



The Commonwealth of Massachusetts
Executive Office of Public Safety



PAROLE BOARD

12 Mercer Road
Natick, Massachusetts 01760

Deval L. Patrick
Governor
 Timothy P. Murray
Lieutenant Governor
 Andrea J. Cabral
Secretary

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

Josh Wall
Chairman

DECISION

IN THE MATTER OF

CHARLES JENKINS

W46844

TYPE OF HEARING: **Revocation Review Hearing**

DATE OF HEARING: **May 31, 2012**

DATE OF DECISION: **May 14, 2013**

PARTICIPATING BOARD MEMBERS: Cesar Archilla, Charlene Bonner, Sheila Dupre, Ina Howard-Hogan, Roger Michel, Lucy Soto-Abbe, Josh Wall

DECISION OF THE BOARD: After careful consideration of all relevant facts, the nature of the underlying offense, the institutional and criminal records, supporting documentation and following a public hearing where the views of the public were expressed orally or in written submissions, the inmate's parole request is denied. The decision is unanimous, and the review of that decision will be in three years.

I. STATEMENT OF THE CASE

On July 27, 1989, after a jury trial, Charles Jenkins was convicted of second-degree murder and sentenced to serve life in prison. On direct appeal, the Appeals Court reversed the conviction and remanded the case to the Superior Court for a new trial. *Commonwealth v. Jenkins*, 34 Mass. App. Ct. 135 (1993). The Supreme Judicial Court allowed the Commonwealth's application for further appellate review, reversed the Appeals Court's decision, and affirmed the conviction. *Commonwealth v. Jenkins*, 416 Mass. 736 (1994). He filed another motion for post-conviction relief in 2009, which was denied. His subsequent appeals to the Appeals Court and Supreme Judicial Court were not successful.

On the night of June 6, 1988, Charles Jenkins stabbed and killed 23-year-old Anthony Graves after Mr. Graves tried to come to the aid of a group of five young girls. The girls had been walking along Blue Hill Avenue when a large group of teenagers threw a bottle at them. One of the girls demanded to know who had thrown the bottle and, when no one responded,

she reprimanded them. Meanwhile, one of the other girls told Mr. Graves, an acquaintance who was nearby, what had happened.

Mr. Graves, who was unarmed, walked up to the group, asked them to turn off their radio, and told them to stop throwing bottles at the girls. Charles Jenkins took offense to Mr. Graves' remarks, which he believed had been directed at him alone, and began to argue with him. Mr. Graves explained that he was speaking to the entire group, and an argument ensued. The argument escalated, and Mr. Jenkins stabbed and killed Mr. Graves. After the stabbing, Mr. Jenkins was the only member of the crowd to flee the scene. Two of the girls identified Mr. Jenkins as the stabber. Mr. Jenkins took a bus to Florida the day after the stabbing and, on July 17, 1988, he was arrested in Florida on fugitive from justice charges and brought back to Massachusetts.

An autopsy revealed that Mr. Graves had died of a lethal stab wound to the chest that penetrated the left ventricle of his heart. He also suffered a non-lethal stab wound over the left knee.

II. INSTITUTIONAL RECORD & PROGRAMMING

Mr. Jenkins was 18 years old at the time of the offense. He is currently 42 years old and serving his first incarceration of any kind. Throughout his incarceration Mr. Jenkins has received 45 disciplinary reports. The most serious were for fighting, participating in a group demonstration, and assaulting an inmate by slashing and stabbing him with an antenna. He has four returns to higher custody.

Mr. Jenkins is currently incarcerated at NCCI-Gardner and has engaged in a large number and wide range of institutional programs, including those recommended by the Department of Correction in his risk reduction plan. He has completed the Correctional Recovery Academy, Emotional Awareness/Healing, Alternatives to Violence (several phases) and attended AA/NA. Mr. Jenkins achieved his GED in 1990, completed the Custodial Maintenance Program and passed the required exam and completed the Computer Servicing Technology Program in May 2003. Since his return as a parole violator, Mr. Jenkins is attending a music theory course. He stated that there is no programming available for him. He is employed in the prison gym undertaking various tasks, such as refereeing basketball games, cleaning and other chores.

