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DECISION

IN THE MATTER OF

CHARLES PONTICELLI

W50338

TYPE OF HEARING: Review Hearing

DATE OF HEARING: January 24, 2017

DATE OF DECISION: August 1, 2017

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, parole 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 not a suitable candidate for parole. Parole is denied with a review scheduled in four years from the date of the hearing.

I. STATEMENT OF THE CASE

On April 9, 1991, in Suffolk Superior Court, Charles Ponticelli pled 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 pled 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, Mr. 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 Mr. Ponticelli and another man, and the four men drank and smoked crack cocaine. The two men who had been at the MBTA storage facility (with Mr. Handrahan) 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, kept talking about robbing Mr. Handrahan. He went back to the train car (where Mr. Handrahan was now 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.

Mr. Ponticelli has twice been granted parole and has violated both times. 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 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 he 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 revocation was affirmed on May 6, 2011. He had a parole review hearing on January 24, 2012, after which he was denied parole with a review in five years.

II. PAROLE HEARING ON JANUARY 24, 2017

On January 24, 2017, Charles Ponticelli, now 51-years-old, appeared before the Parole Board for a review hearing, asking for a third opportunity to be paroled. Mr. Ponticelli was represented by Northeastern University Law School Student Attorney Stephanie Tabashneck. In his opening statement to the Board, Mr. Ponticelli apologized to the victim and his family for the pain and suffering he caused them. He accepted full responsibility for his actions that resulted in the death of Mr. Handrahan, and he did not deny anything about the underlying crime.

The Board asked Mr. Ponticelli to discuss his first parole failure in 2008, as well as the factors that led to his relapse and revocation. Mr. Ponticelli said that he met and married a woman after only a few months on parole. After a few months of marriage, however, the relationship soured. He left his wife and moved in with his brother in Dorchester. He said that he made a mistake in marrying a woman he did not really know and who began using drugs shortly after they married. He admitted that he did not tell his parole officer about his wife's drug use. He said that his first revocation stemmed from an encounter with state police, which he neglected to report to his parole officer, as well. He had been pulled over, in the early morning hours, due to an exhaust problem with his car. When his parole officer called him the next morning, he told him to report to the office immediately. Mr. Ponticelli said that he used cocaine before going to the parole office, since he thought he would be returned to custody. High on cocaine, he arrived at the parole office and was asked to give a urine sample. After the urine sample was given, he decided to flee before his parole officer received the results. He absconded for two days before he was found and returned to custody.

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.

When asked about his second parole violation, Mr. Ponticelli told the Board he was given a weekend pass from Hope House. He went to his estranged wife's house to get their marriage certificate, so he could begin divorce proceedings. While there, she gave him a cigarette laced with cocaine. He claimed he did not know the cigarette was laced with drugs, but self-disclosed his drug use to the Hope House staff upon his return. He said that Hope House staff immediately discharged him from the program and he had nowhere to go. When asked why he did not immediately call his parole officer to inform him of his relapse and current housing problem, Mr. Ponticelli claimed he called once, but was told his parole officer was out until the end of the week. He admitted that he did not leave his name or ask to speak to a supervisor to help him with his situation. Instead, he absconded for 10 days, hiding with his girlfriend, until apprehended by police. One Board Member questioned his version of events regarding his second violation because, in a letter he had sent to the Parole Board, he wrote that he "ran into his wife in town," while on a weekend pass from Hope House. He also wrote that he knew she had just purchased drugs, yet he went back to her house to get some of his personal belongings. As soon as he smoked the cigarette she gave him, he knew it was laced with cocaine. However, he smoked it "like it was my last cigarette." Mr. Ponticelli had no answer to explain his inconsistent versions of events.

One Board Member remarked that a common denominator in his parole failures is his relapse into cocaine use and, further, noted that he was high on cocaine when he violently murdered Mr. Handrahan. The Board noted the serious nature of relapsing and absconding after testing positive for cocaine, and that Mr. Ponticelli has now done so twice. Mr. Ponticelli had difficulty providing any specific details about his behavior, substance abuse, or whereabouts during the time he absconded for 10 days. He was also not forthcoming about how his girlfriend helped hide him from the many law enforcement agencies looking for him. A Board Member remarked that it is hard to parole someone who is not credible, or forthcoming, during their parole hearing. The Board also expressed concern with Mr. Ponticelli's admissions that (during both his first and second paroles) he was in relationships with women who used drugs and drank alcohol, but never thought to inform his parole officers of their behavior or distance himself from such relationships.

Two of Mr. Ponticelli's brothers testified in support of parole. Suffolk County Assistant District Attorney Charles Bartoloni submitted a letter in opposition to parole.

III. DECISION

Charles Ponticelli has a poor history while on parole supervision, as he has absconded twice. He still minimizes his actions and lacks candor. Mr. Ponticelli also submitted an unrealistic parole plan. He needs to submit a more viable parole plan that will address all of his issues, including substance abuse and mental health.

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 opinion that Mr. Ponticelli not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Ponticelli's next appearance before the Board will take place in four years from the date of this hearing. During the interim, the Board encourages Mr. Ponticelli to continue working towards his full rehabilitation.

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

8/1/17
Date