



The Commonwealth of Massachusetts
Executive Office of Public Safety



PAROLE BOARD

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DECISION

IN THE MATTER OF

DERRICK SUTTON

W56168

TYPE OF HEARING: Review Hearing

DATE OF HEARING: November 14, 2013

DATE OF DECISION: December 5, 2013

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, 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 testimony of the inmate at the hearing, and 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 a suitable candidate for parole at this time. Parole is granted to a long-term residential program following one year of incarceration in lower security at the Department of Correction (DOC) during which time Sutton must maintain good conduct and comply with all DOC expectations for programs, activities, and employment.

I. STATEMENT OF THE CASE

On November 14, 2013, Derrick Sutton, age 39, appeared before the Massachusetts Parole Board for a review hearing. On March 29, 1994 in Suffolk Superior Court Mr. Sutton pleaded guilty to second degree murder and received a life sentence for the killing of Darryl Dennis, age 23. On the same date, Sutton also pleaded guilty to unlawful possession of a firearm and received a mandatory three to five year sentence that ran concurrently with the life sentence.

On November 15, 1993, at approximately 6:00 P.M. by 185 Cabot Street in the Whittier Street Projects, Boston Police officers found Darryl Dennis suffering from gunshot wounds to his back and one to his head. When police arrived, Mr. Dennis was lying on the ground face up

and bleeding profusely from the head. Mr. Dennis was transported to the Boston City Hospital where he was pronounced dead.

Witnesses saw Derrick Sutton, then age 19, come out of 185 Cabot Street, armed with a .38 caliber handgun. While accompanied by three or four of his associates, Sutton shot at Darryl Dennis four times. Sutton hit Dennis twice in the back. The first was a wound to his upper left back which perforated Mr. Dennis' lung. The second shot wounded Dennis' lower back, which resulted in a bullet being lodged in his vertebrae. While Dennis was on the ground, Sutton shot him in the head. Sutton then took a gold chain from Mr. Dennis. Earlier in the day, Dennis stole that gold chain from Sutton. Sutton was humiliated, as Dennis had stolen this gold chain in the presence of his girlfriend. Sutton shot Dennis in front of the Whittier Street housing projects, scattering a crowd of about 30 to 40 people. After he shot Dennis, Sutton went to his home at 118 Madison Park Court.

On December 14, 1993, a grand jury indicted Mr. Sutton on a charge of first degree murder. On March 29, 1994, Mr. Sutton pleaded guilty to second degree murder, making him eligible for parole after serving 15 years of a life sentence.

Five and one half years after pleading guilty, Sutton filed a motion for withdrawal of his guilty plea and for a new trial. Sutton claimed that he had a viable claim of self-defense, and that he had been coerced by his attorney and mother in offering his guilty plea. The trial court denied the motion and the Massachusetts Appeals Court affirmed the trial court's order. Commonwealth v. Sutton, 52 Mass.App.Ct. 1111 (2001). Sutton's application for further appellate review was denied. Commonwealth v. Sutton, 435 Mass. 1105 (2001).

II. INSTITUTIONAL & PAROLE HISTORY

Derrick Sutton appeared before the Board for his initial hearing on November 6, 2008. The Board denied parole with a five year review, noting that Sutton required a "longer period of positive adjustment to enable him to continue on his rehabilitative programming."

Prior to his November 2008 initial hearing, Sutton received approximately 27 disciplinary reports, which included fighting, violating rules concerning contraband, insolence, property destruction, and disruptive behavior. He had four returns to higher custody, two placements with the Special Management Unit, and 25 days in isolation for fighting. In 1997, Sutton was also charged with possession of a Class D drug, as a visitor provided him with two balloons of marijuana which he ingested, and later expelled. While the criminal charges were dropped, the incident resulted in a disciplinary report.

Sutton has been program-involved which is recounted in greater detail in the section regarding his November 14, 2013 hearing, *infra*.

III. PAROLE HEARING ON NOVEMBER 14, 2013

Derrick Sutton appeared for his second parole hearing. He was assisted by Northeastern Law School student attorney Shannon Jurgens. After his initial hearing in 2008, Mr. Sutton was denied parole as the decision stated, "Mr. Sutton portrays himself as a victim" and his "inability to maintain a positive period of institutional behavior indicates he is a risk to

re-offend." In this hearing, the Board questioned Sutton about his upbringing, his relationship with the victim, the events leading up to the murder, his poor behavior in the early years of incarceration, his program participation, and his improved institutional conduct.

In contrast to most inmates seeking parole on a murder case, Derrick Sutton had minimal contact with the criminal justice system before the murder and had been a successful high school student. Also in contrast to most murder cases, Sutton was a friend of the victim's and they had a primarily positive relationship until the day of the murder. As a child, Sutton lived in North Carolina where his grandmother was his primary caregiver. He had a strong positive attachment with his grandmother, whom he described as a woman of "great faith and strong convictions." He moved to Boston at age 12 to live with his mother. In Roxbury, he was exposed for the first time to drugs, violence, and gangs. He witnessed a murder shortly after he moved to Boston, and he said he was terrified by the violence.

Sutton was an only child and experienced considerable loneliness which led him to seek the company of older boys in the neighborhood. One of the older boys was Darryl Dennis. Through his association with older boys, Sutton engaged in some negative or criminal activity, including hanging out, fighting, drinking alcohol and smoking marijuana, and selling drugs. He became friendlier with Darryl Dennis and when Mr. Dennis was kicked out of his aunt's house, Mr. Sutton persuaded his mother to let Mr. Dennis live in the Sutton house. Mr. Dennis lived with the Suttons for about six months when Derrick Sutton was 14. Mr. Sutton was involved with a group of neighborhood boys and he admitted that they were a gang known as the "Shawmut Avenue Boyz." He developed a daily habit of smoking marijuana.

