STATE OF MICHIGAN

COURT OF APPEALS

LAWRENCE H. KENT,

Plaintiff-Appellant,

v

MICHIGAN PAROLE BOARD,

Defendant-Appellee.

UNPUBLISHED
September 22, 2000

No. 202364
Saginaw Circuit Court
LC No. 97-017538 AP

Before: Wilder, P.J., and Bandstra and Cavanagh, JJ.

PER CURIAM.

Plaintiff Lawrence H. Kent, a prisoner serving a parolable life sentence for armed robbery, appeals by leave granted from a circuit court order denying his application for leave to appeal a decision by defendant Michigan Parole Board to take no action with regard to parole. We affirm.

Although plaintiff raises numerous issues regarding the alleged impropriety of defendant's decision and argues that the circuit court erred in denying his application for leave to appeal, this Court recently held that a "no action" letter issued by defendant to a prisoner serving a parolable life sentence is not an actual parole denial and therefore is not an appealable decision. *In re Parole of Johnson*, 235 Mich App 21, 25-26; 596 NW2d 202 (1999). Accordingly, the trial court did not err in denying plaintiff's application for leave.

However, we question whether *Johnson* remains good law in light of our Supreme Court's recent decision in *Glover v Parole Board*, 460 Mich 511; 596 NW2d 598 (1999). The primary issue in *Glover* was whether the plaintiff was entitled to a written explanation of the reason the parole board denied her request for parole. *Id.* at 518. The Court held that, while the petitioner's federal constitutional due process rights were not violated when the parole board failed to provide a sufficiently detailed explanation for its decision, the Michigan parole statute mandates that the parole board provide a petitioner a written explanation of its decision to deny parole. *Id.* at 523-524. The Court further held that the provisions in § 35 of the statute apply to parolable life prisoners as well as to those serving indeterminate sentences. *Id.* *Johnson, supra*, only considered the statutory provisions found in MCL 791.234(6); MSA 28.2304(6).

Additionally, the *Glover* Court stated that "[t]he parole board, after exercising its discretion to grant or deny parole, was required pursuant to MCL 791.234(8); MSA 28.2304(8), to provide a sufficient explanation for its decision, thereby allowing meaningful appellate review." *Id.* at 519.[1] The Court held that "individuals serving parolable life terms and denied parole are statutorily entitled to a sufficiently detailed written explanation for the board's decision and, where appropriate, 'specific recommendations for corrective action the prisoner may take to facilitate release.'" *Id.* at 524; MCL 791.235(12); MSA 28.2305(12).

We recognize that the *Glover* Court was not considering the specific issue decided by *Johnson*, namely, whether a "no action" letter by the parole board is an appealable decision. Accordingly, we do not consider *Johnson* to have been "reversed or modified" by *Glover* and we therefore remain bound by *Johnson* under MCR 7.215(H)(1). However, we note that the logic of *Glover*, that once a prisoner has served enough of his term to qualify for parole board consideration he is entitled to some accounting for an adverse decision,[2] would seem equally applicable to a prisoner denied parole after an interview as it is to a prisoner denied parole after public hearing.[3]

Affirmed.

/s/ Kurtis T. Wilder
/s/ Richard A. Bandstra
/s/ Mark J. Cavanagh

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[1] MCL 791.234(8); MSA 28.2304(8), has since been redesignated as subsection (9) and substantively changed so that only prosecutors have a right to appeal a grant of a parole. MCL 791.234(9); MSA 28.2304(9). The substance of this section at the time of the contested parole board action in this case was the same as that in *Glover*.

[2] An extensive accounting is not required. "[T]he parole board is not required to provide extensive findings of fact and conclusions of law, nor do we insist upon legal opinions when it denies or grants a life prisoner parole. Rather the board should simply indicate what it relied on in reaching its decision." *Glover*, *supra* at 525.

[3] We also question whether *Johnson* remains good law in light of recent amendments to the statute which grant prisoners specific rights regarding the interview process, not applicable at the time of the contested parole board action here. See MCL 791.234(7); MSA 28.2304(7). Under *Johnson's* analysis, it would seem these rights could be ignored by the parole board without appellate oversight, so long as the proceedings never go forward to a public hearing and result in a parole denial.