offending, it considered an undue risk of re-offending remained and, at paragraph 40 of that decision the Board recorded;
"Through no fault of his own since starting his sentence Mr Petricevic has had no professional assessment and engaged in no rehabilitative programmes of the kind offered to other prisoners with identified offending and rehabilitative needs. Notwithstanding his low RoC*RoI, in order to determine the way forward for Mr Petricevic we consider that the Board would benefit from a psychological assessment. We require this assessment to include a focus on what, if any, interventions are necessary to address the background to Mr Petricevic's offending, his current view of his offending and the risks of re-offending, all of which relate to the Board's statutory functions when considering an offender for release on parole." 41, "For those reasons we decline parole and direct Mr Petricevic's re-appearance before the Board in February 2015. Over that period we encourage him to develop a comprehensive and credible written release plan."
7. Mr Petricevic was not accepting of the Board's decision and sought a review of it under section 67 Parole Act 2002. The review application was considered by Hon JW Gendell QC, chairperson of the Board, who dismissed the application in a written decision given on 4 September 2014.

8. In accordance with the initial decision of the Board, therefore, Mr Petricevic appears again before this Board to make a fresh application for parole. As was the case in his previous application, he was represented before the Board by (withheld), his counsel. He was also supported by (withheld), and a friend, (withheld), both of whom spoke in his support. In addition we have received and considered the following documents:
 - (i) A written submission from Mr Petricevic dated 16 January 2015.
 - (ii) A letter to the Board signed by various members of his family, dated 12 January 2015.
 - (iii) A letter from his mother, dated 19 December 2014.
 - (iv) A letter from a friend, (withheld), dated 15 December 2014.
 - (v) A letter from (withheld), dated 19 December 2014.
 - (vi) A letter from (withheld), dated 12 January 2015, who as we have recorded appeared and spoke in support of Mr Petricevic as well.
9. We have seen also, of course, the papers submitted in support of his previous application and a written release plan now prepared and put forward by Mr Petricevic for our consideration.
10. Apart from this material submitted by Mr Petricevic, the Board has also received and considered a psychologist's report from (withheld), a department psychologist, prepared as requested in the previous decision of the Board.
11. In this (withheld) reports that he has interviewed Mr Petricevic on two occasions; on 1 and 2 December for a total of four hours, and he reports in some detail on the outcome of these interviews.
12. Having read and considered this report the Board is bound to say, with respect, that the contents of the report well justify the previous Board's view that such an intervention would be helpful to the Board in its task of appraising the risk of re-offending. The psychologist's in-depth interviews are perhaps better suited to give the Board an insight into Mr Petricevic's present attitude to his offending than can be gleaned from the process of questioning by Board members at a hearing alone. This was the aspect of risk that was of concern to the Board at the previous hearing. In that respect, having regard to the psychologist's report and Mr Petricevic's responses to the questions from the Board members at this hearing, we find ourselves troubled by the same sense of disquiet.

13. The following passages of the psychologist's report are pertinent. In paragraph 2;

"He verbally accepted responsibility for his offending, whilst also offering as justifications, the qualifications and responsibilities of other Board members involved in directing and managing the business. As such he appeared to take responsibility for having failed to prevent the offending rather than accepting full responsibility for deliberately committing the offences."

14. Paragraph 6;

"In the current interviews Mr Petricevic stated that he believed the statements made by the company to have been true at the time, but now accepted that they were not accurate. He had, he stated, placed a great deal of confidence in the qualifications, ability and experience of his fellow Board members. He believed, he said, that all of the documentation had been checked by experts. In particular, Mr Petricevic maintained that he had believed that interest and principal payments to investors had not been missed or delayed but paid on the closest working day to the due date. Nevertheless Mr Petricevic said that he accepted that as Managing Director he was in a position where he should have known, and that he took full responsibility for that."

