



The Commonwealth of Massachusetts
Executive Office of Public Safety



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DECISION

IN THE MATTER OF

JOSEPH DECICCO

W57492

TYPE OF HEARING: Review Hearing

DATE OF HEARING: February 23, 2012

DATE OF DECISION: May 2, 2013

PARTICIPATING BOARD MEMBERS: Cesar Archilla, 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, the nature of the underlying offense, the institutional and criminal records, supporting documentation and following a public hearing where the views of the public were expressed orally or in written submissions, the inmate's parole request is denied. The review of that decision will be in five years.

I. INTRODUCTION

Joseph DeCicco appeared before the Massachusetts Parole Board on February 23, 2012, for a review hearing on the life sentence he is currently serving at MCI-Norfolk. On November 16, 1994, after a jury trial, Mr. DeCicco was convicted of the second degree murder of Wayne Hilliard and was sentenced to serve life in prison. He was also sentenced to serve a concurrent 15-20 year term for arson, along with concurrent three to five year terms for possession of a flammable liquid and assault by means of a dangerous weapon. Finally, he was sentenced to serve three to four years for three counts of causing injury to a firefighter during a criminal offense, with these sentences running concurrent with each other and consecutive to the life sentence. His convictions were upheld on appeal.¹ *Commonwealth v. DeCicco*, 44 Mass. App. Ct. 111 (1998). He filed a motion for a new trial in 1999, which was denied and, on

¹ Mr. DeCicco was originally charged with two counts of arson. The Appeals Court vacated one of the counts as a lesser included offense of second degree murder on a felony-murder theory. *DeCicco*, 44 Mass. App. Ct. at 125.

appeal, the convictions were again affirmed. *Commonwealth v. DeCicco*, 51 Mass. App. Ct. 159 (2001).

II. STATEMENT OF THE CASE

The following facts are culled, in part, from the Appeals Court's decision. *DeCicco*, 44 Mass. App. Ct. at 111-15. On January 16, 1994, at approximately 12:30 a.m., Joseph DeCicco and his co-defendant, George Madden,² threw an incendiary device (a homemade Molotov cocktail) into the home of Robert Hilliard, immediately setting the house ablaze and causing the death of Wayne Hilliard, Robert's 35-year-old son.

Robert Hilliard met Mr. DeCicco in 1993. The Hilliards lived on Bellingham Avenue in Revere and DeCicco and Madden lived in an apartment complex a few houses away on the same street. Mr. Hilliard would buy cocaine and share it with Mr. DeCicco and his friends, including Mr. Madden. By December of 1993, however, the relationship had deteriorated because Mr. Hilliard had exhausted his savings, was unable to buy cocaine anymore, and decided to stop using. Displeased with this news, Mr. DeCicco tried to pressure and persuade Mr. Hilliard to continue to supply him and his friends with cocaine. The acrimony grew and Mr. DeCicco threw a brick through one of Mr. Hilliard's windows, entered his porch and destroyed property with a shovel, and repeatedly threatened to harm or to kill him. By the end of December, after the defendant had threatened to kill him, Mr. Hilliard kept a loaded shotgun nearby at all times, fearing for his life.

Around 12:35 a.m. on the night of the murder, Mr. Hilliard was awakened by his son, Wayne, who was screaming that the house was on fire. The fire spread quickly and both men struggled to escape. The elder Hilliard was able to jump from a window to safety, but his son could not get out of the house and perished in the fire. The autopsy determined that Wayne Hilliard died from "acute carbon monoxide poisoning." Three members of the Revere Fire Department were also injured in the course of extinguishing the fire. Both defendants, DeCicco and Madden, were arrested and both gave statements accusing the other of starting the fire.

III. CRIMINAL HISTORY

Joseph DeCicco's first arrest was at age 19. His criminal record includes 11 arraignments with 35 charges. The offenses include manslaughter, operating under the influence, drug dealing, breaking and entering, assault with a dangerous weapon (butcher knife), and malicious destruction of property.

He has two prior state commitments. He was sentenced to five years committed on March 7, 1983 for possession class B with intent to distribute (3 counts) after he sold cocaine to an undercover officer. A State Police report from that case notes DeCicco stated to the undercover officer, "you know if you turn out to be a narc, something very bad will happen to you." The officer stated "well then I guess I don't have to worry do I?" and the subject responded, "I hope not for your sake."

² Mr. Madden testified at the defendant's trial and, eleven months later, pleaded guilty to manslaughter, armed assault with intent to murder, two counts of arson, and at least one count of injury to a firefighter. *DeCicco*, 44 Mass. App. Ct. at 112 n.2.

