



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

IN THE MATTER OF
ANDREW SULLIVAN

W46823

TYPE OF HEARING: **Review Hearing**

DATE OF HEARING: **November 7, 2017**

DATE OF DECISION: **October 31, 2018**

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, 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 hearing scheduled in four years from the date of the hearing.¹ Andrew Sullivan's parole violation warrant is to stand for commitment number C51764.

I. STATEMENT OF THE CASE

On July 20, 1989, in Worcester Superior Court, Andrew Sullivan pleaded guilty to the second degree murder of Thomas Foy and was sentenced to life in prison with the possibility of parole. On that same date, he also pleaded guilty to assault and battery by means of a dangerous weapon, robbery, and three counts of armed robbery, for which he received three concurrent sentences of 9-10 years imprisonment.

On January 2, 1988, Thomas Foy, a part-time Worcester cab driver, picked up Mr. Sullivan and his co-defendant, Paul Washington, and drove them to a designated spot. Without any warning or provocation, Mr. Washington gave his knife to Mr. Sullivan, who then plunged the knife into Mr. Foy's head, just behind his ear. The knife blade bent from the force of tearing through Mr. Foy's skull and brain. Mr. Sullivan yanked the victim from the car, dragged his

¹ One Board Member voted to deny parole with a review hearing in five years.

body face down over the pavement and, out of sight, rifled through his clothing. Mr. Washington searched the cab for money and acted as a lookout. They stole about \$32, left the victim to die, and purchased cocaine.

At the time of the governing offense, Mr. Sullivan was on parole from a 10-year Concord sentence for a 1982 conviction of armed burglary and several charges of assault and battery with a dangerous weapon. On those convictions, Mr. Sullivan was initially sentenced to 5 years committed at MCI Concord and 3 years of probation. In 1985, Mr. Sullivan's probation was revoked, and the 10-year Concord sentence was imposed, after he was found in violation of his probation. He was released on parole in April 1987, but after new arrests, he was returned to custody on a parole revocation in June 1987. He was re-paroled in October 1987, and it was during this re-parole period that he murdered Thomas Foy.

II. PAROLE HEARING ON NOVEMBER 7, 2017

Andrew Sullivan, now 55-years-old, appeared before the Parole Board on November 7, 2017, for a review hearing and was represented by Student Attorneys Eve Deveau and Laura Fry of the Northeastern University Law School. Mr. Sullivan had previously been denied parole in 2002, 2007, and 2012. In his opening statement to the Board, Mr. Sullivan expressed his remorse for the murder of Mr. Foy and apologized to his family. Mr. Sullivan stated that he "has been working every day to change [his] attitude and his thoughts, to never hurt another human being, to try to better [his] life, make better decisions and to stay drug free." Student Attorney Fry also provided an opening statement on Mr. Sullivan's behalf.

In describing the governing offense, Mr. Sullivan indicated that both he and Mr. Washington had been awake, doing drugs, for six days prior to the murder. On the night of the murder, they had plans to rob a drug dealer in order to obtain more drugs. The two men got into Mr. Foy's cab to go to meet the drug dealer. When they arrived, however, the men realized that the drug dealer was not going to come. At that point, Mr. Sullivan asked Mr. Washington for his knife and then stabbed Mr. Foy. When a Board Member asked why he stabbed him, Mr. Sullivan indicated that since the drug dealer did not show up, he was unable to get money (from the dealer) to buy drugs. At the time of this offense, Mr. Sullivan was on parole and had struggled with substance abuse. Mr. Sullivan reported that he began smoking marijuana at the age of 9, and then progressed to mushrooms, LSD, cocaine, and crack-cocaine. Mr. Sullivan indicated that he lacked support and direction when he was on parole. Although he completed a 30-day rehabilitation program on parole, he resumed his old patterns of behavior when he became associated with his co-defendant, Paul Washington, and his "old neighborhoods." Mr. Sullivan told the Board that he committed approximately four crimes while on parole, including other robberies.

Board Members discussed Mr. Sullivan's lengthy disciplinary history, which includes approximately 117 disciplinary reports accrued since the beginning of his incarceration. Approximately 13 reports were accrued since his last review hearing in 2012. Mr. Sullivan indicated to the Board, however, that he has since changed his "way of thinking" and has matured. Through support from his friend, Jean Marcoccio, and her family, as well as through programming, Mr. Sullivan said that he has been able to examine his "inner-self" and "adjust [his] way of life and way of thinking." The Board noted, however, some of Mr. Sullivan's past disciplinary reports, including a 2014 report in which Mr. Sullivan was found to be in possession

of "home brew" alcohol. Mr. Sullivan told the Board that he took full responsibility for the disciplinary report because he left his cell open and "should have been more aware of the people around [him]." Further, he indicated that it was not his alcohol. The Board also inquired about a 2014 disciplinary report that Mr. Sullivan received for lying to a staff member. Mr. Sullivan acknowledged that his behavior was wrong and took responsibility. Mr. Sullivan was also charged with threatening another with bodily harm. In 2015, Mr. Sullivan received disciplinary reports for stealing food from the institution's kitchen and for unauthorized accumulation of medication. The Board expressed concern about Mr. Sullivan's reaction to situations of conflict or confrontation, as well as his continued incurrance of disciplinary reports.

Mr. Sullivan indicated that he has addressed his substance abuse issues through participation in Toastmasters and Narcotics Anonymous/Alcoholics Anonymous ("NA/AA"), for which he has served as the chairperson. He said that he has been drug-free for approximately eight years. Mr. Sullivan has had mental health issues, as well as treatment, since being stabbed (while incarcerated) approximately 10 years ago. Mr. Sullivan has participated in several programs and told the Board that the most helpful programs have been Dialectical Behavioral Therapy ("DBT"), Grief and Loss Management, and life skills. He is currently employed within the institution as a unit runner and has received exceptional work evaluations. Mr. Sullivan earned his GED and also completed courses in welding.

The Board considered the testimony of Jean Marcoccio and Johna Gonsalves, both of whom expressed support for parole. The Board also considered the testimony of Worcester County Assistant District Attorney Michelle King in opposition to parole.

III. DECISION

The Board is of the opinion that Andrew Sullivan has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Sullivan stabbed the victim to support his addiction. This crime occurred while on parole supervision. Although Mr. Sullivan has availed himself of treatment and programming, his deportment remains a concern. Mr. Sullivan is still accumulating disciplinary infractions. Mr. Sullivan should continue to invest in his rehabilitation and refrain from engaging in anti-social behavior.

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 forming this opinion, the Board has taken into consideration Mr. Sullivan's institutional behavior as well as his participation in available work, educational, and treatment programs during the period of his incarceration. The Board has also considered whether risk reduction programs could effectively minimize Mr. Sullivan's risk of recidivism. After applying this standard to the circumstances of Mr. Sullivan's case, the Board is of the unanimous opinion that Andrew Sullivan is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Sullivan's next appearance before the Board will take place in four years from the date of this hearing. During the interim, the Board encourages Mr. Sullivan 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.



Gloriana Moroney, General Counsel/Executive Director

10/31/18
Date