Sutton testified that "after my son was born when I was 18, I stopped selling drugs and cleaned up my life." He distanced himself from the gang and was accepted to Fenway High School. He excelled at Fenway, eventually earning good grades and succeeding at paid internships at Boston Children's Hospital and the Museum of Science. On the day of the murder, Sutton went to school and encountered Darryl Dennis on his way home to get ready for work at the Museum of Science. Dennis snatched a chain from Sutton's neck. This set off a series of confrontations, all occurring on that same day. The confrontations involved Darryl Dennis and his friends with Derrick Sutton and his friends.

The final confrontation took place in the Whittier Street housing project. Sutton was with his friends and armed with a handgun when he saw Darryl Dennis. Sutton said that he fired twice at Mr. Dennis and struck him; he went up to Mr. Dennis and fired a third time before reaching down and snatching his own chain from Mr. Dennis' neck.

Upon coming to prison, Derrick Sutton was not a well-behaved inmate. He received approximately 27 disciplinary reports, including several for fighting, several for insolence with staff, and one for possession of marijuana. At the hearing, Sutton said, "I had poor behavior when I came to prison; I was trying to fit in; I thought that's what I needed to do to survive." He explained that his behavior has been much improved: "I try to be a role model now; the corrections officers trust me." He said that Alternatives to Violence has helped him with skills and strategies to resolve disputes. He had a fight in 2011 in which Mr. Sutton said he argued with an inmate over use of the phone and later that day he went to the inmate's cell, apparently to continue the argument. Sutton said at the hearing, "I could have avoided that fight by not arguing in the first place or not going to his cell later; he did hit me." Sutton said

that he used the skills he learned in Alternatives to Violence in a later incident: "in June, I was assaulted and I walked away."

Dr. Bonner commented that, "you were doing a lot of things right in the community with school and work but you were walking on a balance beam with other things in the neighborhood; then you went to prison with a lot of strengths but you have been your own worst enemy in prison." In response, Sutton cited the importance of programs that have helped him improve his behavior.

Sutton has completed many rehabilitative programs, including the Correctional Recovery Academy (a six-month residential program), Emotional Awareness, Thinking for a Change, Father's Group, Violence Reduction, Introduction to Substance Abuse Treatment; Alternatives to Violence (two phases), and 12 Step. Since his last hearing, he has completed Alternatives to Violence, Men's Work, ABLE Minds, Fatherhood, Cognitive Skills and Active Listening, Jericho Circle, and Fatherhood. He specifically cited Men's Work discussion group as being helpful and also said that it was important in CRA for him to learn about how his negative behavior has affected others, including the victim's family, his mother, his son, and his community. He received his GED in 1995.

Public testimony in support of parole was especially strong. Derrick Sutton's mother described her son's improved communication and decision-making skills. She also described how he had been a good father to his son even through years of incarceration. She confirmed that Darryl Dennis did live with her family for six months and that, on the day of crime, her son called her at work to say that Mr. Dennis had taken his chain. Mrs. Sutton has arranged for her son to see a counselor that she knows and to work for a friend as a glass installer if he is paroled. Derrick Sutton, Jr. read an essay that he wrote for school that described his relationship with his father. He said his father has been "the one person I knew always had . . . the best advice possible; he's influenced my life in so many positive ways I don't know how I would be able to thank him. I feel the best way possible to thank him is just by using everything he taught me in being successful in life." Larry Myatt, who was the principal of the Fenway School when Sutton attended, testified that "Derrick did very well in a challenging academic environment; he was amiable and cooperative and ingratiated himself with the faculty." He noted that Mr. Sutton, because of his performance at school, was given two coveted internships and that he performed very well at both jobs. Sutton made the honor roll and received many certificates of academic achievement at Fenway. Suffolk Assistant District Attorney Charles Bartoloni spoke in opposition to parole.

IV. DECISION

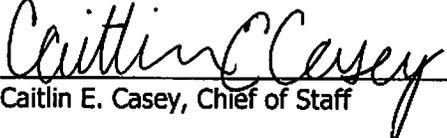
Derrick Sutton was the product of a solid upbringing but, as a teenager, fell victim to associations with negative people in his neighborhood. He became involved in gang activity, including drug dealing. After the birth of his son, he pulled back from the streets, stopped dealing drugs, and was admitted to a competitive high school where he was succeeding with good academic work, good conduct, good community participation, and successful internship employment. He made a tragic mistake by shooting his friend in retaliation for being robbed of his chain by the victim earlier in the day. Once again, his criminal conduct was assisted and propelled by his neighborhood friends. Upon coming to prison, Derrick Sutton wasted his first few years with poor conduct. Eventually he became active in programs and reconnected with

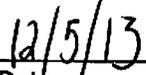
the talents, personality, and good decision-making that he exhibited at Fenway High School. He has worked hard for several years and has succeeded in eliminating his criminal thinking, reducing his impulsivity, and using his family relationships to keep him on a positive path. Derrick Sutton has established that he is rehabilitated and the Parole Board concludes that the four goals of sentencing – punishment, deterrence, public protection, and rehabilitation – have been met.

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, the Board concludes that Sutton is a suitable candidate for parole. Because Derrick Sutton is rehabilitated, the Board grants parole to a long-term residential program after one year in lower security at the Department of Correction. This release plan will allow for important supports and treatment during a closely supervised transition.

SPECIAL CONDITIONS: Parole to a long-term residential program after one year in lower security, during which Mr. Sutton must maintain good conduct and participate in all programs, activities, and employment recommended by the Department of Correction; no drug use; no alcohol use; substance abuse evaluation at the program with a requirement to follow recommended treatment, if any; one-on-one counseling for adjustment issues; no contact with victim's family.

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