



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

IN THE MATTER OF

MARK VAN ZANT
(Formerly known as Mark Russell)
W54689

TYPE OF HEARING: Review Hearing
DATE OF HEARING: April 5, 2016
DATE OF DECISION: September 22, 2016

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, Tina Hurley, Lucy Soto-Abbe

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, the age of the inmate at the time of the 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 written submissions to the Board, we conclude that the inmate is not a suitable candidate for parole. Parole is denied with a review scheduled in five years from the date of the hearing.¹

I. STATEMENT OF THE CASE

On June 24, 1993, after a jury trial in Middlesex Superior Court, Mark Van Zant (formerly known as Mark Russell) 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, but it 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. On that review, the

¹ Five of the seven Board Members voted to schedule a review hearing in five years. Two Board Members voted for a review hearing in four years.

Supreme Judicial Court reversed the Appeals Court's decision and reinstated the conviction. *Commonwealth v. Russell*, 439 Mass. 340 (2003).

On October 28, 1991, Mr. Van Zant killed 39-year-old Deborah Sweeney by driving into her with his car. Mr. Van Zant and Ms. Sweeney were known to each other before the murder. Several nights before she was killed, they were outside a bar on Market Street in Lowell when Ms. Sweeney refused Mr. Van Zant's request to have sexual relations. They argued for a few minutes, Mr. Van Zant slapped Ms. Sweeney across the face, and she ran from him. Mr. Van Zant returned to his automobile and drove away. Then, on October 28, Ms. Sweeney walked into a restaurant located on Market Street and had a drink. Mr. Van Zant was seated at the bar approximately 20 feet from her. Ms. Sweeney left the restaurant on foot about 10 minutes after she had arrived, and he left about two minutes later. Mr. Van Zant then drove down Market Street and passed Ms. Sweeney, who was standing on the sidewalk. He turned his car around in a nearby parking lot, accelerated the engine, and drove onto the sidewalk. He struck Ms. Sweeney with the right front quarter of his automobile, the engine accelerating during the entire maneuver. Before he struck her, he did not slow down, brake, or stop. Ms. Sweeney was thrown over the hood of the car upon impact. After striking her, Mr. Van Zant accelerated and drove around the block. He came back to the scene and stopped his vehicle just behind the victim's body. He left his automobile, put on a pair of latex gloves that he obtained from his vehicle, and moved the victim's body into the street.

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 her body. However, a pool of (what appeared to be) blood was discovered a couple of feet closer to the curb than where the victim's body lay. Mr. 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. Mr. Van Zant was arrested at the scene. The victim died of a skull fracture and other injuries to her brain.

II. PAROLE HEARING ON APRIL 5, 2016

Mr. Van Zant, now 53-years-old, appeared before the Parole Board on April 5, 2016, for a review hearing. He was not represented by counsel. This was his third appearance before the Board, having been initially denied parole in 2008 and then again in 2013. For over 20 years, Mr. Van Zant consistently maintained that he did not intend to hit Ms. Sweeney with his car and that it was an accident. The evidence did not support this claim, and a jury found him guilty of second degree murder. Over the years, he has filed several unsuccessful appeals that claimed it was an accident. At his initial parole hearing in 2008, he told the Board that it was an accident. However, at his review hearing in 2013, he admitted for the first time that it was not an accident, and that he had intended to hit Ms. Sweeney with his car. He told the Board that his motive in killing Ms. Sweeney was his belief that she had killed his uncle by injecting him with (what proved to be) a fatal dose of heroin. He said that Ms. Sweeney and his uncle had been dating, and that they were both drug addicts. His uncle died about three weeks prior to Ms. Sweeney's murder.

In Mr. Van Zant's opening statement at this hearing, he took full responsibility for killing Deborah Sweeney. He apologized to the Board for his previous "conscious choice" to use lies and deception in denying that he intended to hit Ms. Sweeney with his car. He told the Board

that he is now telling the truth. He said that he saw the victim on the sidewalk, consciously turned his car around, aimed his car at her, struck her with his vehicle, and then drove away. He also told the Board that he drove back to the scene shortly after driving away, parked his car near the victim, exited his vehicle wearing latex gloves, and proceeded to move the victim's body from the sidewalk into the street "to make it look like she was in the middle of the road when I hit her." This was the first time that Mr. Van Zant admitted to moving Ms. Sweeney's body in order to make it appear as if she was hit in the middle of the road. At his initial hearing in 2008, he denied any intent to purposely harm the victim. At his hearing in 2013, he admitted to purposely striking the victim with his car, but was adamant that he returned to the scene and put on latex gloves to try and help the injured victim, not to try and cover up his crime.

