



Charles D. Baker
Governor

Karyn Polito
Lieutenant Governor

Daniel Bennett
Secretary

The Commonwealth of Massachusetts
Executive Office of Public Safety

PAROLE BOARD

12 Mercer Road
Natick, Massachusetts 01760

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



Charlene Bonner
Chairperson

Janis DiLoreto Smith
Executive Director

DECISION

IN THE MATTER OF

CHRISTOPHER PUCILLO

W58874

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: November 20, 2014

DATE OF DECISION: February 26, 2015

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, Tina Hurley

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 not a suitable candidate for parole. Christopher Pucillo will receive a review hearing two years from the date this hearing.

I. STATEMENT OF THE CASE

On June 3, 1993, Christopher Pucillo beat 17 year-old Ralph James Tracey to death in Sharon. Pucillo was 17 years-old at the time of the killing. After a jury trial in Norfolk Superior Court in June 1995, Pucillo was convicted of first degree murder as a joint venture under the theories of deliberate premeditation and extreme atrocity and cruelty. He was sentenced to serve the mandatory term of life in prison without the possibility of parole. The Supreme Judicial Court affirmed the convictions on March 18, 1998. *Commonwealth v. Pucillo*, 427 Mass. 108 (1998).

On December 24, 2013, the Supreme Judicial Court (SJC) issued its opinion in *Diatchenko v. District Attorney for the Suffolk District & Others*, 466 Mass. 655 (2013), in which the Court determined that the statutory provisions mandating the imposition of a life sentence without the possibility of parole were invalid as applied to juveniles convicted of first degree

murder. The Court further decided that Diatchenko and other similarly situated inmates were to be afforded parole hearings. Accordingly, Christopher Pucillo came before the Parole Board for a hearing.

The facts of the crime are culled from *Pucillo*, 427 Mass. at 109-10, the SJC's opinion affirming him conviction. On the evening of June 3, 1993, Pucillo, two companions¹, and the victim purchased a case of beer and a bottle of vodka and proceeded to an area known as "Sharon Woods" in Sharon. The four individuals spent the next two hours drinking alcohol in a secluded area of the woods known as Gavin's Pond. While still in the woods, at approximately 9:00 pm, Pucillo and his two companions secretly made plans to "jump" the victim.

Soon thereafter, Pucillo and the two companions attacked the victim by wrapping a jacket or shirt around the victim's head, knocking him to the ground, and beating him with their fists and feet. They also removed the victim's clothes as he lay motionless on the ground. One of Pucillo's companions found a stick with which he subsequently penetrated the victim's rectum and struck his testicles. For his part, Pucillo conceded that he "just kept hitting" and "kicking" the victim. The attack lasted about 30 minutes. At that point, the victim's face was still covered and there were no signs that he was either conscious or breathing. Pucillo's companions then dragged the victim to the edge of the pond and held his head under water for an extended period. Pucillo checked the victim's pulse and found none. Finally, one of his companions stabbed the victim in the neck. They covered the victim's half-submerged body with a blanket and sticks from the woods and then left the scene. The day after the murder, a local fisherman discovered the victim's body and alerted local police. Pucillo was subsequently arrested.

II. PAROLE HEARING ON NOVEMBER 20, 2014

Christopher Pucillo is now 38 years-old. He opened the hearing by apologizing to the victim's family and assuring those in the hearing that he has accepted responsibility for Mr. Tracey's death. Pucillo has been at MCI Norfolk since 1996, where he stated that he has been willing and able to invest in his rehabilitation. Pucillo explained to the Board that through maturity and investment in programming, he has come to understand more fully why he was capable of participating in such a heinous crime. Pucillo acknowledged that he was a very angry person who felt disconnected from school, family, and his environment. He stated that after moving several times, he found that his uncle was his role model and the person to whom he felt the most connected. Pucillo said that after his uncle's untimely death, he fell into a state of anger and hopelessness and did not know how to manage or understand his feelings.

Board Members considered the context of Pucillo's age in relation to relevant brain science, as outlined in the SJC's *Diatchenko* decision. However, based on the significant and prolonged cruelty associated with the crime, the Board had many questions as to Pucillo's exact participation in the offense. Pucillo described, in detail, his role in the death of Mr. Tracey. He denied any premeditated plan to kill Mr. Tracey and he refuted some of the facts stated by his codefendants. Of particular concern to the Board was whether Pucillo knew that Mr. Tracey was drugged and held against his will. Pucillo stated that his codefendant, Shawn, was in charge of all the plans and that he (Pucillo) followed along because he "never said no to him."

