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Josh Wall
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DECISION

IN THE MATTER OF

CHRISTOPHER PINA

W31725

TYPE OF HEARING: Review Hearing

DATE OF HEARING: January 10, 2012

DATE OF DECISION: May 1, 2013

PARTICIPATING BOARD MEMBERS: Cesar Archilla, Dr. 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, including the nature of the underlying offense, institutional record, the views of the public as expressed at the hearing or in written submissions to the Board, we conclude that the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in five years. The decision is unanimous.

I. STATEMENT OF THE CASE

On November 25, 1967, Christopher Pina, age 19, and Edward Leate, age 22, robbed and beat 53-year-old Joseph Sheerin to death in Scituate. The cause of his death was massive hemorrhaging caused by multiple blunt force trauma injuries to his head, face, and chest. On May 27, 1968, Mr. Pina pleaded guilty to second-degree murder, and was sentenced to serve life in prison. He was also sentenced to serve concurrent terms of fifteen to twenty five years for robbery and eight to ten years for kidnapping.¹ Mr. Pina and Mr. Leate moved to withdraw their guilty pleas in 1970, but the motions were denied, as was the subsequent appeal. *Commonwealth v. Leate*, 367 Mass. 689 (1975).

On the day of the murder, Mr. Pina and Mr. Leate needed money and planned to rob someone. They jumped Mr. Sheerin after he had left a bar in Scituate, beat him, took his

¹ Mr. Pina's co-defendant, Edward Leate, also pleaded guilty to second degree murder, robbery, and kidnapping. On February 15, 1978, Governor Dukakis commuted Mr. Leate's sentence to seventeen years and six months to life. He was paroled on November 22, 1978, and his parole was terminated on June 25, 1984.

wallet, and fled in Mr. Leate's brother's car. They returned, however, when they realized that the wallet did not contain any money. Mr. Pina and Mr. Leate resumed beating Mr. Sheerin, threw him into the backseat of his own car, and robbed him of the few dollars in his pocket. They also stole approximately \$400 from the car. They drove the car to a secluded spot and dumped Mr. Sheerin's body on the side of the road. Mr. Sheerin was still moaning when they left him. Mr. Pina then drove Mr. Sheerin's car to a roadside in Hanover and set it on fire.

On October 1, 1975, Governor Dukakis commuted Mr. Pina's sentence to fifteen years to life, resulting in the advancement of his parole eligibility date to November 27, 1977. He was paroled in 1979.

Aside from the murder, Mr. Pina's criminal record also includes a 1977 conviction for an assault and battery on a correctional officer and three counts of assault and battery by means of a dangerous weapon, which resulted in a one-year sentence from and after his life sentence. This was an especially serious incident that began with intoxicated white inmates attacking black inmates. Christopher Pina and his associates then attacked corrections officer who intervened. An officer attacked by Mr. Pina was slashed in the neck by a razor. During the attack on the corrections officers, Mr. Pina yelled, "Let's kill these motherfuckers." During the melee, Mr. Pina tried to make an officer unlock the kitchen. The officer refused and wrote in his report that, "I knew what he wanted, he wanted to get at the kitchen knives."

II. PAROLE HISTORY

On November 21, 1979, Mr. Pina was paroled and remained in the community for seven years before being returned to custody in 1986 for a new arrest involving several gun charges. The charges were eventually dismissed, but Mr. Pina admits that he had been using alcohol regularly during his parole, and was drinking on the night of the incident.

On October 3, 1988, Mr. Pina was released again on parole. On July 2, 1989, he was arrested on charges of operating under the influence of alcohol and mayhem (which was reduced to assault and battery). The charges resulted in the revocation of his second parole. The cases were not pressed, but Mr. Pina again admitted that he was drinking regularly while on parole.

Mr. Pina remained in custody until February 14, 1992, when he was paroled for a third time. He remained on parole until March 23, 1998, when he was arrested and charged with aggravated rape, assault and battery by means of a dangerous weapon, and threats, which led to the revocation of his third parole. He was ultimately acquitted of these charges.

Mr. Pina's criminal history while on parole also includes arrests for operating to endanger and operating under the influence of alcohol, for which he received a continuance without a finding; and two additional operating to endanger charges, one of which resulted in the payment of a \$250 fine, and the other a guilty file. In 1989, he was acquitted of operating under the influence of alcohol. The police report documents considerable evidence of alcohol consumption, including Mr. Pina's admission to drinking earlier in the day. The report also documents that Mr. Pina refused a breathalyzer test.

III. PAROLE HEARING ON JANUARY 10, 2012

This was Christopher Pina's twelfth appearance before the Parole Board. He is 65 years old.

He is currently employed in the metal shop at MCI-Norfolk. He receives positive work and housing evaluations. He has received one disciplinary report since his last hearing; prior to that, his last disciplinary report occurred in 1990. Mr. Pina has a total of 17 disciplinary reports. He and other inmates attacked a corrections officer in 1977, which resulted in a criminal conviction and a one-year sentence. In 1987, he was transferred to another institution because of his participation in a group demonstration.

Since his last parole hearing in 2008, Mr. Pina has completed one rehabilitative program, Active Listening. At the hearing, he stated that he attends AA/NA, 12 Steps, and Big Book. Since his last hearing, he has received occupational certification in industrial refrigeration and basic electricity.

