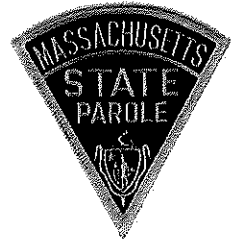


*The Commonwealth of Massachusetts
Executive Office of Public Safety and Security*



PAROLE BOARD

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DECISION

IN THE MATTER OF

CHARLES PONTICELLI

W50338

TYPE OF HEARING: **Review Hearing**

DATE OF HEARING: **January 28, 2020**

DATE OF DECISION: **May 20, 2020**

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

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. Parole is granted to a long-term residential program with special conditions, but not before six months in lower security and District Attorney clearance.

I. STATEMENT OF THE CASE

On April 9, 1991, in Suffolk Superior Court, Charles Ponticelli pleaded guilty to the second degree murder of 38-year-old Stephen Handrahan and was sentenced to life in prison with the possibility of parole. Mr. Ponticelli also pleaded guilty to armed robbery and received a concurrent 15 to 20 year prison sentence. At the time of the murder, Mr. Ponticelli was 24-years-old.

On August 31, 1990, Stephen Handrahan and two individuals were drinking at the Cabot Street Yard, an MBTA train storage facility. The two men borrowed money from Mr. Handrahan and then left. They met up with Charles Ponticelli and another man, and the four men drank and smoked crack cocaine. The two men who had been at the MBTA storage facility told the others that Mr. Handrahan had a large amount of money on him. Mr. Ponticelli expressed excitement about the prospect of robbing him. At around 2:00 a.m., Mr. Ponticelli took a tire

iron and returned to Cabot Yard with the others. Mr. Handrahan was still there, and the four men began to drink with him. Eventually, they left Mr. Handrahan and moved to an adjoining train car. Mr. Ponticelli, however, talked about robbing Mr. Handrahan. He went back to the train car, where Mr. Handrahan was sleeping, and beat him to death with the tire iron.¹ After an investigation, Mr. Ponticelli was arrested on October 3, 1990, and charged with his murder.

II. PAROLE HEARING ON JANUARY 28, 2020

Mr. Ponticelli, now 54-years-old, appeared before the Parole Board for a review hearing on January 28, 2020, and was represented by student attorneys from Northeastern University School of Law. In 2005, the Board voted to parole Mr. Ponticelli, following the successful completion of six months in pre-release. His parole was provisionally rescinded in April 2007, after a Department of Correction investigation revealed that Mr. Ponticelli had delivered inappropriate correspondence to a female staff member. The rescission was not affirmed, and the Board paroled Mr. Ponticelli to a long-term residential program in June 2008. Revocation proceedings began in early October 2009, when Mr. Ponticelli left a parole office without permission, while waiting for the results of a drug test. His whereabouts were unknown for two days until he was apprehended by police. The drug test confirmed Mr. Ponticelli's cocaine use. Parole was revoked, and he was returned to custody. Mr. Ponticelli was re-paroled in December 2010 to the Hope House in Boston. However, on February 14, 2011, Hope House staff notified his parole officer that Mr. Ponticelli had been discharged from the program, after he refused a drug test and admitted to using cocaine. Mr. Ponticelli failed to contact his parole officer and was whereabouts unknown for 10 days. He was eventually taken into custody on February 23, 2011, and his revocation was affirmed on May 6, 2011. Mr. Ponticelli was denied parole after his review hearings in 2012 and 2017.

The Board questioned Mr. Ponticelli as to the steps he has taken, since his review hearing in 2017, to better prepare himself for release to the community. Mr. Ponticelli told the Board that he agreed with their decision, after his most recent review hearing, because he was "not ready." He explained that he was not able to use the tools he had developed, in part, because he had not come to terms with lifelong issues that were holding him back. Since 2017, however, he has engaged in counseling, meditation, and journaling to understand the underlying causes of his destructive behavior. Through therapeutic activities, Mr. Ponticelli has worked to understand the effect that his abusive stepfather had on his development. Mr. Ponticelli told the Board that he has taken responsibility for himself and his rehabilitation.

Since his re-incarceration, Mr. Ponticelli has engaged in significant programming, including anger management and stress meditation, and has recommitted himself to sobriety. The Board noted that he has been substance-free for nine years and is heavily involved in Narcotics Anonymous. Mr. Ponticelli explained that, in addition to running one Narcotics Anonymous group, he initiated another 12 Step Narcotics Anonymous group – the first of its kind at his institution. When Board Members discussed his pattern of engaging in relationships with individuals who had criminal histories or ongoing substance abuse issues, Mr. Ponticelli repeatedly told the Board that he was "not going to lose [his] clean time for anyone," and that

¹ Two of the other men were not present during the beating. The third man went with Mr. Ponticelli to the train car, where the victim was sleeping, but did not go inside. These three men were not charged in connection with the murder.

his focus has been on himself, not others. Mr. Ponticelli agreed with the Board that he had not been as forthright with his parole officer as he could have been. He now recognizes the importance of working with his parole officer to ensure his success in the community. Mr. Ponticelli also stated that his family and friends, and the sober community, would be part of his strong support network. The Board noted Mr. Ponticelli's detailed parole plan that, in addition to outlining job opportunities, emphasized counseling and substance abuse programming.

Mr. Ponticelli's friend testified in support of parole. The Board considered a letter of opposition submitted by Boston Police Commissioner William Gross.

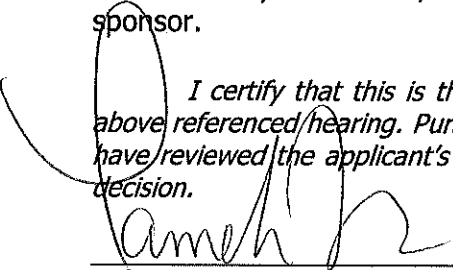
III. DECISION


Since his return to custody, Mr. Ponticelli has immersed himself in rehabilitative treatment and programming. Mr. Ponticelli, after prior parole failures, recognizes the structure and support he will need to be successful in the community. In the opinion of the Board, after a gradual transition through lower security to further demonstrate success in a less restrictive environment, his release will be compatible with the welfare of society. The Board did consider COVID-19 in rendering their decision.

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. In forming this opinion, the Board has taken into consideration Mr. Ponticelli'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. Ponticelli's risk of recidivism. After applying this standard to the circumstances of Mr. Ponticelli's case, the Board is of the unanimous opinion that Charles Ponticelli merits parole at this time. Parole is granted to a long-term residential program with special conditions, but not before six months in lower security and District Attorney clearance.

SPECIAL CONDITIONS: Long-term residential program for no less than six months; Waive work for long-term residential program; Must be at home between 10 p.m. and 6 a.m.; 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; AA/NA 3 times/week; Mandatory – sponsor.

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.


Pamela Murphy, General Counsel


Date