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PAROLE BOARD

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Josh Wall
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DECISION

IN THE MATTER OF

BERNARD BAILEY

W43296

TYPE OF HEARING: Review Hearing after Revocation

DATE OF HEARING: June 21, 2011

DATE OF DECISION: May 29, 2012

PARTICIPATING BOARD MEMBERS: Cesar Archilla, John Bocon, Dr. Charlene Bonner, Ina Howard-Hogan, Roger Michel, Lucy Soto-Abbe, Josh Wall

DECISION OF THE BOARD: Parole is denied. The next hearing will be in five years. The decision is unanimous.

I. STATEMENT OF THE CASE

Bernard Bailey murdered Marvin Martin on June 21, 1986 by shooting him three times in the head in Hadley. Bailey was 35 years old and Mr. Martin was 32 years old. The two men were in a rowboat on North Hadley Pond at the time of the murder. Bailey was arrested on July 3, 1986. He pleaded guilty to second-degree murder on February 25, 1987.

Bailey's criminal history includes arrests and convictions in New Hampshire, Vermont and Florida. His record shows four commitments to incarceration in New Hampshire and one commitment in Florida. Bailey admits that he sold marijuana, hashish, and cocaine during periods of his life.

After his third parole hearing in 2004, Bailey received parole from the life sentence for second-degree murder. He was released in 2005 and moved to New Hampshire. Parole was revoked in September 2006 when the Parole Board learned that Bailey purchased a New Hampshire license authorizing him to hunt using a crossbow or muzzle-loading firearm. An

anonymous caller notified Bailey's parole officer about the license and also stated that Bailey possessed a compound bow. The Parole Board denied Bailey's requests for re-parole in 2007 and 2009.

II. PAROLE HEARING ON JUNE 21, 2011

Bernard Bailey received parole after his third hearing in 2004; he was released in 2005 after serving 19 years of his life sentence. His parole was revoked in September 2006 for purchasing a hunting license that authorized him to use weapons. The Parole Board denied re-parole after hearings in 2007 and 2009; a review in two years was granted after each denial.

In the 2009 decision which denied re-parole, the Parole Board noted that Bailey showed little or no remorse for the murder, failed to understand the significance of his parole violation, participated in no programming since his return to prison, gave a version of the murder that was not credible, minimized his crime, and denied a motive for the crime that he had provided at an earlier time. With respect to Bailey's description of the crime, the Board stated, "Although he claims that he acted in self-defense, the Board notes that the victim had been shot 3 times in the head, and the autopsy did not reveal a struggle."

At this parole hearing Bailey repeated the script that the Parole Board did not accept in 2009. He continued to maintain that he shot the victim in self-defense. The inmate claims that he pulled out his gun only because the victim attacked him and was choking him, and that he fired a warning shot that by accident struck the victim between the eyes; he said the victim "revived" minutes later and caused him to fear for his life again so he fired two more shots. When interviewed twice by police prior to his arrest, Bailey said nothing about self-defense or accident; instead he insisted that a third man, unknown to Bailey, was present at the scene and shot the victim. During the second police interview, on July 3, 1986, Bailey eventually admitted his guilt; he stated that he had a dispute with the victim over their cocaine transactions, and that Bailey shot the victim three times after they argued; he said the victim swung a fishing pole at him but he said nothing about being choked or fearing for his life. The confession was recorded on audiotape. Bailey's current assertion of self-defense is contrary to the evidence and to his plea of guilty to murder.

At this parole hearing Bailey also repeated his unbelievable claim that he purchased the hunting license only because he knew some part of the fee went to the deer management program and he never actually possessed or intended to possess a weapon. Bailey's license, however, documents that he specifically requested the license for hunting by archery and muzzle-loading firearm. He paid \$78.50 for the license, of which \$2.50 was for the Wildlife Habitat Fee (Bailey asserts that this was the deer management program). Possession of a dangerous weapon by a convicted felon is a violation of New Hampshire law.

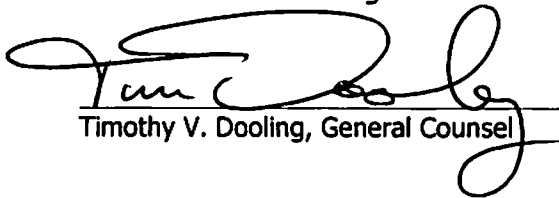
Bailey has above average institutional conduct; he had two disciplinary reports before his release and two since his return. He has minimal program participation throughout his incarceration and has not participated in rehabilitative programs since his return in 2006. He works for the recreation department and receives average housing evaluations.

III. DECISION

Despite the fact that he has never told the truth about his crime at a parole hearing, Bernard Bailey received parole and was released in 2006. Parole was revoked when the Parole Board learned that he obtained a hunting license that gave reason to believe that he possessed or intended to possess a dangerous weapon. Bailey continues to assert that he never obtained a weapon and purchased the license solely for the purpose of making a contribution to the deer management program. This Parole Board, like the two previous Boards that heard this assertion in 2007 and 2009, does not believe this explanation and concludes that Bailey is making false and misleading statements on material issues.

Bernard Bailey is seeking re-parole under the following circumstances: he is not truthful in describing his motives and actions related to the murder; he has never told the truth about the events leading to his parole revocation; and he does not participate in rehabilitative programming. The Parole Board, therefore, has no reason to conclude that Bailey (a) has identified the cause of his criminal behavior for the purpose of rehabilitation or (b) that he is reliable enough for community supervision. Due to insufficient rehabilitation, Bailey is likely to re-offend if released. He is unable to conform his behavior to the requirements of parole and, therefore, his release is incompatible with the welfare of society. Accordingly, parole is denied. Bailey has not shown progress in his rehabilitation since his parole revocation in 2006; the Board does not, therefore, have a reason to shorten the review period of five years.

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


Timothy V. Dooling, General Counsel

5/29/12
Date