Parole Board Members questioned Mr. Pina about his conduct on his previous paroles in an effort to determine the level of risk he presented to the community, his willingness to follow the conditions of parole, and whether he was habitually dishonest with parole. With respect to the gun charges in 1986, a judge's description of credible evidence presented at an evidentiary hearing shows Mr. Pina, while on parole, was connected to a cache of weapons, including a machine gun, a sawed-off shotgun, a long barrel shotgun, and a rifle. Police responded to a call for shots fired on Centre Court in Dorchester. Police officers found a drunken Mr. Pina in front of his house. When they asked Mr. Pina about shots fired, he said, "that was nothing, just fireworks." The officers determined that a shotgun blast had been fired at a U-Haul truck parked nearby. One tire had been damaged by the shotgun pellets. Additionally, the truck's front windshield was broken by an object thrown by Mr. Pina. A witness approached the officers and said, "You've got to get him out of here before he kills someone, he has an Uzi on his front lawn." The cache of weapons was recovered from a trash can near where Mr. Pina stood in his front yard.

A Superior Court judge conducted an evidentiary hearing for the purpose of deciding Mr. Pina's motions to suppress. In a written decision, the judge found the following facts based on "the credible evidence:" three separate witnesses told responding police officers that they saw Mr. Pina with an uzi, police officers observed Mr. Pina standing one foot away from the trash can containing the guns; when an officer asked Mr. Pina about the guns, Mr. Pina responded, "those are mine." After being placed under arrest, Mr. Pina kissed the arresting officer on the cheek. The judge suppressed the admission because Miranda warnings were not given, but denied the motion to suppress the guns.

At this parole hearing, Mr. Pina admitted he argued with the driver of a U-Haul truck, but denied any connection to the shooting or the recovered guns. The reasonable interpretation of the documented events is that a drunken Mr. Pina argued with a truck driver, used a gun to threaten the man by shooting his truck, and removed the cache of guns from his home to the trash can in expectation of a police response to the altercation. This is an extraordinary risk to public safety from a murderer on parole.

The second matter involved a road rage incident in Braintree on July 1, 1989. Mr. Pina, while driving drunk with his girlfriend, became enraged by the actions of another motorist. Mr. Pina followed the other driver to that man's home on a dead end street. The two men fought and Mr. Pina bit the other man's ear. There is extensive documentation in the police report that Mr. Pina was driving his own car, although he later defended the case (and his parole violation)

by blaming his girlfriend and asserting that she was the driver of his car and that she followed the victim. Mr. Pina also defended the case by saying that the other driver attacked him. Mr. Pina refused a breathalyzer test. In telling this story at this parole hearing, Mr. Pina started by saying, "I was driving down the street." Mr. Pina's spontaneous admission resolved the issue for Parole Board Members. Mr. Pina also misses a related point: whether he was driver or passenger, he was an enraged and drunken parolee who chased down another motorist and initiated a physical confrontation which resulted in an injury to the victim caused by a human bite. This is shocking conduct for a murderer on parole. At the hearing, Mr. Pina showed little appreciation for the seriousness of this conduct, and seemed unconcerned about his dishonesty under oath at the hearing.

Mr. Pina's third parole failure involved allegations of domestic violence and sexual assault. The criminal charges resulted in not guilty verdicts. The Parole Board's continuing concern included Mr. Pina's overlapping relationships with multiple women, which necessitated regular duplicitous conduct in dealing with his support network and his parole officer. Given his lifestyle, it was almost inevitable that Mr. Pina's conduct would provoke a domestic incident.

At this hearing, Mr. Pina took the position that he was wrongly accused in all three incidents. Other than admitting that he drank regularly on his first two paroles, Mr. Pina showed little understanding of the risks associated with his angry and retaliatory conduct. He did not appear to have given much thought or effort to reforming the reckless and deceitful conduct that characterized his paroles. Board Members concluded that he was not candid at the hearing in describing his conduct on parole, especially the road rage incident and the machine gun incident.

Mr. Pina's sister, girlfriend, and AA sponsor testified in support of parole. Plymouth Assistant District Attorney Karen O'Sullivan testified in opposition to parole.

IV. DECISION

Christopher Pina has had three opportunities on parole. He violated parole every time by being arrested for new offenses. In combination, the three arrests establish that Mr. Pina is a violent person with little self-control or regard for the requirements of parole. While on parole, he fired a sawed-off shotgun at a vehicle on the streets of Boston while under the influence of liquor and bit the ear of a man he chased down and fought with while intoxicated. At his parole hearing, Mr. Pina showed little candor in describing his conduct and little appreciation of the extraordinary public safety risks he presented in prior paroles. Considering Mr. Pina's lack of candor at the hearing, the Parole Board concludes that Mr. Pina is not prepared to be an honest parolee. Mr. Pina's performances on parole and at this hearing demonstrate that he is not rehabilitated.

The standard applied in assessing candidates for parole is set out in 120 CMR 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, we find that Mr. Pina's performance on three paroles establishes that he is likely to commit a new crime if released and that his release is not compatible with the welfare of society. Parole, therefore, is denied with a review in five years. Given the danger presented by Mr. Pina and his willingness to ignore the requirements of parole, he needs a long period of established rehabilitation in which he displays candor, insight, and reform. He should continue with program participation, work, and good conduct.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing. This signature does not indicate authorship of the decision.

Josh Wall

Josh Wall, Chairman

May 1, 2013

Date