

[2022] PBPH 4

## Application for a Public Hearing in the case of Mr Charles Salvador

**Outcome:** Granted

The prisoner was born Michael Gordon Peterson. He has been known as Charles Ali Ahmed and Charles Bronson. In 2014, he changed his name to Charles Salvador. Throughout this decision, I shall refer to the prisoner as Mr Salvador.

### Background on the Parole Board and Public Hearings

1. The Parole Board is an independent body which acts as a court when deciding whether prisoners in England and Wales are safe to be released, or not, and makes recommendations to the Secretary of State on a prisoner's suitability for open conditions if the release test has not been met. Prisoners are referred to the Parole Board only after they have served the minimum period for punishment set by the sentencing judge ('the tariff'). When considering a case, the Parole Board's role is to consider whether a prisoner's risk can be safely managed in the community. The Parole Board will not direct release unless it is satisfied that it can. Public protection is always the Parole Board's primary concern.
2. The Parole Board was established in 1967. Under its rules hearings were required to be held in private. From 20 October 2020 to 1 December 2020 the Government held a public consultation on whether parole hearings should be heard in public in some limited circumstances (public consultation: [Root and branch review of the parole system - Public consultation on making some parole hearings open to victims of crime and the wider public \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/consultations/root-and-branch-review-of-the-parole-system-public-consultation-on-making-some-parole-hearings-open-to-victims-of-crime-and-the-wider-public)).
3. In February 2021 the Government decided that the blanket ban on public hearings was unnecessary, and that public hearings in appropriate circumstances would improve transparency and could help build confidence in



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the parole system (outcome of the consultation: [Root and branch review of the parole system \(publishing.service.gov.uk\)](#)).

4. At the time of publication, the then Minister of State for Justice, Lucy Frazer QC MP, said: *'We are mindful of the fact that parole hearings involve discussion of sensitive personal matters about prisoners and victims. It is important that the privacy, safety and wellbeing of hearing participants is protected, as well as ensuring that the Board can continue to properly assess prisoners' risk without the evidence on that being compromised. For these reasons we expect truly public hearings to be rare but it is right that we are removing the barrier that requires them to always be held in private. Where it can be done safely and securely, a public hearing will provide a valuable opportunity to show how the Parole Board goes about its valuable work and how decisions are made.'*
5. On 30 June 2022 a statutory instrument was laid before Parliament, containing a new rule allowing for anyone to be able to apply for a public hearing. The new rule took effect from 21 July 2022. Under the new rule, it is for the Chair of the Parole Board (the Chair) to decide whether to hold a hearing in public or not, applying an 'interests of justice' test. The Parole Board has developed Guidance on the Criteria for Public Hearings for the Chair to consider when making a decision ([Applying for a Parole review to be public - GOV.UK \(www.gov.uk\)](#)).
6. A test in the South-West of England is currently being conducted by the Ministry of Justice on victims automatically having the right to attend private hearings. The expectation is that this will be rolled out across England and Wales during 2023. Victims attending a private hearing will have to agree to maintain the privacy of that hearing. Different rules apply to public hearings.

## Background to the case

7. Mr Salvador is currently serving a life sentence which was imposed in February 2000 for the offence of false imprisonment. The tariff on this offence expired in February 2003.
8. Mr Salvador has a long history of offending starting in 1964. In October 1974, he was sentenced to seven years of imprisonment for robbery, aggravated burglary, assault with intent to rob and possession of a firearm. In December 1975, Mr Salvador was convicted of the unlawful wounding of another prisoner. In December 1978, whilst still in custody, Mr Salvador was convicted of wounding with intent and in 1985 Mr Salvador was convicted of an offence of wounding.

9. In 1987, Mr Salvador was released from custody. In June 1988, Mr Salvador was convicted of robbery and was sentenced to seven years of imprisonment. Following his release, in February 1993 Mr Salvador was convicted of grievous bodily harm. In September 1993, Mr Salvador was convicted of carrying a firearm with intent to commit an indictable offence and sentenced to eight years of imprisonment. Mr Salvador has since remained in custody.
10. In 1997, Mr Salvador took two prison staff and three prisoners hostage for which he received a five-year consecutive sentence. Prior to the expiry of that sentence, Mr Salvador committed the index offence of false imprisonment for taking another person working in the prison hostage for three days. In September 2014, during his current sentence, Mr Salvador was convicted of assault occasioning actual bodily harm and was sentenced to 24 months of imprisonment.
11. Mr Salvador's case was last reviewed by the Parole Board in November 2017. His next review will be his eighth review by the Parole Board.
12. Mr Salvador is now 66 years old.
13. Mr Salvador's case was referred to the Parole Board in 2019 and was directed to an oral hearing on 31 July 2019. The case was listed for an oral hearing in February 2020, however, the case was adjourned as Mr Salvador launched a judicial review, arguing that the Parole Board Rules requiring all hearings to be held in private were unlawful. Permission was granted by the High Court and the case was disposed of by way of a consent order as the Secretary of State agreed to review the relevant parts of the Rules to allow for a public hearing in some cases, rendering the claim academic.
14. As set out in paragraph 5 above, a new Rule allowing for public hearings came into effect from 21 July 2022. The case has been adjourned on a number of occasions, with the consent of all parties, between the original hearing date and the new Rule coming into effect.
15. Mr Salvador's case has not yet been listed but is expected to take place in early 2023.

### **Details of the Application and Representations**

16. On 21 July 2022, the Parole Board received an application for Mr Salvador's hearing to be held in public. The application was made on behalf of Mr Salvador by his legal representative.

