



The Commonwealth of Massachusetts
Executive Office of Public Safety



PAROLE BOARD

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DECISION

IN THE MATTER OF

BRUCE GORHAM

W37644

TYPE OF HEARING: Review Hearing after Revocation

DATE OF HEARING: November 27, 2012

DATE OF DECISION: December 7, 2012

PARTICIPATING BOARD MEMBERS: Cesar Archilla, Dr. Charlene Bonner, Shelia Dupre, Ina Howard-Hogan, Lucy Soto-Abbe, Josh Wall

DECISION OF THE BOARD: Re-Parole on or after December 20, 2012. The decision is unanimous.

I. STATEMENT OF THE CASE

Bruce Gorham is 63 years old. He served as a Marine in Vietnam from 1967 to 1969, and after an honorable discharge returned home to Massachusetts with a drug problem. He committed numerous crimes over the next decade, including a second-degree murder in 1978. After serving 15 years on the life sentence for murder he was paroled in October 1994. He was on parole for 17 years, during which time he had many successes and was substantially compliant with his parole conditions. His parole performance was not perfect as he did have some incidents that caused concern but did not result in revocation. His parole was revoked, however, in May 2012 when his wife called 911 and reported a domestic incident. Gorham was arrested but the charges were dismissed in June when his wife recanted some of the allegations. The Parole Board must decide if Gorham should be re-paroled after a period of seven months incarceration for the violation.

Upon returning from Vietnam, Gorham completed two years at Bunker Hill Community College. He worked steadily, first in a factory and later as a bartender at the Kenmore Club in Boston. His substance abuse involved regular use of Valium and Quaaludes. On November 5, 1978, Gorham used angel dust with his girlfriend and three men, Steven Smith, Richard

Fallavollita, and Steven Gorham (Bruce's brother). The group decided to go to the home of William McArthur in Waltham. They believed that McArthur had drugs and money. Bruce Gorham, Smith, and Fallavolitta, wearing nylon masks, entered the house through an unlocked door. They confronted McArthur who denied that he had drugs or money. Smith declared that McArthur recognized him and that they therefore needed to kill him. Smith and Gorham killed McArthur by stabbing him 32 times. Gorham says that he contributed approximately ten of the stab wounds. They took \$30 and a small amount of heroin, and set the apartment on fire before they left.

Fallavolitta cooperated with the prosecution and received concurrent sentences of 4 to 15 years for armed robbery and arson. Bruce Gorham pleaded guilty to second-degree murder, armed robbery, and arson. He received concurrent life sentences for the murder and the armed robbery, and a concurrent 7 to 10 year sentence for the arson. Steven Smith was convicted at trial of first-degree murder; Fallavolitta testified at the trial; the Supreme Judicial Court reversed the convictions; after the reversal, Smith pleaded guilty to second-degree murder, armed robbery, and arson. Smith received parole in 1994 but has had a poor performance on parole; he has three parole failures and is currently incarcerated on the life sentence.

II. PAROLE AND INSTITUTIONAL HISTORY

Bruce Gorham received parole after his first parole hearing. He had a good institutional record with only three disciplinary reports and active participation in rehabilitative programs. He earned a Bachelor's Degree from Boston University while incarcerated. He was released in October 1994.

While incarcerated, he began a relationship with Denise Gordon. They have remained together since that time; they consider their relationship to be a common law marriage; they have two teenage children. They own a home together where they live with the two children. For several years they owned three apartment buildings which Gorham operated; they sold those apartment buildings. When he is not incarcerated, he receives a veteran's disability monthly payment.

Gorham's parole was successful and uneventful for the first eight years. In 2002, however, his wife made domestic violence allegations that resulted in Gorham's arrest. She recanted the allegations which led to a not guilty verdict in August 2002. In 2004 and 2007, Gorham had issues with tenants that resulted in minor court charges that were dismissed. In January 2007, Gorham tested positive for marijuana which resulted in a formal warning from the Parole Board.

In 2008 Gorham had serious physical issues that led to prescribed medication. He broke his back in March 2008. While hospitalized he suffered a heart attack. Due to the broken back, Gorham was prescribed oxycodone and morphine. His back required additional surgery, and he continued with prescribed oxycodone medication. Gorham's parole officer has worked to monitor this situation by obtaining verifications from the physician and requiring counseling for Gorham. The Board issued a warning in January 2012 requiring Gorham to comply with the parole officer's request for monthly verifications from the physician. Gorham maintains that he did his best to obtain the verifications from his physician.

Denise Gordon called 911 on May 20, 2012 and reported a domestic incident. She alleged that Gorham yelled at her, called her names, and ripped glasses off her head which resulted in her hair being pulled. Gorham told police he argued with his wife but had not assaulted her. Police arrested Gorham for assault and battery. Ms. Gordon recanted the

allegations of physical touching and the case was dismissed on June 11, 2012. Based on the arrest, Parole began the proceedings that resulted in re-incarceration and revocation. Gorham has been incarcerated since May 20, 2012.