Mr. Jenkins denies any drug or alcohol issues. However, his record indicates past issues with alcohol. In a November 1989 Classification Report, he reported to experimenting with alcohol beginning at age thirteen and that prior to his incarceration he was drinking a case of beer every weekend. Drugs or alcohol use did not appear to play a role in the commission of the current offense.

Mr. Jenkins is not an open mental health case.

III. PAROLE HISTORY & PAROLE HEARING ON MAY 31, 2012

Mr. Jenkins appeared before the Parole Board on May 31, 2012, as a parole violator. He seeks a re-parole to his home where he would continue to live with his family, provide for his children, and remain active in the community.

The Board first voted to parole Mr. Jenkins on August 20, 2003, opting to reserve after six months in pre-release. His parole was rescinded in December 2005, because he had received a disciplinary report for falsifying a report of a staff assault. Making false accusations against staff is a very serious incident which relies on criminal thinking and demonstrates insufficient rehabilitation. The Board affirmed the rescission in July 2006, and Mr. Jenkins was placed on the next available list for a hearing before the full Board. He received his second positive parole vote on October 6, 2006, and was paroled to the Alternative House, a long-term residential program. He completed the program in May of that year, but began to experience problems, including forging AA attendance slips, missing AA meetings, failing to meet with his therapist, and failing to provide proof of employment. Mr. Jenkins received a final warning for this behavior on July 12, 2007. He was returned to custody on November 9, 2007, for lying to his parole officer about his employment situation and for associating with a known felon. Revocation proceedings began and, on January 28, 2008, the Board voted to revoke his parole.

He was re-paroled on November 17, 2008, but again taken into custody on June 23, 2009, for operating a motor vehicle without a license; for failing to notify his parole officer of the stop and the subsequent summons arising from violating the law; and for failing to participate in mental health counseling. Revocation proceedings began and, on September 29, 2009, the Board revoked his parole. He was given parole for the fourth time in February 2010, but his parole was provisionally revoked in May 2011, for carrying an open container of alcohol in public. He explained to his parole officer that he was delivering it to a 19-year-old, an explanation that his parole officer found to be both unconvincing and suspicious. The Board affirmed the revocation in July 2011, and placed Mr. Jenkins on the next available list for another hearing before the full Board.

Attorney Scott Holmes represented Charles Jenkins at the hearing. Mr. Jenkins discussed his parole violations, and took the position that he did nothing wrong. He also took that position in discussing the murder: the victim assaulted him with a knife; he got possession of the knife from the victim; he did not intend to stab the victim; he went to Florida coincidentally and not with an intention to flee. This very unlikely story has no support in the evidence: witnesses described Mr. Jenkins as aggressively advancing on the victim and no witness said the victim had a knife. As the Appeals Court decision documents, "Mistaken identity was the theory of defense." Mr. Jenkins' choice of trial defense makes it nearly certain that his current claim of self-defense is false.

Board Members referred to the "lies and deception with your parole officer" that are documented in the case notes. A Board Member said there are "denials, double talk, and dishonesty throughout the record; lack of honesty and poor attitude throughout the case notes; forged AA slips; lying to your parole officer about employment; false statements about other events; the weight of this dishonesty is overwhelming."

Mr. Jenkins made a very poor presentation by failing to accept the established facts of his violations and resisting responsibility for any of his conduct. A Board Member told Mr. Jenkins that "You did a much better job at your last parole hearing; we cannot accept your wild stories.

Suffolk Assistant District Attorney Charles Bartoloni submitted a letter of opposition. Mr. Jenkins' sister, fiancée, and a friend testified in support. They were effective witnesses, and are primarily responsible for the review period being less than five years.

IV. DECISION

Charles Jenkins is seeking a fifth parole after four failures (one rescission and three revocations). At this parole hearing, Mr. Jenkins accepted no responsibility for the failures, made many misrepresentations in describing events, and made it clear that he intends to follow his own set of rules without regard to parole conditions or community expectations. Mr. Jenkins offered no suggestions for how he would change or improve his behavior if he received a fifth chance. Mr. Jenkins is still committed to criminal thinking and is not 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, the Board finds that Mr. Jenkins is not a suitable candidate for parole. Accordingly, parole is denied, with a review in three years.

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.


Janis DiLoreto Noble, General Counsel

5/14/13
Date