



The Commonwealth of Massachusetts
Executive Office of Public Safety



PAROLE BOARD

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DECISION

IN THE MATTER OF

BRUCE DABRIO

W34580

TYPE OF HEARING: Review Hearing

DATE OF HEARING: January 5, 2012

DATE OF DECISION: April 17, 2013

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

DECISION OF THE BOARD: After careful consideration of all relevant facts presented, including the nature of the underlying offense, the institutional record, and the views of the public expressed at the hearing in support and opposition, we conclude by a unanimous vote that the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in five years.

I. INTRODUCTION

Bruce Dabrieo appeared before the Massachusetts Parole Board on January 5, 2012, for a review hearing on the life sentence that he is currently serving at MCI-Concord, following a return to custody as a parole violator. Mr. Dabrieo was convicted of second degree murder in May 1974 and sentenced to serve life in prison.

Mr. Dabrieo was initially paroled on August 14, 1989, and was returned to custody on September 1, 1990, for a parole violation. He was paroled for a second time on June 14, 2004, to the Billerica House of Correction to serve a one year from and after sentence for a drug possession crime that he committed while incarcerated. On December 13, 2004, he was released to parole supervision and was returned to custody on March 28, 2011, for another parole violation.

II. STATEMENT OF THE CASE

On March 27, 1971, Bruce Dabrieo murdered John McCormack, in Peabody. Co-defendant Fred Szybiak assisted in covering up the murder. On the night of the murder, Mr. Dabrieo had arranged a meeting with Mr. McCormack at the Roadhouse, a cocktail lounge in Peabody. Mr. Dabrieo knew Mr. McCormack from illegal narcotics transactions and owed the victim money.

They arrived at the Roadhouse at about 8:45 p.m. and Mr. Szybiak remained in the car while Mr. Dabrieo walked toward Mr. McCormack's car. Mr. McCormack came out of the building, approached Mr. Dabrieo, and the two men talked. Mr. Dabrieo returned to his car and said to Mr. Szybiak, "Follow us." Mr. Szybiak drove Mr. Dabrieo's car, while Mr. Dabrieo rode with Mr. McCormack in his car. They went to an apartment complex in Peabody where Mr. Dabrieo shot Mr. McCormack inside Mr. McCormack's car. Mr. Szybiak saw "some flashes of a gun" and he "heard like fire cracking noises" Mr. Dabrieo then got out of Mr. McCormack's car, tugging at Mr. McCormack's hand as he did so.

Mr. Dabrieo went to his own car, told Mr. Szybiak that Mr. McCormack was dead, and said "We have to get the car out of there." He asked Mr. Szybiak to drive Mr. McCormack's car. Mr. Szybiak entered that car on the driver's side and saw Mr. McCormack's body on the floor of the passenger's side. The two men moved the car to a wooded area. Mr. Dabrieo told Mr. Szybiak that they had to get gasoline because he wanted to burn the victim's car. They obtained gasoline and returned to the area. Mr. Dabrieo poured the gasoline into Mr. McCormack's car and threw a lit match into the car causing the gasoline to explode. Mr. Szybiak saw a gun in Mr. Dabrieo's possession shortly after leaving the area, and the two men took the gun apart and discarded it. They made some other stops that evening and used heroin.

Mr. McCormack's burned car, still smoldering, with Mr. McCormack's body inside was found on March 28, 1971. The medical examiner who performed the autopsy testified that he "found the body to be badly charred with many heat fractures.... The body was so badly burned and charred that it was separated in two parts." On examination of the left side of the chest, he found a bullet embedded in the muscle.

When initially questioned by the police, the defendant denied any involvement in the murder. Upon further investigation, he was subsequently charged and arrested a year after the murder. Mr. Dabrieo maintains that he killed Mr. McCormack in self-defense because Mr. McCormack had drawn a gun during a fight that had ensued in the car. He further claims that he decided to take a gun with him to their meeting for protection because he knew that Mr. McCormack always carried a gun.