Board Members asked Mr. Van Zant why he killed Ms. Sweeney. He said that it was out of anger (as she had rejected him several days prior) and that he felt she was responsible for his uncle's death. When questioned about his relationship with his uncle, he said that his uncle was abusive towards his aunt (his mother's sister). Mr. Van Zant also said that his uncle was a drug addict, whom he didn't see very often as he "was not popular with my family." Board Members then expressed their confusion about his professed duel-motive for killing Ms. Sweeney. Mr. Van Zant had said that he was angry with Ms. Sweeney because he blamed her for his uncle's death, yet he wanted to have sexual relations with her just days before he killed her. The Board told him that he has created such a record of deception and lies regarding the death of Deborah Sweeney, that it remains difficult to determine if he is telling the truth because he admits to it, or if he is telling the truth because he thinks it is what the Board wants to hear in order to receive a positive parole vote.

Board Member's highlighted the fact that it took Mr. Van Zant 23 years to admit that he intentionally struck the victim with his car, and that his version of the offense continues to evolve every time he appears before the Board. Mr. Van Zant, however, could not clarify his motive for the Board. He could not say why the victim's rejection caused him so much anger and hatred that he felt the need to run her over with his car. He also could not explain why his uncle's death was so upsetting to him, especially since he claims that he did not have much of a relationship with this relative that was not liked by most of his family. When questioned about his attitude towards women and his past relationships, he admitted that he was "a tyrant" in past relationships. He said that he was engaged twice. The first engagement ended because he was verbally abusive, and the second engagement ended because of his drug and alcohol abuse. He then informed the Board that he has worked on his control issues since his last hearing and is working on his "arrogance issues." He told the Board, "Yeah, I have entitlement issues. I don't like being told no or that I'm wrong."

Mr. Van Zant admits that he was intoxicated and high when he hit Ms. Sweeney with his car. He told the Board that on the day of the crime, he had been drinking all day and abusing Klonopin. He said that he was drinking beers and driving around town when he saw Ms. Sweeney standing on the sidewalk. Mr. Van Zant, however, was clear that his substance abuse was not the cause of his actions. He told the Board that "I did what I did because I developed hate for this woman, not because I was high on alcohol and Klonopin." He said that since his last hearing in 2013, he has involved himself in substance abuse programming. However, when asked about his attendance at AA/NA meetings, he told the Board that it is sporadic. Sometimes he goes once a week and sometimes he goes three times a week. He maintains that he has been sober since 1992.

Mr. Van Zant's institutional adjustment has generally been positive, with minimal disciplinary reports during his incarceration. He has had no disciplinary reports since 2011. Due to enemy issues, he has been incarcerated in another state since 1998. He maintains steady employment and is currently working in the kitchen seven days a week. His programming since his last hearing includes: attendance at AA/NA meetings, Alcohol and other Drug Intensive Treatment, House of Healing, Anger Management, PTSD, Coping Skills, and Smart Recovery. When asked by the Board if there are other programs that could further his rehabilitation, he said that there were other programs he could take to address past and present concerns voiced by the Parole Board.

The Board considered testimony from Mr. Van Zant's nephew, brother, and friend, all of whom expressed support for Mr. Van Zant's parole. The Board also considered testimony from the victim's son, brother, and brother-in-law, as well as testimony from Middlesex County Assistant District Attorney Marisa Tagliareni, all of whom expressed opposition to Mr. Van Zant being granted parole.

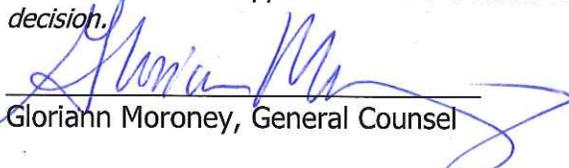
III. DECISION

The Board is of the opinion that, although some progress has been made, Mr. Van Zant has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society.

The applicable standard used by the Board to assess a candidate for parole is: "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." 120 C.M.R. 300.04. After applying this appropriately high standard to the circumstances of Mr. Van Zant's case, the Board is of the opinion that Mr. Van Zant is not yet rehabilitated, and the motive for the underlying crime remains unclear. Therefore, Mr. Van Zant does not merit parole at this time. In forming this opinion, the Board has taken into consideration Mr. Van Zant's institutional behavior, as well as his participation in work, educational, and treatment programs during his incarceration. The Board has also considered a risk and needs assessment, and whether risk reduction programs could effectively minimize Mr. Van Zant's risk of recidivism.

Mr. Van Zant's next hearing before the Board will take place in five years from the date of this hearing. During the interim, the Board encourages Mr. Van Zant to continue working towards his full rehabilitation.

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.


Gloriann Moroney, General Counsel

9/22/16
Date

