



The Commonwealth of Massachusetts
Executive Office of Public Safety



PAROLE BOARD

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DECISION

IN THE MATTER OF

MARK VAN ZANT

(Formerly known as Mark R. Russell)

W54689

TYPE OF HEARING: Review Hearing

DATE OF HEARING: April 23, 2013

DATE OF DECISION: April 22, 2014

PARTICIPATING BOARD MEMBERS: Cesar Archilla, Dr. Charlene Bonner, Tonomey Coleman, 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, 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 three years from the date of the hearing.

I. STATEMENT OF THE CASE

On June 24, 1993, after a jury trial in Middlesex Superior Court, Mark Russell, now known as Mark Van Zant, was found guilty of second-degree murder and sentenced to serve life in prison. His initial appeal was unsuccessful, and the Appeals Court and the Supreme Judicial Court affirmed the conviction. *Commonwealth v. Russell*, 38 Mass. App. Ct. 199 (1995), *rev. denied*, 420 Mass. 1101 (1995). He filed a motion for a new trial in 1998, which was denied. On appeal, however, the Appeals Court vacated the conviction, finding error in the jury instructions. *Commonwealth v. Russell*, 54 Mass. App. Ct. 1110 (2002). The Commonwealth successfully petitioned the Supreme Judicial Court for further appellate review and, on that review, the Supreme Judicial Court reversed the Appeals Court's decision and reinstated the conviction. *Commonwealth v. Russell*, 439 Mass. 340 (2003). The following facts are culled from the Appeals Court's opinion. *Russell*, 38 Mass. App. Ct. at 200-01.

In October 1991, Van Zant killed 39-year-old Deborah Sweeney. She died from injuries sustained as a result of being struck by his car. Prior to the murder, Van Zant and the victim were acquainted. One or two nights before she was killed, the victim was standing on Market Street in Lowell when Van Zant drove up in his automobile, got out, and approached her, and asked her to go with him. She asked him if he had any money and he responded that he did not but, because they were friends, he wanted her to go with him anyway. They then walked to the side of a building where they argued for about two minutes. A slapping sound was heard and the victim ran across the street holding her face. Van Zant jumped into his automobile and drove away.

On October 28, shortly before she was killed, the victim walked into a restaurant located on Market Street and had a drink. Van Zant was seated at the bar, about twenty feet from her. She left the restaurant about ten minutes after she had arrived, and he left about two minutes later. After she left the restaurant, the victim met a friend, who observed that she was angry and upset. When the victim and her friend finished talking, the two headed off in separate directions on Market Street. Moments later, the victim's friend heard the sound of a speeding car. As it passed her, she saw that Van Zant was the operator. The friend then looked back down the street to see whether the victim had heard the automobile and saw her on the sidewalk.

Van Zant passed the victim, driving at about thirty to forty miles per hour. He then looped into two parking lots, accelerated the engine, drove up onto the sidewalk, and struck the victim with the right front quarter of his automobile. The engine was accelerating during the entire maneuver. Before he struck her, he did not slow, brake, or stop. After striking her, the automobile accelerated and Van Zant drove around the block, then came back to the scene and stopped just behind the victim's body. He left his automobile, opened the trunk, pulled off latex gloves, and threw them into the trunk. He then put on another pair of latex gloves that he had obtained from the back seat of his automobile.

When the ambulance personnel arrived, they found the victim's body lying in the street. They were surprised, considering the victim's injuries, not to find blood under the body. However, a pool of what appeared to be blood was discovered a couple of feet closer to the curb than the victim's body. Van Zant's car had cheese curls, which the victim had been eating prior to her death, stuck to the hood and windshield. It also had damage to its right front side. The victim died of a skull fracture and other injuries to her brain.

II. PAROLE HEARING ON APRIL 23, 2013

Mark Van Zant, formerly known as Mark Russell, appeared for his second parole hearing on the life sentence he is serving for the second degree murder of Deborah Sweeney. Van Zant is now 50 years old and has served 20 years. He has consistently maintained that he did not intend to hit Ms. Sweeney with his car and was just trying to scare her. The evidence does not support his claim and at his initial hearing in 2008 the Parole Board rejected that claim. At this hearing, Van Zant said, "At my first hearing Chairman Maureen Walsh told me 'you are the same liar today that you were 15 years ago.' Van Zant said, "I was angry when she said that, but later my therapist explained that sometimes you get angry when someone speaks the

truth.” At this hearing he said, “I was denied parole because I sugarcoated the whole situation; I said what I thought the Parole Board wanted to hear.”

