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DECISION

IN THE MATTER OF

ALBERT JOHNSON
W80324

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: April 19, 2016

DATE OF DECISION: August 24, 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 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 by unanimous vote 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.

I. STATEMENT OF THE CASE

On May 17, 2002, in Plymouth Superior Court, Albert Johnson pled guilty to the second degree murder of Michael Grosso. He was sentenced to life in prison with the possibility of parole. On October 13, 2009, Mr. Johnson moved to withdraw his guilty plea, and he moved for a new trial. The judge, who presided over Mr. Johnson's plea colloquy, denied this request on November 4, 2009. Mr. Johnson appealed. On December 3, 2010, the Appeals Court of Massachusetts affirmed the order denying his motion to withdraw his guilty plea and his motion for a new trial.

In the early morning hours of June 26, 1999, Mr. Johnson and two other men, Richard Bradley and Antoine Burton, entered the apartment of Felicia Damon. Ms. Damon owed Mr. Johnson money for crack cocaine that he had given to her in the past. Mr. Johnson was armed with a loaded handgun at the time. Ms. Damon demanded that Mr. Johnson and his accomplices leave her apartment. After her requests were ignored, Ms. Damon left her home to

seek help. Ms. Damon returned to her apartment with her brother and the victim, Michael Grosso. Mr. Grosso and Ms. Damon's brother (both of whom were unarmed) repeatedly asked Mr. Johnson and his companions to leave the apartment. They did not raise their voices, nor block the door to the apartment. After Mr. Johnson exchanged words with Ms. Damon, he turned his attention toward Mr. Grosso and yelled, "Who the (expletive) are you?" At the time, Mr. Grosso was standing with his arms folded across his chest. Mr. Johnson then produced his pistol and shot Mr. Grosso once in the upper left chest.

Mr. Grosso was rushed to Brockton Hospital, where he succumbed to his injuries. The medical examiner later determined the cause of death to be massive internal bleeding caused by a gunshot wound to his lung. Mr. Johnson was 17-years-old on the date of the murder. Subsequent investigation revealed that Mr. Johnson, Mr. Bradley, and Mr. Burton had been dealing crack cocaine out of Ms. Damon's apartment on a regular basis.

II. PAROLE HEARING ON APRIL 19, 2016

Albert Johnson, now 34-years-old, appeared before the Parole Board on April 19, 2016, for an initial hearing and was represented by Attorney John Rull. In Mr. Johnson's opening statement to the Board, he apologized to Mr. Grosso's family and expressed his remorse. He also apologized to his own family and friends. The Board asked Mr. Johnson what had caused him to pursue a criminal lifestyle. Mr. Johnson described the troubled circumstances of his youth. Mr. Johnson told the Board that he had a strained relationship with his mother, and that he did not have a father. Despite these difficult circumstances, however, Mr. Johnson acknowledged having positive influences and family support. Mr. Johnson spoke fondly of his grandmother, who taught him positive values and raised him until age 15. Mr. Johnson also acknowledged his aunt, with whom he and his little brother went to live after his grandmother lost her home and moved away. Mr. Johnson told the Board that he always felt like an outsider, in spite of his aunt's efforts to care and support him during the time he lived with her (first in Randolph and then in Brockton). Mr. Johnson acknowledged that he was already involved in selling drugs at age 15, and told the Board that he first started getting arrested after his grandmother moved away. Mr. Johnson cited negative influences, including people from his neighborhood, as his introduction to a criminal lifestyle.

During the course of the hearing, Mr. Johnson discussed the events that precipitated Mr. Grosso's murder. Three months prior to Mr. Grosso's murder, Mr. Johnson had been introduced to Ms. Damon through a mutual acquaintance, Mr. Bradley. Mr. Johnson had been dealing crack cocaine out of Mr. Bradley's apartment, which was located on the second floor of 33 Harvard Street in Brockton. Mr. Johnson then began supplying crack cocaine to Ms. Damon, who lived on the first floor below Mr. Bradley. Subsequently, Mr. Johnson, Mr. Bradley and another friend, Mr. Burton, began dealing drugs out of Ms. Damon's apartment.

On the day of the murder, Mr. Johnson has been hanging out with Mr. Bradley and Mr. Burton. That evening, Mr. Johnson, Mr. Bradley, and Mr. Burton gathered at Ms. Damon's apartment for approximately one hour (sometime between 7 p.m. and 9 p.m.). While inside Ms. Damon's apartment, all three men smoked marijuana and drank alcohol, and then left to go to a nearby bar. When they returned to Ms. Damon's apartment at approximately 2:00 a.m., the three men were accompanied by three unidentified females. The group continued to drink and smoke marijuana at Ms. Damon's apartment. At some point, a verbal altercation occurred

between Mr. Johnson and Ms. Damon when he refused her request for crack cocaine (since she had owed him money). Ms. Damon asked Mr. Johnson to leave, and then threw a vase at him when he refused. Mr. Johnson then fired a shot into the floor, at which point Ms. Damon left the apartment.