15. As (withheld) observes in Paragraph 7,

"This contrasted with the reasons for the verdicts of Venning, J for 5 April 2012. That document sets out in detail the Judge's decisions leading to Mr Petricevic's 18 convictions of 26 April 2012. The Court found amongst other findings that Mr Petricevic did know that decisions had been taken to prioritise 'which debenture holders would be paid when there was insufficient monies to meet all the maturities scheduled for payment on a particular day'."

The Court therefore rejected Mr Petricevic's position relating to his knowledge of the accuracy of the prospectus

16. At paragraph 11, (withheld) records

"In summary in the current assessment Mr Petricevic appeared to accept responsibility for the offences and for the losses suffered by Bridgecorp investors but did not accept that he had acted in a manner that was deliberately dishonest or deceptive. Therefore it is assessed that he displayed partial remorse but nevertheless maintained a degree of entitlement to act in the way that he did given what he said he knew at the time of the offending."

17. Commenting on Mr Petricevic's history in financial businesses (a matter that the last board had briefly canvassed) (withheld) states at paragraph 15;

"It appeared that during the course of a career that included rapidly growing as well as failing businesses, Mr Petricevic developed a belief that he was entitled to use investments from others in high risk financial ventures."

Dealing with the index offending he continues;

"Mr Petricevic appeared to accept overall responsibility for his offending and a degree of moral culpability. However, he seemed to hold beliefs that continued to justify his actions at the time."

18. Some of these passages were put to Mr Petricevic for comment in the course of questioning of him by members of the Board with a view to trying to establish whether he now accepted the Judge's findings and, accordingly, acknowledged the dishonesty on his part which was at the heart of the offending.
19. Mr Petricevic's responses were not reassuring, and the Board was left with a view that there had been no significant change in his attitude to the offending from that stated to the psychologist. In this he seems to accept responsibility on the basis of neglect or of failing to inform himself of that which, as Managing Director, he should have been aware, but not to acknowledge the deliberate personal deceit, upon which the Court's findings were based, and which conviction on these charges essentially demonstrates. Whether that is because of a reluctance to accept and acknowledge the realities of the situation, or whether it derives from a genuine inability to distinguish between neglect on the one hand, and wilful dishonesty on the other, it portrays a state of mind that does not hold his offending in its true perspective.
20. We accept, as did the previous Board, that Mr Petricevic's release plan in terms of accommodation and support of prosocial persons is sound. We also accept that his absence for some years now from the commercial scene and the strictures against his being involved in financial affairs imposed by the Financial Markets Authority (and effective to 5 April 2017) are protective factors. Indeed the Financial Markets Authority's restrictions can be, if necessary, enhanced and extended by the Board to apply until six months after his sentence expiry date as conditions of parole.
21. Even so, there remains cause for concern. Primary predictors of risk must be previous conduct and attitudes and present attitudes, to offending conduct. It is in this area that the Board continues to have disquiet.

22. (withheld) observations under the heading, "Potential to Re-Offend" are helpful. We note that while on an overall assessment, using crimenogenic assessment tools, a low overall risk/need is demonstrated, (withheld) sounds a caution thus;

"Caution is indicated as the risk assessment tools available are not developed to be specific to the risk of fraudulent offences."

He concludes by making a recommendation that Mr Petricevic works with his case manager to produce a comprehensive safety plan.

23. Looking at the material before us overall, and having regard to the scale of Mr Petricevic's offending and the nature of his relevant previous commercial involvements as explored by Mr Britton in his report and mentioned in the previous Board's decision, we consider that Mr Petricevic needs to have some assistance to see his offending in its proper perspective. We think that that could best be achieved by a brief programme of one-to-one psychological intervention given that there are no programmes available to him in the prison setting which would be apt to deal with this particular offending.
24. While Mr Petricevic continues to hold the attitudes revealed in the psychologists report and expressed before the Board we are not satisfied that he does not present as an undue risk to the community. We consider, however, that his position could be considered again in, say, six months when he has had the opportunity of some psychological intervention.
25. Parole today is refused. The Board will see Mr Petricevic again in August, 2015.

Judge J P Gittos QSO
Panel Convenor