

R (on the application of Pearce and another) (Respondents) v Parole Board for England and Wales (Appellant)

Case ID: 2022/0052

Case summary

Issue

- (1) When the Parole Board is deciding whether or not to direct the release of a prisoner on licence, can it only take into account allegations if they are proved on the balance of probabilities?
- (2) Does the Parole Board's "Guidance on Allegations" (the Guidance) misstate the law on this issue?

Facts

On 13 October 2010, Mr Pearce was sentenced to imprisonment for public protection with a minimum term of 3½ years (less time spent on remand) after he pleaded guilty to three separate offences of sexual assault committed in 2009. Mr Pearce has been eligible for release at the direction of the Parole Board since 2013, but he remains in prison. His imprisonment has been reviewed on four occasions. Most recently, the Parole Board in May 2019 refused to direct Mr Pearce's release but recommended his transfer to open prison conditions (the Decision). In accordance with the Guidance, the Parole Board took into account unproven allegations about other alleged sexual assaults by Mr Pearce against women and girls when assessing the risk to the public arising from Mr Pearce's release.

Mr Pearce challenged the Decision by way of judicial review. The High Court dismissed Mr Pearce's claim and held that the Decision and the Guidance were lawful. On appeal, the Court of Appeal held that the Guidance contained unlawful misstatements of the law regarding the use of unproved allegations in the assessment of risk. However, the Decision itself was held to have been proper and justified. The Parole Board now appeals to the Supreme Court, arguing that the Court of Appeal was wrong to hold that parts of the Guidance were unlawful.

Judgment appealed

[\[2022\] EWHC 4](#)

Parties

Appellant(s)

Parole Board for England and Wales

Respondent(s)

- (1) Dean Pearce
- (2) Secretary of State for Justice

Appeal

Justices

Lord Hodge, Lord Kitchin, Lord Hamblen, Lord Richards, Lord Hughes

Hearing start date

9 November 2022

Hearing finish date

10 November 2022

Watch hearing

9 November 2022 [Morning session](#) [Afternoon session](#)

10 November 2022 [Morning session](#)

Judgment details

Judgment date

5 April 2023

Neutral citation

[2023] UKSC 13