When Ms. Damon returned to the apartment, she was accompanied by Mr. Grosso and her brother, Edwin Damon. Mr. Damon and Mr. Bradley were known to each other. According to Mr. Johnson, Mr. Damon and Mr. Bradley became engaged in a heated exchange. It was during this time that he (Mr. Johnson) approached Mr. Grosso and shot him in the chest. Mr. Johnson could not provide an explanation as to why he decided to shoot Mr. Grosso. He described his actions to the Board as a senseless and irresponsible crime. After shooting Mr. Grosso, Mr. Johnson pointed the gun at Mr. Damon. Mr. Johnson claimed that he did not attempt to shoot Mr. Damon, despite testimony during the criminal prosecution that he was pulling the trigger of the gun at this time. Mr. Johnson said that his intent in pointing his gun at Mr. Damon was to prevent Mr. Damon from tackling him or running out the door of the apartment. Mr. Johnson then fled the scene. The following day, Mr. Johnson turned himself into the Boston Police Department. Mr. Johnson told the Board that he did this because he knew he was wrong. During his pre-trial detention, Mr. Johnson discussed his attempts to thwart the criminal investigation into Mr. Grosso's murder. Mr. Johnson admitted to the Board that he had attempted to persuade another inmate to give false testimony in order to exculpate himself from the crime.

The Board asked Mr. Johnson to describe the process of his rehabilitation. Mr. Johnson told the Board that this process began in 2005, when he started to realize the magnitude of his actions and the effect that Mr. Grosso's murder had on his family. Mr. Johnson then described the programs that he participated in. Since 2011, Mr. Johnson completed the Correctional Recovery Academy, Substance Abuse Education, Money Management, Beacon Program, Criminal Thinking, and Health Awareness. Presently, he is employed and works four hours per day. Mr. Johnson is also currently enrolled in various programs, including Path to Freedom.

The Board asked Mr. Johnson about his disciplinary history within the Department of Correction. Most recently, in August 2014, Mr. Johnson received a disciplinary report for being insolent to staff and refusing a direct order. Mr. Johnson admitted to refusing an order from a staff member and encouraging other inmates to do the same. Mr. Johnson explained that at the time of the incident, he had just concluded a visit with a family member who gave him troubling news about a loved one. He said that he was in a bad mood. Later that same day, Mr. Johnson received a second disciplinary report for the same offense. Mr. Johnson also addressed two disciplinary reports he received (in July 2012 and September 2013) for attempting to smuggle narcotics into a correctional facility. In July 2012, Mr. Johnson's wife was arrested after she attempted to pass two balloons of marijuana to Mr. Johnson during a visit at MCI-Concord. Mr. Johnson told the Board that he had convinced his wife to smuggle marijuana into MCI-Concord (in 2012) because of the stress he was experiencing from personal issues at the time. Subsequently, in September 2013, a female acquaintance of Mr. Johnson's was arrested after attempting to smuggle suboxone into Souza-Baranowski Correctional Center. The female, who was scheduled to visit Mr. Johnson on the day of her arrest, had also visited him on two occasions in the previous month. Mr. Johnson told the Board that, in 2013, his intent was to retrieve marijuana (not suboxone) from the female who was arrested at Souza-Baranowski Correctional Center. According to Mr. Johnson, the marijuana was never recovered

because the woman discarded it prior to the security screening process. Mr. Johnson stated that his plan was to split the marijuana with another inmate.

The Board considered oral testimony from Mr. Johnson's mother, cousin, brother, and two aunts, all of whom expressed support for Mr. Johnson's parole. The Board also considered testimony from the victim's son and granddaughter, as well as from Plymouth County Assistant District Attorney Keith Garland, all of whom expressed opposition to Mr. Johnson being granted parole. The Board received numerous letters in opposition to Mr. Johnson's parole, including one from the victim's daughter that was read into the record at the hearing.

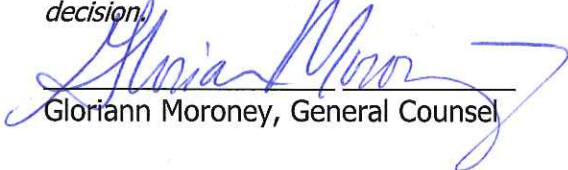
III. DECISION

The Board is of the opinion that Mr. Johnson has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board believes that a longer period of positive institutional adjustment and programming would be beneficial to Mr. Johnson's rehabilitation.

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. In the context of an offender convicted of first or second degree murder, who was a juvenile at the time the offense was committed, the Board takes into consideration the attributes of youth that distinguish juvenile homicide offenders from similarly situated adult offenders. Consideration of these factors ensures that the parole candidate, who was a juvenile at the time they committed murder, has "a real chance to demonstrate maturity and rehabilitation." *Diatchenko v. District Attorney for the Suffolk District*, 471 Mass. 12, 30 (2015); See also *Commonwealth v. Okoro*, 471 Mass. 51 (2015).

The factors considered by the Board include the offender's "lack of maturity and an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking; vulnerability to negative influences and outside pressures, including from their family and peers; limited control over their own environment; lack of the ability to extricate themselves from horrific, crime-producing settings; and unique capacity to change as they grow older." *Id.* The Board has also considered whether risk reduction programs could effectively minimize Mr. Johnson's risk of recidivism. After applying this standard to the circumstances of Mr. Johnson's case, the Board is of the opinion that Mr. Johnson is not yet rehabilitated, and his release is not compatible with the welfare of society. Mr. Johnson, therefore, does not merit parole at this time. His next appearance before the Board will take place in five years from the date of this hearing. During the interim, the Board encourages Mr. Johnson 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


Date