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Paul M. Treseler
Chairman

Michael J. Callahan
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DECISION

IN THE MATTER OF

BERNARD BAILEY
W43296

TYPE OF HEARING: **Review Hearing**

DATE OF HEARING: **June 14, 2016**

DATE OF DECISION: **November 14, 2016**

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 a suitable candidate for parole with special conditions and contingent upon his successful completion of one year in lower security.

I. STATEMENT OF THE CASE

On February 25, 1987, in Hampshire Superior Court, Bernard Bailey pled guilty to the second degree murder of Marvin Martin. He was sentenced to life with the possibility of parole. At the time of the murder, Mr. Bailey was 35-years-old.

On June 21, 1986, Mr. Bailey and Mr. Martin were fishing on a rowboat at North Hadley Pond in Hadley, when Mr. Bailey shot Mr. Martin three times in the head. Mr. Bailey dumped the body and the gun into the pond. Mr. Martin's body was found two weeks later on July 3, 1986. Mr. Bailey initially denied involvement in the crime in two separate interviews with police. On July 4, 1996, however, Mr. Bailey admitted to shooting Mr. Martin in a videotaped confession.

II. PAROLE HEARING ON JUNE 14, 2016

Bernard Bailey, now 65-years-old, appeared before the Parole Board on June 14, 2016, for a review hearing. In 2004, the Board voted to parole Mr. Bailey, contingent upon his successful completion of the Correctional Recovery Academy. On May 9, 2005, Mr. Bailey was paroled to his daughter's home in Lebanon, New Hampshire, where he was supervised by New Hampshire authorities, pursuant to the Interstate Compact for Adult Offender Supervision. In September 2006, however, New Hampshire authorities received an anonymous tip that Mr. Bailey had purchased a hunting license for archery and muzzle-loading, which violated the terms of his parole. As a result, Mr. Bailey's parole was revoked. Following this revocation, Mr. Bailey appeared before the Board in 2007, 2009 and 2011, and parole was denied at all of these hearings.

In Mr. Bailey's opening statement in this hearing, he stated that it was not his intention to violate his parole. Mr. Bailey insisted throughout the hearing that his only intention in purchasing the hunting license was to donate to the cause of deer management, and that he had no intention of actually hunting. He did, however, admit that he was an avid hunter prior to his incarceration. He further stated that up until his parole violation, he was doing well, working two jobs, and meeting the expectations of his parole officer. Mr. Bailey apologized to the victim's family, his family, and the Parole Board.

During the course of the hearing, Mr. Bailey spoke about the day of Mr. Martin's murder. Mr. Bailey maintained that Mr. Martin's murder was an act of self-defense. According to Mr. Bailey, he was selling 4 bags of cocaine for Mr. Martin. On the day of the murder, they met at the lake, where Mr. Bailey told Mr. Martin that he could only sell two of the bags. Mr. Bailey gave Mr. Martin \$800 and the two remaining bags. Mr. Martin put the drugs in a box in the trunk, but Mr. Bailey did not see where Mr. Martin put the money. Mr. Bailey said that he told Mr. Martin that he did not want to sell drugs anymore, and Mr. Martin was upset. Mr. Martin was also upset that (since Mr. Bailey did not sell all four bags of cocaine) he did not have the money to pay his supplier. Mr. Bailey explained to the Board that, while they were on the boat, Mr. Martin attacked him without warning by swinging a fishing pole at him. Mr. Bailey blocked the pole with his arm, causing it to break. Mr. Martin then got on top of Mr. Bailey and started to choke him. Mr. Bailey explained to the Board that he first shot Mr. Martin in the forehead, and then two more times in the head. Mr. Bailey then disposed of the body, the gun, and the fishing equipment in the lake.

During the hearing, Mr. Bailey discussed his participation in rehabilitative programming since his last appearance before the Board in 2011. Since that time, Mr. Bailey participated in the Alternatives to Violence project and worked in the gardening program. He is also a weekly participant in the Native American circle. When questioned about his 2006 parole violation, Mr. Bailey told the Board that he purchased the hunting license in New Hampshire because it was the only way to donate funds to the cause of deer management. Mr. Bailey explained that he contacted the New Hampshire Fish and Game Department, and spoke to someone who suggested that he apply for the license. Mr. Bailey further stated that he had no intention of purchasing any weapons or of using the license to go hunting. Mr. Bailey spoke about his parole plan and arrangements he has made for employment.

The Board considered testimony from Hampshire County Assistant District Attorney Sarah Pascal, who expressed opposition to Mr. Bailey's petition for parole. ADA Pascal also relayed to the Board that she had spoken to a member of Mr. Martin's family, who stated that the victim's family strongly feels that Mr. Bailey should not be paroled.

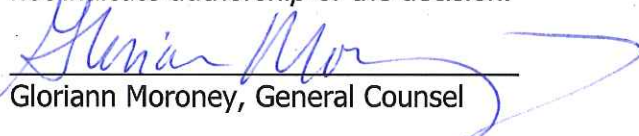
III. DECISION

Mr. Bailey has maintained a positive adjustment throughout his 30 year incarceration. He has addressed the factors which gave rise to his crime and has served as a productive member of the inmate community. The Board noted that Mr. Bailey has a good support network, and has not incurred any serious disciplinary infractions. The Board is of the opinion that Mr. Bailey has demonstrated a level of rehabilitative progress and, consequently, has acquired the tools and skills that will assist him in a successful transition from incarceration. In forming this opinion, the Board has taken into consideration Mr. Bailey'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. Bailey's risk of recidivism.

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 standard to the circumstances of Mr. Bailey's case, the Board is of the unanimous opinion that Mr. Bailey merits parole at this time, subject to special conditions and upon successful completion of one year in lower security. Mr. Bailey would then be placed in a halfway house in New Hampshire via the Interstate Compact for Adult Offender Supervision.

SPECIAL CONDITIONS: Release to Interstate Compact- NH; Waive work for 2 weeks; Must be at home between 10 pm and 6 am or at parole officer's discretion; Electronic monitoring for six months, then at parole officer's discretion; 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; Must have substance abuse evaluation/adhere to plan; Must have mental health counseling for adjustment/transition; Residential program - Halfway House.

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