



The Commonwealth of Massachusetts
Executive Office of Public Safety



PAROLE BOARD

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DECISION

IN THE MATTER OF

CLYDE SMITH

W55466

TYPE OF HEARING: Review Hearing

DATE OF HEARING: January 29, 2013

DATE OF DECISION: May 1, 2013

PARTICIPATING BOARD MEMBERS: Cesar Archilla, Charlene Bonner, Sheila 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, institutional record, the views of the public as expressed at the hearing or in written submissions to the Board, 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 three years.

I.STATEMENT OF THE CASE

On March 30, 1993, a twenty-one year old female was working at Tedeschi's Food Shop in Brockton. Clyde Smith entered the store, put some lifesavers on the counter to purchase, and then demanded the money from the cash register when the clerk opened the drawer. He reached in and grabbed the money and insisted she open the other drawer containing the lottery money. The clerk complied and gave him that money as well. Before leaving the store, he ordered the clerk to get down on the floor. A short time later, Mr. Smith robbed a Christy's Market in a similar fashion and he was apprehended following a car and foot chase. These robberies were the last in a series of approximately 25 robberies admittedly committed by Mr. Smith over a period of approximately 25 days.

On March 31, 1993, Mr. Smith was waiting to be arraigned for the robbery of Christy's Market when he escaped from custody by slipping out of his handcuffs. He fled from the Taunton District Court and jumped into the Taunton River where he was re-apprehended by police.

On March 3, 1995, Mr. Smith was found guilty in Plymouth Superior Court of two counts of unarmed robbery as a habitual offender. He received a life sentence. On September 20, 1995 he was found guilty in Plymouth Superior Court of unarmed robbery (9 counts), armed robbery (2 counts) and received sentences of 12 to 14 years. He was also found guilty of assault with intent to rob, unarmed, and received 9 to 10 years. These sentences were all ordered to run concurrent with his life sentence.

II. PAROLE HEARING ON JANUARY 29, 2013

Mr. Smith reported a childhood history of parental neglect and physical abuse as laying the foundation for his substance abuse and criminal thinking. He began abusing drugs and alcohol at the age of nine. He reported that he regularly began abusing substances, including phencyclidine, alcohol, and marijuana and dropped out of school in grade nine. Mr. Smith stated he supported both his drug habit and daily living needs by stealing, and by his teenage years he was also selling drugs. Mr. Smith acknowledged that by age nineteen, following his first adult incarceration for drug related offenses, robberies, driving offenses, and breaking and entering, he was completely dependent and invested in a lifestyle of addiction.

By 1992, Mr. Smith reported that he became addicted to crack cocaine, which is when he stated his "criminal behavior took off." Mr. Smith stated his only motivation at that point in his life was to be able to continue to use crack cocaine. During the month of March 1993, Mr. Smith reports he was on a drug fueled mission to support his crack habit by robbing establishments such as convenience stores and gas stations. He stated that "at that time, I had no respect for myself or others; my only motive was to feed my addiction." Mr. Smith had a series of dysfunctional relationships and is the father of three children with whom he has no relationship. Mr. Smith acknowledged that he was not capable of having any healthy relationships, and essentially did not learn how to have relationships until he completed years of programming and rehabilitation.

Mr. Smith was asked by the Board about his extensive, life long history of criminal behavior, including armed robberies and a prior parole in 1984 which was revoked after he committed new crimes. Mr. Smith was also asked about his institutional adjustment. In terms of his criminal history, Mr. Smith does not recall all of his crimes, as he was sometimes under the influence, but admits he was willing to place the public in fear to support his habit. Mr. Smith admits that he had no moral compass at that time and was driven solely by an insatiable desire to get high.

Mr. Smith stated that he has been sober since 1998, admitting that even during the first several years of his incarceration he continued to abuse drugs and alcohol. He was not interested in recovery until 1998 and was willing to accept and gain drugs while in prison to help him adjust day to day. Mr. Smith stated that he made amends to his mother before she died and he also made a promise to her that he would remain sober. Mr. Smith reported investing in his sobriety has allowed him to rehabilitate and grow into an individual who is caring, responsible and motivated to be a productive member of society. Mr. Smith attributes the programming he has attended, in particular the addictions related programming, and his faith based community programming as having the most value for his recovery. Mr. Smith reports that his choice of recovery programming, such as SMART recovery, is not readily

available, thus he spends a lot of time alone now. He also reported that he works and tries to keep himself positive with the limited programming that he has not already completed.

Mr. Smith was asked about his numerous returns to higher custody and accumulation of 26 disciplinary reports. Mr. Smith also attempted suicide by hanging and was evaluated at Bridgewater State Hospital. Mr. Smith reported that until he became sober and fully invested in rehabilitation, he was feeling hopeless and depressed; however he denies having any subsequent feelings of suicidal ideation. He acknowledges his difficult adjustment initially, but considers his overall adjustment since he became sober to be positive.

Mr. Smith was initially classified to Old Colony; however, he was transferred to higher custody in 1994 for possession of a weapon. In 1995, he was transferred to Norfolk; however, he was again returned to higher custody for poor institutional adjustment. Mr. Smith's adjustment improved in 1998, and he was transferred to Gardner, but was returned to higher custody for the third time in 2002. He remained in higher custody until 2003, and was then transferred to Old Colony. Mr. Smith was involved in a fight and was transferred back to higher custody in 2005. After a period of positive adjustment, he was again transferred to a medium security facility in 2007. His adjustment appeared to be progressing in a positive direction until November 10, 2010, when he received a disciplinary report for an assault on a corrections officer. Mr. Smith described this offense as an ongoing conflict with this particular corrections officer and denies any intended physical altercation. Mr. Smith believes that as a result of this conflict, he has been subjected to unnecessary confrontations from other officers, which has been difficult for him to manage at times, and thus had requested a transfer for this reason and to pursue other programming opportunities at another facility. Mr. Smith has completed his GED and numerous programs, primarily beginning in 2000. Mr. Smith's request to be transferred was denied by the Department of Correction.