DeCicco received a five to fifteen year sentence on August 1, 1983 for manslaughter. On September 5, 1982 at approximately 2:50 a.m., DeCicco shot Michael Sampson, age 23, in the face in a room of the Holiday Inn in Peabody. He and five others, including the victim, had attended a wedding and were drinking alcohol and consuming cocaine after the wedding. Mr. DeCicco and the victim were talking about guns when DeCicco pulled his gun out, pointed it at the victim, stated, "I could put six in your head," and fired one shot, killing Michael Sampson. He fled the scene and later turned himself in to police. DeCicco maintains the shooting was accidental.

DeCicco then committed the arson and the murder of Wayne Hilliard on January 16, 1994.

IV. INSTITUTIONAL RECORD & PROGRAMMING

Joseph DeCicco has been housed at MCI-Norfolk since April 1995. He has no returns to higher custody and his most recent Classification Report notes excellent unit and work evaluations. He did not engage in programming until 2006, nearly 12 years after having been incarcerated. DeCicco's most recent Classification Report makes note of his employment as a unit runner and participation in AA, 12 Step, NA discussion, and religious services. He has received certificates for the Correctional Recovery Academy, Alternatives to Violence (several phases), four certificates in Vocational Education, Emotional Awareness, and Jericho Circle.

Mr. DeCicco has a total of four disciplinary reports. The most recent report was in October 2009 for unauthorized accumulation of prescribed medication.

V. PAROLE HEARING ON FEBRUARY 23, 2012

Joseph DeCicco appeared before the Board for his second parole hearing. He was represented by student attorney Matthew McGowan. Mr. DeCicco has given several versions of his role in the murder, and the Board asked him to clarify his involvement. Mr. DeCicco said, "We retaliated; we agreed to the plan; I got methanol and put it in the bottle; [the co-defendant] had the cloth and he went out and threw the bottle." At his first parole hearing, Mr. DeCicco had placed nearly all blame on the co-defendant.

Mr. DeCicco had a very hard time admitting that he harassed Robert Hilliard, the intended victim, in the days or weeks before the arson murder. After DeCicco resisted any responsibility for harassment, a Board Member read the account of harassment recorded by the Appeal Court in its decision.

The inmate said he had been sober since 1994 and that he "enjoys sobriety." He abused cocaine prior to incarceration; he went to detox "four or five times" but sobriety lasted only a short time after each detox.

After killing Michael Sampson in 1982, Mr. DeCicco received a sentence for manslaughter on which he received a parole. He said, "my parole was good; there were no problems." This was a curious answer, because Mr. DeCicco later admitted he used drugs on parole and he was involved in a motor vehicle death. The motor vehicle death has a confusing

history: Mr. DeCicco's Porsche crashed in Revere traveling at 85 miles per hour; Mr. DeCicco received very serious injuries and Michael Floyd was killed. Despite the fact that he had injuries to his hands and arms likely caused by hitting the steering wheel, Mr. DeCicco in the past has claimed that he was not driving his own car and that Michael Floyd was the driver, despite the fact that Mr. Floyd did not have injuries to the hands and arms related to the steering wheel. When confronted with facts at this hearing, Mr. DeCicco admitted, "I may have been driving."

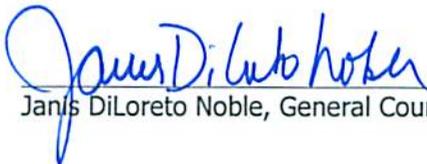
Wayne Hilliard's sister testified in opposition to parole, as did Suffolk Assistant Attorney Charles Bartoloni. Four supporters testified, including Mr. DeCicco's two sisters.

VI. DECISION

Joseph DeCicco presents a very unusual case: he has killed three people in three different incidents. Most significantly, he murdered Wayne Hilliard by an arson caused by a Molotov cocktail. At this and his previous parole hearing, Mr. DeCicco resisted responsibility for certain actions and refused to accept some well-established facts. By his actions, Mr. DeCicco has established that he is a very dangerous person. By his performance at his parole hearings, Mr. DeCicco has established that he is not rehabilitated. Given the murder, the manslaughter, and the motor vehicle death, Mr. DeCicco has a long and complicated rehabilitative path ahead of him. More candor would help him get started.

The standard we apply in assessing candidates for parole is set out in 120 C.M.R. 300.04, which provides that, "Parole 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, the Board finds that Mr. DeCicco is not a suitable candidate for parole. 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.


Janis DiLoreto Noble, General Counsel


Date