



The Commonwealth of Massachusetts
Executive Office of Public Safety



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DECISION

IN THE MATTER OF

THOMAS LYNES

W51985

TYPE OF HEARING: Review Hearing after Revocation

DATE OF HEARING: June 26, 2012

DATE OF DECISION: September 17, 2012

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

DECISION OF THE BOARD: Re-parole on or after October 11, 2012 to long term residential program. The decision is unanimous.

I. INTRODUCTION

Mr. Lynes appeared before the Massachusetts Parole Board on June 26, 2012, his parole having been previously revoked by unanimous vote of the Board. This was his first revocation. After careful consideration of all relevant facts, including the nature of the underlying offense, the inmate's performance while on parole, his current mental health status, the views of the public as expressed at the hearing or in written submissions to the Board, his criminal history, his institutional department, and his level of engagement with rehabilitative programming while incarcerated, we conclude that he is a suitable candidate for re-parole, subject to such conditions as the Board may from time to time impose.

II. STATEMENT OF FACTS

On September 17, 1990, the inmate shot and killed Joseph Gauthier, a co-worker at the Boston Herald. The shooting was the culmination of a long-running dispute between the two men involving a pending workplace discrimination claim advanced by another employee. The inmate believed that Mr. Gauthier was involved in an effort to coerce him into providing testimony favorable to Mr. Gauthier in connection with that pending claim. According to the

inmate, he had acquired the murder weapon and then brought it to work on several occasions to signal to Mr. Gauthier and others that he could not be intimidated.

On the day of the murder, the inmate claimed that he had received an anonymous telephone call advising him not to go to work. The inmate perceived this as a threat. He immediately retrieved his gun (it was being held by a friend), and then went to work intending to confront Mr. Gauthier. He brought a rubber mask along to use as a disguise.

After entering the building where the two men worked, the inmate donned his mask and sought out Mr. Gauthier in the employee locker room. When he found Mr. Gauthier, the inmate took his gun out of his pocket, pointed it at the victim, and then fired a shot at the floor. The victim advanced toward the inmate in an attempt to disarm him. The inmate fired again, striking Mr. Gauthier in the bicep. The two men then grappled briefly. As Mr. Gauthier broke away, the inmate fired a third shot into the victim's side. The victim fled, succumbing to his injuries later that day.

In the meantime, the inmate disposed of his gun and mask and went about his job duties as if nothing had happened. A police investigation ensued, and the inmate was arrested when he reported for work the following day. He pled guilty in Superior Court to second-degree murder. A second charge of unlawfully carrying a firearm was placed on file with the inmate's consent.

While incarcerated, the inmate's institutional adjustment was excellent. He incurred only four disciplinary reports for non-violent violations. Further, he was consistently employed in the institution and engaged in a large number and wide range of institutional programming, including most of those recommended by the Department of Correction in his risk reduction plan. While his program accomplishments are too numerous to list, we note that the inmate has completed all phases of Alternatives to Violence (including the trainer's and facilitator's courses), Emotional Awareness, Cognitive Skills, Anger Management, and numerous educational programs. He was also a regular attendee at both AA and NA meetings, and completed 16 weeks of AA facilitator training.

However, the inmate's performance on parole did not match his institutional adjustment. While he did well initially, completing the rigorous Bridge House program in 2010, followed by a successful stint at a sober house, he relapsed almost immediately after moving into his own home. On November 11, 2011, ten days after leaving the sober house, the inmate agreed to meet a woman he had met at work at a nightclub. While at the club, he consumed a considerable amount of alcohol in violation of his parole conditions. He then compounded his mistake by driving while intoxicated. He was arrested and convicted of OUI. On this basis, his parole was revoked.

III. RATIONAL

The standard we apply in assessing candidates for parole is set out in 120 CMR 300.04, which provides that "[p]arole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." Applying that appropriately high standard here, we conclude that the inmate, despite his serious misstep on community supervision, remains a suitable candidate for parole at this time.

Needless to say, the Board finds the inmate's reckless conduct completely unacceptable. The fact that the inmate killed Mr. Gauthier while under the influence of alcohol only deepens our concerns. However, we must balance these concerns against his history of rehabilitative efforts.

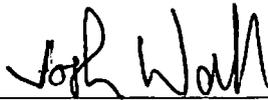
In the end, every parole release decision turns on a unique set of facts. The inmate's offense here was grave. Without question, he squandered his initial parole opportunity through patently bad choices. At the same time, the inmate displayed real dedication to his rehabilitation while in prison, amassing an institutional record that ranks among the best we have seen in recent years. Further, this dedication was also displayed during his time -- more than a year -- in transitional housing after release. His support system, consisting of both friends and family, is impressive and loyal. While on parole the inmate was heavily involved with Catholic ministry groups and much of his support is connected to those groups. Many spoke in concrete terms about the assistance, financial and otherwise, that they could provide upon the inmate's release. Finally, we note that the inmate will have served a further eleven months in prison in consequence of his actions.

Viewing all of these factors, and consistent with our mandate, we believe that the inmate is suitable for re-parole. However, it is now apparent that he requires considerably more time in a structured living environment before he can fully transition to independent living. And while he was already subject to close monitoring for drug and alcohol use, additional restrictions designed to enforce his abstinence conditions will be imposed.

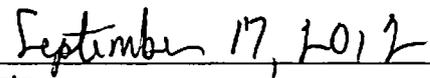
The inmate should make no mistake: while he is being afforded a further opportunity on the strength of his past efforts, such second chances are not lightly given. Any further missteps will likely result in a much longer period of incarceration. We trust that the inmate, mindful of this, will redouble his efforts to comply with all of his parole conditions. In particular, he needs to focus his attention on substance abuse prevention to avoid any further relapse.

SPECIAL CONDITIONS: Complete long-term residential program; no drug use; no alcohol use with monthly testing required; AA or NA three times weekly; mental health evaluation as arranged through residential program with requirement to follow recommended treatment; sobriety interlock for any vehicle owned or operated by Mr. Lynes; no contact with victim's family (including residence and employment restrictions as directed by parole officer).

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing.



Josh Wall, Chairman



Date