Mr. Smith acknowledged the many victims who have suffered as a result of his criminal behavior; however, he describes himself as having paid his debt to society. Mr. Smith made the distinction between his crimes and the sentence he received versus those serving a life sentence for violent offenses such as rape and murder. The Board responded with specific questions regarding his criminal history. Mr. Smith's history includes notable charges of 4 counts of threatening, 24 charges of armed robbery and unarmed robbery, 12 counts of assault and battery with a dangerous weapon and assault and battery, and possession of a firearm. Mr. Smith agreed that he had been charged with many offenses but noted the fact that many of the charges were dismissed, including the firearm offense. Mr. Smith insisted that he never owned or used a gun. Mr. Smith did not deny that he has committed many crimes, but attributes his criminal history primarily to his need to support his addiction. Mr. Smith does not view himself as a violent offender and fully conveys that he believes he is no longer a threat to public safety.

Finally, when asked about the high scores on his risk assessment COMPAS evaluation, indicating a high risk for violence and a high risk for recidivism, Mr. Smith appeared surprised and was unclear as to what evaluation the Board Member was referring to. Upon further questioning, Mr. Smith stated he must have filled out the COMPAS carelessly. Mr. Smith's legal representative requested that the record of decision remain open allowing them to examine the COMPAS evaluation and respond accordingly. In a follow-up memorandum to the Board, Mr. Smith explains that of the 51 factors that relied on his score, only four are dynamic, or carry the potential to change. Mr. Smith responded (via his legal counsel) that he has addressed each of those four areas in his rehabilitation. The remaining 47 factors were pointed out to be static factors that encompass his criminal history, prior incarcerations and history of substance abuse, and thus will remain unchanged. His legal counsel makes the point that "for this reason, such

risk assessments are not designed to be dispositive in making parole decisions, but instead are a valuable tool in determining the individual rehabilitative needs of an offender and to establish conditions of parole when an otherwise appropriate candidate is released." In conjunction with additional information provided in the follow-up memorandum explaining the purpose and use of COMPAS, Mr. Smith is reported as having addressed his rehabilitative needs through his successful completion of over 30 institutional programs and should be considered a low risk, positive candidate for parole.

Mr. Smith reported that he has developed the necessary coping skills to maintain sobriety and has established a supportive and structured release plan to assist with his re-entry into society. This plan includes transitioning through lower security to a long term residential treatment program. Speaking in support of Mr. Smith's parole release was his former student attorney, Kim Jones, who represented Mr. Smith during his 2010 parole hearing and has maintained contact with him. Ms. Jones stated she considers Mr. Smith to be a friend. Ms. Jones has continued to visit him within the institution, correspond with him through writing, and would be willing to offer her support upon his release. Mr. Smith also included additional letters of support from two former inmates who are now living in the community and willing to offer their support.

There was no member of the public who spoke in opposition of Mr. Smith's release. A letter of opposition was provided by the Plymouth County District Attorney Timothy Cruz.

III. DECISION

Clyde Smith is reportedly the product of an abusive, neglectful childhood that led him to a life of addiction and crime. His lengthy criminal history ultimately came to an end when he was given a life sentence under the habitual offender statute. Mr. Smith has never led a productive life of good citizenship in the community, and has essentially been forced to develop and mature during his incarceration.

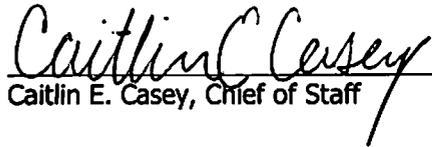
Mr. Smith's institutional adjustment includes numerous returns to higher custody due to serious disciplinary infractions, including most recently in 2010 for assaulting a corrections officer. Mr. Smith has engaged in numerous programs relevant to his criminal history, and by his account has maintained his sobriety since 1998. The Board notes the successful completion of numerous programs during his incarceration. The Board also expressed concern regarding Mr. Smith's overall presentation during his parole hearing most notably when asked specific questions regarding his criminal history and disciplinary record. Mr. Smith appeared selectively credible throughout the hearing, making it difficult to evaluate his authentic level of insight and appreciation versus minimization of his life long criminal history.

Despite Mr. Smith's position that his conduct is less serious than violent offenses resulting in death or sexual violence, the totality of his criminal history is of significant concern, hence making him a public safety risk. Mr. Smith's sentence of life with the possibility of parole is a reflection of his lengthy criminal history and his risk to public safety.

The Board is not convinced that Mr. Smith no longer poses a risk to public safety. The Board concludes that he would benefit from a further period of positive institutional adjustment and rehabilitation. The Board also notes concerns regarding his lack of community support; Mr. Smith appears to be an inmate who would need to develop positive relationships through long-term residential programs and other re-entry support services.

After consideration of all factors relevant to parole release, the Board concludes by a unanimous decision that Mr. Smith's parole release is not compatible with the welfare of society. Mr. Smith's parole is denied with a review in three years. The Board encourages Mr. Smith to continue to invest in his rehabilitation, avoid disciplinary reports by using positive conflict resolution skills, and to examine how he conducts himself when confronted with adverse and difficult situations.

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