It is hard to assign any credibility to Mr. Dabrieo's self-defense claim because it is inconsistent with the jury verdict and he did not describe self-defense at the times that it would have been logical to do so, including when he spoke to Fred Szybiak seconds after the shooting, when interviewed by police, and at trial. It appears that Mr. Dabrieo did not testify at trial and his lawyer did not even argue a self-defense theory to the jury. Additionally, there is no evidence giving any support to Mr. Dabrieo's self-serving claim that the victim had a gun.

III. CRIMINAL AND INSTITUTIONAL HISTORY

Mr. Dabrieo's first arraignment was at the age of fifteen for three counts of use without authority. He was found not delinquent. Adult arraignments include charges of assault, operating to endanger, attempted larceny, breaking and entering, and drug offenses. At the time of his arrest for murder, he had several cases pending in court. He was convicted of drug possession charges while incarcerated and while on parole.

Mr. Dabrieo's institutional conduct is below average. He has been returned to higher custody on eight occasions, committed a new offense (possession of class A substance) while in custody, and received a total of 24 disciplinary reports. Mr. Dabrieo was prosecuted and convicted for the heroin possession, for which he received a one year sentence, to be served from and after his life sentence. His most recent disciplinary report occurred on October 13, 1999. Of the eight returns to higher custody, seven of them were for possession of drugs or were drug related. Additional disciplinary reports include: possession of a 15" shank, participating in a group demonstration, refusing to lock-in, possession of black tar, possession of food, possession of a weapon, possession of contraband, and numerous drug related infractions.

Mr. Dabrieo has participated in some Veteran's programs throughout his incarceration. Classification Reports also note participation in 12 step meetings, Right Turn, Project Reach Out, the Barber Program, the Italian/American Club, Basic and Advanced Computers.

Since his most recent return to custody, he has enrolled in the Smart Recovery Program.

IV. PAROLE HISTORY

Overall, Mr. Dabrieo has performed poorly on parole. This is Mr. Dabrieo's second return to custody as a parole violator. The overriding factor in his parole failures has been his decades-long struggle and uncontrollable addiction to drugs.

Mr. Dabrieo was paroled August 14, 1989, to Intensive Parole Supervision. He obtained full-time employment with the Boxboro School System and attended AA meetings. However, less than a year into his parole, on July 6, 1990, his Parole Officer was notified that he had checked into the Bournemouth Hospital Substance Abuse Treatment Program on July 4, 1990. Mr. Dabrieo admitted that he had used a drug initially prescribed due to a work injury, and heroin twice per day for the two month period prior to entering treatment. He was given a final warning and supervision was continued.

Mr. Dabrieo enrolled in substance abuse programming. During a home visit on August 29, 1990, he admitted to drinking several beers and smoking marijuana, which may have contained opiates. He tested positive for opiates, codeine, and THC. On August 30, 1990, he admitted that he had been using opiates. He was admitted to the Bournemouth Hospital awaiting placement in a program, but left and reportedly caused problems at the Transitions program where he had been residing. He was returned to custody on September 1, 1990, and his parole was revoked.

The Parole Board denied re-parole after hearings in 1990, 1991, 1992, 1996, and 1999. Denials were based in part on Mr. Dabrieo's continued drug use in prison (including a 1992 disciplinary report for marijuana use and a 1996 disciplinary report for possession of heroin).

After a parole hearing in 2004, the Parole Board granted re-parole to Mr. Dabrieo, who was then required to serve his from and after house of correction sentence for the heroin possession in 1996. After Mr. Dabrieo was released to the community from the Billerica House of Correction on December 15, 2004, he attended counseling and worked full-time as a barber. He moved to part-time work as a barber following approval of Social Security Disability benefits in October 2006. In February 2007, he received a prescription for Percocet following knee replacement surgery. In December 2008, he tested positive for THC and admitted to smoking marijuana on occasion. In January 2011, he produced a prescription for morphine.

