

Helen Fahey, Chair
David Harker, Vice Chair
Carol Ann Sievers, Victims' Representative
Herbert Coulton
Michael Hawes
Virginia Parole Board
69 Atmore Drive
Richmond, Virginia 23225
2/24/04

Re: Joe Giarratano #118475

Dear Parole Board Members:

I wanted to take the opportunity to offer a Professional Correctional Administrator's view regarding the possible parole of Joe Giarratano #118475, currently incarcerated at Red Onion State Prison in Pound, Virginia.

I first met Joe in January of 1985 when I was appointed Warden of Mecklenburg Correctional Center in Boydton, Virginia. On one of my frequent visits to the Death Row population, I asked Joe if he was guilty of the crime for which he was incarcerated. He looked at me, somewhat startled and said, "You don't ask a convict if he was guilty or not!" I responded, "Why not?" He smiled and said, "I guess I am guilty; I woke up on the couch where I was staying after a night of partying on alcohol and drugs and found them dead." Joe's straight-forwardness and honesty impressed me.

A few weeks later, Joe asked to see me and asked why a paralegal was denied an attorney visit with him. I indicated that she wasn't an attorney and therefore did not have attorney privileges. He smiled and referred me to *Procurier v. Martinez* 416 U.S. 396 (1974), and said I might want to check it out. Joe could have filed a grievance; rather, he chose to work with the administration. When I read the decision in *Procurier*, I realized that I was in error and that paralegals have the same visitation rights as members of the bar.

Joe is extremely bright as I am sure you are aware. He has written an article for the *Yale Law Review* and was instrumental in preparing the *Murray v. Giarratano* 492 U.S. (1989) lawsuit regarding the State's responsibility to provide post conviction relief in the form of providing counsel for indigent inmates on death row for their appeals. This case was argued in the Supreme Court and barely defeated in a 5-4 decision.

Joe is an inmate who has taken advantage of the opportunities presented to him while he has been incarcerated. He has learned the law and has become self-educated. The Joe Giarratano who was originally sentenced no longer exists. Joe is a prime example of the success of habilitation programs.

I have been corresponding on and off with Joe for the past fifteen years. He has been willing to answer any questions my Criminal Justice students pose through me on matters relating to incarceration, death row, and the criminal justice system. His letters are truly amazing. There is no bitterness. I have never read anything regarding the unfairness of the system which has placed him in prison. Joe is now convinced that he did not murder that mother and daughter based on evidence which has been discovered since his incarceration. In spite of this, he remains positive and refuses to allow the system or those who incarcerate him to determine his behavior.

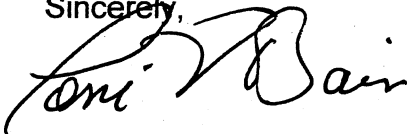
In my opinion, Joe will present an extremely minimal risk to society if he is granted parole. Being educated and having many contacts in the community, Joe will certainly be able to secure gainful employment.

This is the first letter to a Parole Board I have ever written in my thirty plus years in the corrections field. Having been a Warden in two states, a Regional Administrator where I supervised eleven prisons, and an Assistant Commissioner for the New York City Department of Corrections, I have had extensive experience with many inmates, conversed with hundreds if not thousands, heard all of their stories, and have not until now been inclined to write to a Parole Board on an inmate's behalf.

It is my hope that you will seriously consider offering Joe the opportunity to be a productive citizen and grant him a parole.

I am available for any clarifying questions that you might have. Please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Toni V. Bair". The signature is written in a cursive style with a large, stylized initial "T".

Toni V. Bair

Corrections Consultant/Expert Witness; Professor of Criminal Justice, Weber State University. Former Warden, Mecklenburg Correctional Center & Utah State Prison; Regional Administrator, Virginia DOC, Central Region; Assistant Commissioner, N.Y.C. Department of Corrections.