III. PAROLE HEARING ON NOVEMBER 27, 2012

Bruce Gorham was released on parole in October 1994. He was returned to custody on May 20, 2012 and his parole was revoked. This parole hearing was held to determine whether Gorham meets the legal standard for re-parole after his revocation. Attorney Edward McCormick represented Gorham. Gorham described his activities during his 17 years on parole, including his relationship with Denise Gordon. They live with their two teenage children. Gorham is now retired but for several years owned and operated three residential apartment buildings in Brockton. He explained that dismissed misdemeanor charges in 2004 and 2007 resulted from his efforts to deal with difficult tenants. In addressing those two incidents, Gorham explained that the "apartments had low rents and we got some people who caused a fair amount of trouble; one of the tenants stopped paying rent and refused to move out; the other tenant had a drinking problem and was causing trouble for other tenants." Gorham said he wants to be released "so I can take care of my family – my wife and children."

Five people spoke in support of parole: Gorham's wife, son, stepdaughter, brother-in-law, and sister-in-law. They described Gorham as a committed spouse, parent, and uncle. Denise Gordon expressed her support for her husband's release and described him as a "very nice guy who has supported me for 18 years." They attested to Gorham's overall good conduct and gave several specific examples of Gorham's contributions to family life. For example, his stepdaughter said, "Bruce has been good to me my whole life; my husband is a truck driver; Bruce encouraged him to enter that occupation and paid for his school." Gorham's teenage son said, "It's tough not having my dad here; he's been a great dad; my dad is a big help to my mom, he would never lay a hand on her."

Attorney Edward McCormick explained that Gorham's wife has medical and psychological issues that have affected her abilities, behavior, and judgment. He suggested that the May 2012 domestic incident reflected or resulted from those issues. Denise Gordon did not object to or disagree with these statements.

Middlesex Assistant District Attorney Marian Ryan spoke in opposition to re-parole.

IV. FACTORS RELEVANT TO RE-PAROLE DECISION

1. Gorham achieved rehabilitation during his 15 years of incarceration from 1980 to 1994. He successfully addressed issues of substance abuse, criminal thinking, and violent behavior. Gorham's military service provided him with accomplishments and a solid base for rehabilitation. For his service in the Marines, he received the National Defense Service Medal, the Vietnam Service Medal, the Vietnam Campaign Medal, and the Vietnam Cross of Gallantry. He received only three disciplinary reports during his incarceration, none for violence. He received a bachelor's degree and participated in many programs and activities.
2. Gorham took advantage of parole to create a stable life that was not possible for him prior to his rehabilitation at the Department of Correction. He successfully avoided a return to illegal drug use. He maintained a relationship with the same woman, they have two children, they own a home, and he ran a small business comprised of residential apartments. He was a successful and productive member of his community.

3. Through years of commitment Gorham has created strong bonds with his wife, children, step-daughter, and his brother-in-law's family. These family members are very supportive of Gorham, and they expressed at the hearing that the immediate and extended family depend on his presence, efforts, and emotional support.
4. There have been six problematic incidents for Gorham on parole: two with his wife; two with tenants; one incident of marijuana use; and a more recent disagreement with his parole officer over monitoring Gorham's use of prescribed oxycodone. After evaluation of each incident, the Board concluded that Gorham's conduct was within the range of common human responses and that those responses are not indicative of ongoing criminal thinking, violent tendencies, or criminal impulses. Gorham needs to continue to work on his responses to stressful interactions with other people, but the incidents do not suggest a lack of rehabilitation. Gorham's behavior in these incidents should not be repeated, and the parole conditions resulting from this decision are designed to help Gorham avoid future similar incidents.
5. Unlike many who are returned for a parole revocation, Gorham's housing, family, and income remain in place, which means his transition to the community should be without difficulty or risk.
6. Gorham has been re-incarcerated for seven months, which is a sufficient period of accountability for the conduct resulting in revocation.
7. During his re-incarceration Gorham has managed his back pain without narcotic medication. This makes it more likely that non-narcotic pain medication can assist Gorham in the future without reintroducing the more powerful and addictive narcotics.

V. DECISION

Bruce Gorham established during his 17 years on parole that he is rehabilitated. Parole was revoked because of a mutual disagreement with his wife that Gorham should have handled differently. Family members who support both individuals described the physical and psychological issues that his wife is facing. They convincingly describe a challenging situation that does not include emotional or physical abuse by Gorham. The family members and Gorham's wife describe Gorham as a supportive and stabilizing presence for his wife as she deals with medical and psychological issues. They further describe Gorham as a devoted and effective parent to their two teenage children. Based on Gorham's rehabilitation, the Parole Board concludes that he is unlikely to re-offend if paroled and that his release is compatible with the welfare of society. Accordingly, re-parole is granted. Because he is rehabilitated and lived in the community for 17 years, Gorham can be released directly to his home without further incarceration or institutional step-down. Given Gorham's substance abuse history, he needs to use non-narcotic treatments for chronic pain.

SPECIAL CONDITIONS: Re-parole to home; no drug use or alcohol use; one-on-one counseling (to address issues of mental health, substance abuse, and marital relationship); parole officer input with physician required for use of prescription narcotic medication; report to parole office within 72 hours of release.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing. This signature does not indicate authorship of the decision.


Caitlin E. Casey, Chief of Staff

12/7/12
Date