Finally, on March 28, 2011, Massachusetts State Police were patrolling an area of the Super Stop and Shop Plaza in Revere. Trooper Mark Blanchard noticed a motor vehicle parked in the far end of the lot occupied by two suspects who were looking downwards. The car was registered to Mr. Dabrieo. Trooper Blanchard approached the vehicle and observed the two men moving about. He noticed Mr. Dabrieo trying to conceal a hypodermic needle and placing it on the floor. The passenger¹ dropped a needle, syringe, and spoon with heroin residue on the floor as ordered and both men were placed under arrest. Upon retrieving the evidence, Trooper Blanchard punctured his finger on Mr. Dabrieo's bloodstained hypodermic needle and required emergency treatment at Massachusetts General Hospital. This incident resulted in Mr. Dabrieo's conviction in Chelsea District Court for possession of heroin.

V. PAROLE HEARING ON JANUARY 5, 2012

Mr. Dabrieo has appeared before the Board numerous times and this is his second return to custody after a parole violation for using heroin. Board Members pressed him regarding his long history of drug use and his inability to remain drug free. Mr. Dabrieo presented as not fully motivated to maintain sobriety and uninsightful on how he might do so. Mr. Dabrieo said that he had a long period of sobriety lasting 15 years. A Board Member pointed out to him that he smoked marijuana during the time period, which brought into question Mr. Dabrieo's understanding of his sobriety.

In late 2010, Mr. Dabrieo consulted a physician for leg pain and obtained a prescription for morphine. He did not inform the physician that he is a heroin addict. It appears that obtaining morphine was the latest example of Mr. Dabrieo's pattern of obtaining prescriptions (including Percocet) without disclosing his substance abuse history. He stated at the hearing that he did not believe that he was aware of the ramifications of using morphine. This is not credible as his drug involvement began in his teens and specifically progressed to opiates and morphine as far back as his time in the military. Board members also pointed out Mr. Dabrieo's criminal record, which not only reveals drug offenses as far back as 1970, but throughout his incarceration and up to his latest revocation. Indeed, the murder he committed was directly related to his drug use. Yet, Mr. Dabrieo was incapable of recalibrating his parole plan to present specific, concrete things that he would do differently to remain drug free, other than simply stating that he "would never do opiates again." His parole plan is basically the same plan that resulted in his relapse.

When questioned regarding the murder, Mr. Dabrieo continued to maintain that he killed Mr. McCormack in self-defense, a claim which is not credible in light of the murder conviction and the evidence. Mr. Dabrieo did not present as particularly remorseful for this crime. He failed to fully connect his protracted and recurrent drug use with either the murder or with immediate public safety concerns.

¹ The passenger has an extensive criminal record, commencing as a juvenile and containing seventy-eight adult arraignments.

Two supporters, his oldest son and his wife, testified on his behalf. Essex Assistant District Attorney Paul Wagoner spoke in opposition to parole.

VI. DECISION

Bruce Dabrieo has a difficult challenge: he seeks to serve a life sentence for murder in the community while managing a decades-long heroin addiction. Understanding the considerable issues involved in meeting that challenge, the Parole Board expects Mr. Dabrieo to demonstrate insight, motivation, and commitment, all of which should be reflected in a comprehensive and specific plan for community sobriety and success. At his parole hearing, Mr. Dabrieo failed to meet any of those expectations. The Parole Board concludes, therefore, that Mr. Dabrieo is not rehabilitated. He would probably re-offend if released and his release is incompatible with the welfare of society. Accordingly, parole is denied with a review in five years.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing. Pursuant to G.L. c. 127, § 130, I further certify that all voting Board Members have reviewed the applicant's entire criminal record. This signature does not indicate authorship of the decision.


Caitlin E. Casey, Chief of Staff


Date