Van Zant provided information on his background. He dropped out of Lowell High School in ninth grade and began working. He started drinking heavily at age 17. He worked at Raytheon for six years where “the drinking got out of control; I drank Scotch at lunch; Scotch was all I drank during that time.” After a period of unemployment, he worked at Tewksbury Hospital as a technician assistant. He said, “I had this job at the time of the incident; I was drinking a lot; sometimes I drank in the morning when I got up; I drank at work; I would sneak into the parking lot and drink peppermint schnapps regularly; peppermint schnapps was my lunch.”

Van Zant said, “I filed three appeals claiming it was an accident, but it wasn’t an accident.” He provided these details on the crime. “I knew Ms. Sweeney was my uncle’s girlfriend; I had met her before; one time at the Market Street Pub, one time at my uncle’s house in Dracut after he died; my uncle was abusive, a drunk and drug user; I heard Ms. Sweeney was responsible for my uncle’s death and his loss of money so I was angry with her; I don’t know why I was so angry; I don’t remember a fight with her the night before the incident; I’m not saying it didn’t happen but I don’t remember it; on that day I started drinking right when I got up; I went to the White Eagle Café where I went every day; I took Klonopins and I was drinking all day; I ran out of money in the evening and went home and passed out; I got up at midnight and drank a beer; I went to the Laconic Lounge to cash a check but they wouldn’t do it so I left; the victim was at the end of the bar; I don’t remember if I acknowledged her; people told me she was at the bar but I don’t remember if I saw her; I left and drove around aimlessly; I saw her on the sidewalk in front of Olympia restaurant; she was just standing there alone near the curb; I turned my car around and hit her; I don’t know why I did that; I was angry; I believed she killed my uncle by injecting him.” He said that after running over the victim, he got into the trunk of his car to get latex gloves in order to “help the victim.” No Board Member believed that motivation. Based on all the evidence, Board Members concluded that it was more likely that Van Zant planned to move the body off the sidewalk and into the street in order to make the death appear as an accident caused by pedestrian negligence.

A Board Member commented that, “It doesn’t make a lot of sense; you didn’t even like your uncle.” Van Zant acknowledged that, “the whole thing was senseless; I took someone’s life for no reason.” Board Members also asked Van Zant whether his admission at the hearing was the first time he had ever admitted to intentionally striking and killing Ms. Sweeney. He said, “I only told my therapist; but the answer is really ‘no’ because I only told the therapist that ‘anything is possible;’ I didn’t tell her what I told you today.” A Board Member noted that Van Zant was not as forthcoming in a recent interview with parole staff. Van Zant said, “I admit that one of the reasons I’m admitting today is that I want to be released; I admit that.”

Van Zant has had good conduct in prison, with only three disciplinary reports. Due to enemy issues, he has been incarcerated in another state since November 1998. His program work includes Alternatives to Violence (one phase), Anger Management, Conflict Resolution, and Substance Abuse Services (two phases). He was unable to recall anything that he learned in Anger Management. A Board Member commented that, “your programs appear to have had limited effect because you lied about the murder to the Parole Board in 2008 even after you

had programs.” He does not have substance abuse programming since his 2008 hearing and does not attend AA. He said, “Before my last hearing I had a substance abuse program that was four days a week for six months; AA is sporadic at my institution.” He reported that, “I’ve always worked in prison.”

Deborah Sweeney’s brother and brother-in-law spoke in opposition to parole. They expressed the family’s belief that Van Zant asked Ms. Sweeney out on dates and that he was angry because she refused. Middlesex ADA Jamie Charles noted the facts that established intent to murder, including “evidence of an earlier assault, stalking earlier in the evening and that he goes out driving for an hour before he finds her.”

III. DECISION

Mark Van Zant has created a confusing situation related to assessing rehabilitation. For twenty years he was dishonest about his intention to kill Deborah Sweeney. He has now admitted the intent to kill. The motive for the murder remains unclear or unrevealed. He has no recent substance abuse program participation. He provided no evidence that he has spent much time considering his crime, the reasons he committed it, or the need for rehabilitation. His behavior in prison has been good but he has not made a concerted effort to rehabilitate or prepare for a safe return to the community. In looking at all these factors, the Parole Board concluded that there is insufficient evidence that Van Zant is rehabilitated.

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, it is the unanimous opinion of the Board that Mr. Van Zant does not merit parole. The period of review will be three years, during which time Mr. Van Zant should commit to rehabilitation to address issues of honesty, victim empathy, anger, and substance abuse.

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