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# *The Commonwealth of Massachusetts*

## *Executive Office of Public Safety*

### PAROLE BOARD

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Josh Wall  
Chairman

### DECISION

#### IN THE MATTER OF

**BARRY BURBANK**

**W38038**

**TYPE OF HEARING:** Review Hearing

**DATE OF HEARING:** April 18, 2013

**DATE OF DECISION:** May 8, 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 four years from the date of the hearing.

### I. STATEMENT OF THE CASE

Barry Burbank seeks parole from a life sentence for second degree murder. This is Burbank's third appearance before the Parole Board, having been denied parole with five-year setbacks in 2003 and 2008.<sup>1</sup> If granted parole for the life sentence, Burbank would then serve three concurrent one year sentences for escape, unlawful possession of a firearm, and unlawful possession of ammunition.

On the evening of December 19, 1979, Burbank, then age 31, attended a Christmas party at the "Center of Town," a bar in Chicopee. Burbank was asked to leave after arguing with and shoving an employee. As he was leaving the bar, a former employee, Shawn Coakley, who had witnessed the earlier incident, assisted in ejecting Burbank and pushed him to the ground. Burbank left the area, obtained a gun, and returned later that evening. With the gun under his belt at his back, Burbank entered the bar alone. He and Shawn Coakley exchanged

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

words, with Burbank telling Mr. Coakley that he and his friends were "going to get it." Shawn Coakley responded by saying, "outside," and followed Burbank outside the bar. After Burbank stepped outside the bar, he pulled the gun from under his coat, turned and shot Shawn Coakley in the knee.

A number of people, including the murder victim, Daniel Coakley, then chased Burbank down an alley. Daniel Coakley was the older brother of Shawn Coakley. While being chased, Burbank fired a "warning shot" at his pursuers. Daniel Coakley, who had known Burbank, caught up to him. Daniel Coakley was unarmed and had his hands up from his body as he spoke with Burbank. Daniel Coakley asked Burbank to put the gun down and leave or return with him. In response, Burbank threatened to kill Daniel Coakley if he came near. When Daniel Coakley took a couple of steps closer, Burbank shot him in the chest. Daniel Coakley was pronounced dead shortly thereafter. Burbank fled successfully for more than nine months until he was arrested by the Massachusetts State Police following an anonymous tip.

On May 17, 1984, in Hampden Superior Court, Burbank was found guilty of murder in the second degree and was sentenced to life in prison with the possibility of parole at fifteen years. On that same day, he received a concurrent sentence of eight to ten years for assault and battery by means of a dangerous weapon. At the time of his murder, Daniel Coakley was 26 years old.

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

## **II. INSTITUTIONAL HISTORY**

Barry Burbank's institutional conduct has been marred by five institutional failures, including the escape, all of which resulted in a return to higher security. He has accrued 38 disciplinary reports over the course of his incarceration, the last of which, though minor in nature, was issued in 2012. His disciplinary offenses include possession of a shank, conspiracy to introduce drugs into a correctional facility, and many reports involving possession of marijuana and homebrew. He also has many reports for failing to provide a urine sample, which typically indicates substance abuse.

He has very little program participation. He completed Substance Abuse Education in 1989 and Violence Reduction in 2006. Currently, he attends Narcotics Anonymous and Alcoholics Anonymous on a weekly basis, which he began in 2006. Burbank also tutors other inmates twice a week on computer skills.

Burbank has worked intermittently throughout his incarceration in maintenance, furniture shop, walks and grounds, welding, plumbing, as a steamfitter, and in the kitchen. He is currently employed as a cadre at Bridgewater State Hospital, where he receives good evaluations.

### **III. PAROLE HEARING ON APRIL 18, 2013**

This is Barry Burbank's third appearance before the Parole Board. The Parole Board denied parole in 2003 and 2008, with a five year review date set on both occasions. In its previous decisions, the Board noted Burbank's poor institutional adjustment, his escape, a propensity for violence, and minimal rehabilitative efforts. Burbank seeks a parole from his life sentence for second degree murder to his three one year from and after sentences for escape, carrying a firearm without a license, and unlawful possession of ammunition.

Burbank reported that he quit ninth grade at age 16 "to hang on the streets drinking." He started using barbiturates at age 19. He was committed to DYS for stealing a car and possessing a firearm. He had numerous convictions in Superior Court, including possessing a firearm, assault and battery with a dangerous weapon (four convictions), breaking and entering (three convictions), and many drug offenses.

Board Members asked Burbank about his previous position that he acted in self-defense. Burbank said, "For a long time I believed I was about to be attacked and I had no choice but to shoot; after work in Alcoholics Anonymous and after consideration, I realized that guy wasn't really that close to me and that I really didn't have to shoot him and I could have run away." Burbank added that he filed post-conviction motions "for selfish reasons."

In discussing the murder, Burbank gave the following account of his actions. "I was drinking at a bar; there was a dispute over a bill and I was thrown out; returned later that night with a gun; I settled the bill dispute and resumed drinking; I seen a guy making gestures at me and we walked outside to fight; I shot him in the leg as we walked out; outside I fired again; I ran and then I fell; Dan Coakley came up to me; Dan turned and walked away but then he was right behind me and I fired and then I ran; the murder was December 1979; I was arrested on October 9, 1980."

Burbank reported that he was drinking homebrew and using many types of drugs in prison until 1994. He has many disciplinary reports for homebrew, many disciplinary reports for marijuana, one report for cocaine, and three reports for fights with other inmates. He also has six reports in 1997 and 1998 for failing or refusing to provide a urine sample, which indicates he was using alcohol or drugs in that period. He told the Board that he has been doing NA and AA since 2006 and that he "started to accept responsibility for the crime" about two years after he started AA because he "started to listen to what other people said." He explained that he "did not accept much responsibility because I was still thinking my same old ways; it took me a long time."

Hampden Assistant District Attorney Deborah Ahlstrom spoke in opposition to parole. Several members of the Coakley family attended the hearing and spoke in strong opposition of parole. Burbank's sister and a friend spoke in support of parole.


### **IV. DECISION**

Barry Burbank led an active criminal lifestyle that culminated in murdering Daniel Coakley and shooting Shawn Coakley. He continued with criminal behavior in prison by using drugs and escaping. When apprehended on the escape, he had a firearm which led to his fifth

conviction for possession of a firearm. In addition to these five convictions, Burbank used a gun to shoot the Coakley brothers. Through his decades of criminal behavior, Burbank established that he was a very dangerous person who needs a long and sustained commitment to rehabilitation. Burbank has improved his conduct in prison. His last significant disciplinary report was for fighting in 2004. He has good work evaluations. He has participated in AA and NA since 2006. Burbank has not, however, made a full investment in rehabilitative programs. In 33 years of incarceration, Burbank has completed only two rehabilitative programs despite a long criminal history with many contributing factors to address. He has not participated in a rehabilitative program since 2006. Mr. Burbank's institutional record does not provide sufficient evidence that he 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. Burbank does not merit parole because he is not rehabilitated. The period of review will be four years during which time Mr. Burbank should take programs to address violence, antisocial behavior, criminal thinking, victim empathy, 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.*

  
Caitlin E. Casey, Chief of Staff

5/8/14  
Date