

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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LEON LOWE,

Petitioner-Appellant,

v

PAROLE BOARD,

Respondent-Appellee.

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UNPUBLISHED

July 2, 1996

No. 177143

LC No. 94-415256AA

Before: Doctoroff, C.J., and Hood and Gribbs, JJ.

PER CURIAM.

Petitioner appeals the circuit court order dismissing his action for a writ of mandamus to compel respondent to accept jurisdiction over him for possible parole. We affirm.

First, petitioner argues that mandamus was the proper action by which to require the parole board to accept jurisdiction and perform its statutory obligations. We need not address this issue. Even assuming arguendo that the form of the action was proper, the trial court properly denied petitioner's request for mandamus relief in this case.

Petitioner asserts that respondent failed to perform numerous procedures required by statute. We find that petitioner, who is serving a life term, is not entitled to the procedures he is seeking under MCL 791.235; MSA 28.2305. The parole of life prisoners is governed by MCL 791.234; MSA 28.2304. The applicable provision provides that, "at the conclusion of 10 calendar years of the sentence and every 5 years thereafter", petitioner is entitled to an interview by one member of the parole board. MCL 791.234(4); MSA 28.2304(4). In this case, petitioner was sentenced in July 1978, and has been interviewed by a member of the parole board at least twice since 1987. A prisoner serving a life sentence has no right to a public hearing absent the parole board's decision to hold one. *Middleton v Parole Board (On Remand)*, 208 Mich App 563, 567; 439 NW2d 791 (1995). We note also that petitioner's reliance on "*Sweeton v Johnson, et al*" is misplaced. Petitioner did not raise this claim before the trial court and has not attached a copy of the *Sweeton* opinion to his brief.

However, it appears that the consent decree to which petitioner apparently refers was recently vacated. *Sweeton v Brown*, 27 F 3d 1162 (CA 6, 1994).

Affirmed.

/s/ Martin M. Doctoroff

/s/ Harold Hood

/s/ Roman S. Gibbs