



The Commonwealth of Massachusetts
Executive Office of Public Safety



PAROLE BOARD

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DECISION

IN THE MATTER OF

TODD FOURNIER

W35435

TYPE OF HEARING: Revocation Review Hearing

DATE OF HEARING: December 4, 2012

DATE OF DECISION: September 6, 2013

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

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, criminal record, institutional record, the inmate's testimony at the hearing, and the views of the public as expressed at the hearing or in writing, we conclude by unanimous vote that the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in four years from the date of the hearing.

I. STATEMENT OF THE CASE

Todd Fournier appeared before the Massachusetts Parole Board for a review hearing on the life sentence he is currently serving at MCI-Norfolk. Mr. Fournier received this sentence in Plymouth Superior Court on March 25, 1976, after being found guilty after a jury trial of second-degree murder in the shooting death of 18-year-old David (Tanguay) Courtney.

On October 24, 1975, Mr. Fournier, age 18, bought a bottle of wine and went to a park in Middleborough to drink it. Two persons known to Mr. Fournier approached him, one of whom was the victim, David Courtney. Mr. Courtney had a .22 caliber rifle which he used for shooting birds and squirrels. Mr. Fournier asked Mr. Courtney to go into the adjacent woods with him to shoot some squirrels, and Mr. Courtney agreed. While walking into the woods, Mr. Fournier, who brought the bottle of wine with him, offered it to Mr. Courtney. Mr. Fournier handed Mr. Courtney the bottle of wine and Mr. Courtney handed his rifle to Mr. Fournier.

Shortly thereafter, Mr. Fournier pointed the rifle at Mr. Courtney and demanded his money. As Mr. Courtney put his arm in the air, Mr. Fournier shot Mr. Courtney with his .22 caliber rifle, striking him in the arm. The shot ricocheted and hit Mr. Courtney in the head. Mr. Courtney dropped to the ground, suffering from severe trauma to the head. Mr. Courtney died from these injuries. After the shooting, Mr. Fournier went into Mr. Courtney's pockets and took six dollars from him. Mr. Fournier ran away with the gun, smashed it against the trees, and hid the pieces. Mr. Fournier stated to two of his cousins and another that, "I just done a terrible thing," and also said that "he just shot a kid" and "only got six dollars off the stiff." Mr. Fournier was arrested later that day.

II. PAROLE HISTORY

Mr. Fournier was paroled on January 22, 2002 from Boston Pre-Release Center to a long term residential treatment program. On March 5, 2004, Mr. Fournier's parole was revoked as a result of a new arrest for operating under the influence of liquor and operating negligently. On October 6, 2004, Mr. Fournier was re-paroled to the East Boston Rehabilitation Center, a long term residential treatment program. He remained in the community working as a roofer and a truck driver and attending AA meetings.

On September 22, 2006, Mr. Fournier tested positive for marijuana and was warned by his field parole officer that drug use would not be tolerated. On October 4, 2006, or just eight days after testing positive for marijuana, Mr. Fournier was questioned by a Massachusetts State Trooper at a rest area off of Interstate 495 at midnight. The trooper noted that Mr. Fournier was in his vehicle with his pants unbuttoned and pornography on the passenger side seat. Mr. Fournier was cited for an illegal turn. Mr. Fournier did not report this police contact to his parole officer.

On October 6, 2006, Fournier was directed to report to the field office where he tested positive for cocaine use and was subsequently detained for violating his parole conditions. Mr. Fournier's parole was revoked and he was returned to custody. Mr. Fournier appeared before the Board for a review hearing on May 22, 2007 and was denied parole. The Board noted that Mr. Fournier had not adequately addressed his substance abuse addiction and set a review date for three years.

The review hearing was held on December 1, 2009, after which the Board denied parole and set a review date for three years. The Board again was concerned that although Mr. Fournier was involved in substance abuse programs in an institutional setting, he did not use the tools or the support that were made available to him for a successful parole. The Board concluded that while Mr. Fournier does well while incarcerated, based on his parole history, he is a risk to re-offend.

III. PAROLE HEARING ON DECEMBER 4, 2012

Todd Fournier admitted that he shot and robbed Mr. Courtney. He described the shooting as "impulsive," and stated that he was desperate and needed money for food and more alcohol. Board members inquired of Mr. Fournier's understanding of his relapses that resulted in his parole being revoked twice. Mr. Fournier told the Board that his parole failures were due to his not taking his "disease seriously." He stated that he now understands the

importance of having a support network in the community and maintaining his commitment to AA. Several Board members expressed concerns about Mr. Fournier not attending AA or NA for six months prior to his parole hearing. Mr. Fournier stated that "I don't consider myself to be an addict," and "If I can survive Walpole, I can handle real life situations on the street."

Since his return to custody as a parole violator in October 2006, he completed the following programs: CRA (2008), CRA Graduate Maintenance Program (2009), Alternatives to Violence 1st and 2nd level (2009), Reentry (2009) and Jericho Circle (2009). Since 2009, he has participated only in self-help voluntary programs. Mr. Fournier advised the Board that he had attended AA and NA meetings since his return to custody, but stopped attending approximately six months prior to his parole hearing as he felt the meetings were not helping him as the other inmates "were loud and disrespectful." Mr. Fournier has a total of 34 disciplinary reports, the last being in August 2001. Currently, Mr. Fournier is employed as a box folder in Industries at MCI-Norfolk.

Mr. Fournier was represented by Jeanne Segil and Greg Bernstein, student attorneys from the Harvard Prison Legal Assistance Project. Reverend Thomas Heim, David Silva, Timothy Lee and Vincent Brown all testified in support of Mr. Fournier's parole.

The victim's mother, Doris Courtney, sister, Cheryl Lopes, and niece, Michelle Rose testified in opposition of Mr. Fournier's parole. A letter from the victim's brother, Eugene Courtney was read by Ms. Rose. Plymouth County Assistant District Attorney Matthew Libby opposed parole.

IV. DECISION

Todd Fournier has received parole twice and committed new crimes both times. He has used cocaine, smoked marijuana, consumed alcohol, operated a vehicle under the influence, and masturbated at a highway rest stop. This conduct is unacceptable for a murderer on parole and establishes a lack of rehabilitation. Despite all the treatment and programs provided by the Commonwealth, Mr. Fournier has defiantly resisted learning about his addiction or changing his approach to recovery. He does not currently attend AA/NA and he believes he is not an addict. He gives good reason, therefore, for the Parole Board to conclude that in the community he would relapse and repeat his criminal behavior. Mr. Fournier is not rehabilitated. The risk is heightened by the fact that his substance abuse issues played a significant role in the murder.

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. Fournier is not a suitable candidate for parole. The review will be in four years, which will give Mr. Fournier time to examine and address his issues related to substance abuse and criminal thinking, and continue reforming from his violent act of shooting an innocent man.

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
Caitlin E. Casey, Chief of Staff

9/6/13
Date