

The Commonwealth of Massachusetts  
Executive Office of Public Safety and Security



PAROLE BOARD

12 Mercer Road  
Natick, Massachusetts 01760

Telephone # (508) 650-4500  
Facsimile # (508) 650-4599

Charles D. Baker  
Governor

Karyn Polito  
Lieutenant Governor

Thomas A. Turco III  
Secretary

Gloriann Moroney  
Chair

Kevin Keefe  
Executive Director

AMENDED RECORD OF DECISION

IN THE MATTER OF

BARRY BURBANK  
W38038

**TYPE OF HEARING:** Review Hearing

**DATE OF HEARING:** July 23, 2020

**DATE OF DECISION:** February 8, 2021

**PARTICIPATING BOARD MEMBERS:** Gloriann Moroney, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Karen McCarthy, Colette Santa

**STATEMENT OF THE CASE:** On May 10, 1984, in Hampden Superior Court, Barry Burbank was found guilty of the second-degree murder of 26-year-old Daniel Coakley. He was sentenced to life imprisonment with the possibility of parole. On that same day, he received a concurrent sentence of 8 to 10 years for a conviction of assault and battery by means of a dangerous weapon.

On or about April 5, 1990, Mr. Burbank escaped from MCI-Lancaster. On July 19, 1990, Mr. Burbank was captured by the Massachusetts State Police with a handgun in his vehicle. On December 13, 1990, in Fitchburg District Court, Mr. Burbank was sentenced to one year from and after for escape. In addition, on January 31, 1991, in Hampden Superior Court, Mr. Burbank was given one year from and after sentences for unlawful possession of a firearm and unlawful possession of ammunition.

Mr. Burbank appeared before the Parole Board for a review hearing on July 23, 2020 and was represented by Harvard PLAP Law students Chloe Warnberg and Rachel Schaub. This was Mr. Burbank's fifth appearance before the Board, having been denied in 2003, 2008, 2013, and 2017.<sup>1</sup> The entire video recording of Mr. Burbank's July 23, 2020 hearing is fully incorporated by reference to the Board's decision.

**DECISION OF THE BOARD:** On January 19, 2021, the Supreme Judicial Court in William Dinkins & Another v. Massachusetts Parole Board, 486 Mass. 605 (2021) invalidated 120 Code Mass. Regs. § 200.08(3)(c) and held that the Board must aggregate the parole ineligibility

<sup>1</sup> Mr. Burbank waived his initial hearing in 1996 and 1998.

period of a life sentence with the parole ineligibility period of consecutive sentences for purposes of determining a single parole ineligibility date. In accordance with the SJC ruling, Mr. Burbank's parole eligibility was recalculated in order to determine a single parole eligibility date. The Board subsequently amended its original decision paroling Mr. Burbank to his consecutive sentence and, 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, the Board is now paroling Mr. Burbank to a long term residential treatment program, but not before nine months in lower security.<sup>2</sup>

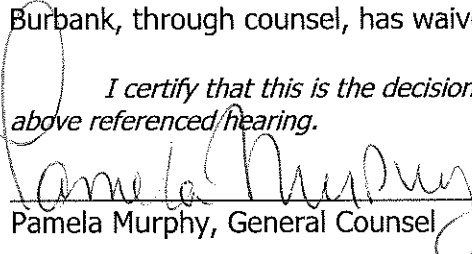
The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society."

In forming this opinion, the Board has taken into consideration Mr. Burbank'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 a risk and needs assessment and whether risk reduction programs could effectively minimize Mr. Burbank's risk of recidivism. After applying this appropriately high standard to the circumstances of Mr. Burbank's case, the Board is of the unanimous opinion that Mr. Burbank is rehabilitated and merits parole at this time.

**Special Conditions:** Reserve to a long term residential treatment program, but not before nine months in lower security; Waive work for long term residential program; Must be at home between 10 p.m. and 6 a.m.; ELMO-electronic monitoring; Supervise for drugs; testing in accordance with agency policy; Supervise for liquor abstinence; testing in accordance with agency policy; Report to assigned MA Parole Office on day of release; No contact with victim's family; Must have mental health counseling for adjustment and transition; Must complete LTRP; AA at least 3 times/week; Must obtain sponsor.

**IMPORTANT NOTICE:** The above decision is an abbreviated administrative decision issued in an effort to render an expedited resolution in response to the COVID-19 pandemic. Mr. Burbank, through counsel, has waived his right to a full administrative decision.

*I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing.*

  
\_\_\_\_\_  
Pamela Murphy, General Counsel

  
\_\_\_\_\_  
Date

<sup>2</sup> The decision was unanimous.