17. In summary, the reasons given in the application for a public hearing were:
- Mr Salvador's oral hearing review has been significantly adjourned to allow him to request a public hearing. He has been awaiting the Rules change following his judicial review.
  - Mr Salvador is a well-known prisoner with significant public interest in his case.
  - Mr Salvador is one of the longest serving prisoners. He has been held in close supervision centres which he believes has delayed his progress.
  - Mr Salvador wishes his hearing to be in public to increase understanding of the parole process.
  - There does not appear to be any victim engagement and so it is reasonable to infer that there is no risk of undue emotional stress and/or re-traumatising of the victims should the hearing be held in public.
  - Mr Salvador has consistently asserted that he wants a public hearing and is directly responsible for this change in law.
  - Mr Salvador is not vulnerable. Given his wish for a public hearing, it could cause him undue emotional stress if the hearing were not in public.
  - Mr Salvador believes he will achieve best evidence and this will not be impacted by the hearing being in public.
  - If the hearing is in public, the panel can still hold part of the proceedings in private.
  - Given the recent change of the Secretary of State providing a single viewpoint and professional witnesses no longer giving an opinion at oral hearings, a public hearing will highlight this change to the public.
  - Mr Salvador believes that his risk has significantly reduced. A discussion about risk and risk reduction would aid public confidence.
  - A newspaper article quoted a Parole Board spokesperson indicating that this is likely to be the first public hearing. This has given Mr Salvador a legitimate expectation.
  - The cost of a public hearing should not be a consideration.
18. The Parole Board has sought representations from the other party to the case, namely the Secretary of State for Justice.
19. In summary, the representations made on behalf of the Secretary of State (dated 28 October 2022) were:
- Although the Secretary of State remains of the view that transparency is important to public confidence, there must be a good reason for departing from the general rule that parole hearings remain in private.
  - No victim or member of the public has requested a public hearing and Mr Salvador has not given sufficient reasons to depart from the general rule.

- The Secretary of State has concerns that Mr Salvador is seeking a public hearing to raise grievances and concerns which are not relevant to the matters before the Parole Board.
  - Mr Salvador may disrupt the parole hearing or may seek to put confidential matters into the public domain.
  - The Secretary of State has liaised with staff who have previously been victims of Mr Salvador and none of those staff have identified particular concerns about a public hearing.
20. I have also consulted with the Panel Chair as the Panel Chair is most familiar with the facts of the case and so is best placed to assess: (i) if a public hearing would cause a victim or prisoner undue distress or prevent best evidence being given by the witnesses; (ii) if it could adversely affect a prisoner's ability to safely resettlement in the community; or (iii) if it could compromise the panel's ability to assess risk.

### **Reasons for the Decision**

21. I have considered all of the information in the application and the representations received and I have also taken account of the Parole Board's Guidance on the Criteria for Public Hearings.
22. The normal position is that parole hearings will remain in private. This is because it is of paramount importance that witnesses are able to give their best evidence. Furthermore, evidence can relate to highly personal matters including health and evidence that may be distressing to victims. There must therefore be good reasons to depart from the general rule.
23. It should be clear that I would not grant an application to have a hearing in public in circumstances where I thought that a public hearing would impact on the fairness of the hearing.
24. I am aware that there are a number of measures which can be taken to protect the fairness of the hearings. These would include the ability to take evidence in private, the ability to use code phrases to conceal sensitive information such as actual addresses, the ability to put in place conditions of attendance, and the ability to suspend the hearing or remove any person from the hearing if they are disruptive.
25. I am also aware that recent developments in technology and Parole Board operating models have better enabled the public to attend a hearing by remote viewing. This will make it more convenient for members of the public to attend and will also minimise the potential for disruption to the hearing itself.



26. I note that, should a hearing be held in public, it is always open to the Panel Chair to use their case management powers to manage the hearing and to suspend a hearing if they feel that the proceedings are becoming unfair.
27. In the application for a public hearing in the case of Mr Salvador, I have decided that there are special features, which set it apart from other cases, which may add to the proper public understanding of the parole system. These are:
- In 2019, Mr Salvador launched a judicial review challenging the requirement that all parole hearings be held in private. This case was disposed of by way of a consent order as the Secretary of State agreed to review the relevant parts of the Rules; the Rules change followed in July 2022.
  - Mr Salvador has delayed the review by the Parole Board of his continuing detention for over two years by actively seeking to have his case heard in public.
  - There appears to be minimal risk of re-traumatising the victims in this case.
  - The Parole Board's work is often not well understood by the public. Mr Salvador's case is a high profile one. There is a public interest in increasing understanding which can properly be taken into account when considering the interests of justice.
28. I note the concerns of the Secretary of State that there is a risk of extraneous matters being introduced at the hearing. However, I am satisfied that this risk is manageable given the safeguards that the Parole Board has put in place for public hearings.
29. I note that there is no suggestion from either Mr Salvador or the Secretary of State that any witness would be inhibited from giving their evidence if the hearing were in public.
30. I note that some parts of the hearing may need to be in private, however, a sufficient part of the hearing should be able to be heard in public to allow for a deeper understanding of the parole process. The Panel Chair has extensive case management powers to enable any relevant parts of the evidence to be taken in private and is best placed to make the decision on how these powers should be used in Mr Salvador's case.
31. I also note that the Panel Chair could decide to move from a public hearing to a private hearing, should the hearing be disrupted or should there be any attempt to disclose information which is properly confidential.

32. I have concluded that a public hearing is in the interests of justice in the case of Mr Salvador. I therefore grant the application for the hearing to be held in public.
33. The next step is that the Panel Chair will hold a preliminary hearing to deal with the practical issues associated with the hearing.
34. This matter will only revert back to me if there is any fresh information which represents a significant change in the relevant circumstances.

**Caroline Corby**

**The Chair of the Parole Board for England and Wales**

**8 November 2022**