¹ One of Pucillo's companions, 22 year-old Shawn Fisher, pleaded guilty to second degree murder on April 11, 1995. He was denied parole following his initial parole hearing. The second companion, who was 23 at the time of the crime, was acquitted after a jury trial in 1996.

With every discrepancy pointed out in the various versions of the crime, Pucillo provided a scenario that appeared to make him the least culpable and one who acted without knowing, and in fact denying, some of the most egregious acts. The Parole Board sought clarification on the facts as to when Mr. Tracey asked to go home, whether he was prevented from leaving the car, and when and why he was drugged. As the hearing continued, Pucillo continued to take responsibility for his participation in beating Mr. Tracey. However, Pucillo again offered little clarification as to how much he knew about Shawn's plan, what he saw, and what he actually participated in. Most importantly, the Board questioned Pucillo as to why he agreed to kill a young boy whom he hardly knew. While peer pressure appeared to play a significant role, the acts of violence and depravity on Mr. Tracey were so extreme that the Parole Board was hoping for further insight. Pucillo stated to one Board Member that he was afraid Shawn would turn on him if he did not comply. This statement was rejected by one Board Member who stated that Pucillo had plenty of opportunities to help Mr. Tracey and that there was no evidence to suggest Pucillo's life was in danger.

Pucillo stated that after he read the autopsy report of Mr. Tracey, he decided "not to be a follower anymore" and to invest in rehabilitation. As part of his rehabilitation, the Parole Board encouraged him to face and accept all that he participated in that day. Pucillo stated that he believes he has. Pucillo explained the benefit of his pursuit of programs that have addressed violence reduction and conflict resolution skills. He acknowledged that although alcohol was a problem for him as a youth, he failed to invest in formal programming that addressed addiction, since he was more interested in pursuing his education. Pucillo has nearly completed his college degree and has invested in job training skills. Pucillo stated that his work provided him with a lot of responsibilities that have been entrusted to him by the institution. He stated that he is a skilled plumber and hopes to obtain his professional license.

Pucillo received counseling to address anxiety that was more significant during the earlier years of his incarceration. He outlined a comprehensive release plan that will assist him in adjusting to the many challenges he will have. Pucillo stated that since he has grown up in prison, he feels a gradual step down from a pre-release to a residential treatment program will provide him with the stabilization necessary to achieve long term success within the community.

Speaking on Pucillo's behalf were several family members, including his mother and aunt. Family members described the significance of his losses earlier in his childhood and how they have witnessed his positive transformation. They are willing to support him in his pursuit to parole in the community.

Speaking in opposition to Pucillo's release was the victim's uncle, who asked how any human being could inflict such horrific pain on another. The victim's sister also spoke in opposition to parole, describing how easy it was to victimize her brother. Finally, Norfolk County Assistant District Attorney Marguerite Grant provided a lengthy statement of opposition and proposed a motive for the murder, including specific details of Pucillo's role. ADA Grant strongly opposed parole and stated that Pucillo has not accepted the facts that led to his conviction. She stated that he has not been rehabilitated.

III. DECISION

Christopher Pucillo was 17 years-old when he participated in the murder of Ralph James Tracey, who was also 17. He was convicted of premeditated first degree murder with extreme atrocity or cruelty. He was thus initially sentenced to serve life in prison without the possibility of parole until the SJC's *Diatchenko* decision.

Pucillo has been incarcerated for 21 years. Despite his initial understanding that he would spend the rest of his life incarcerated, Pucillo has demonstrated an impressive path to rehabilitation. Pucillo received few disciplinary reports and engaged in programming, including educational and occupational skill training. He is on track to earn his Bachelor of Arts Degree in May 2015 from Boston University. He has also worked throughout the majority of his incarceration. Furthermore, Pucillo has a solid support system who presented at hearing as committed to assisting with his successful re-entry into the community.

Still of significant concern to the Parole Board, however, are the many conflicting versions of such a brutal and senseless murder. Conflicting statements between the facts, as outlined in the trial transcript and other witnesses, and Pucillo's version, leave Parole Board Members with more questions than answers regarding Pucillo's intent, role, and motivation in the murder of Mr. Tracey. The details that presented a premeditated murder, with extreme atrocity and cruelty, are not consistent with Pucillo's version. While acknowledging Pucillo's progress and his commitment to rehabilitation, further consideration is warranted by the Board regarding Pucillo's apparent lack of candor in his role, intent, and motivation in the crime.

The four goals of sentencing – punishment, deterrence, rehabilitation, and public protection – have not been met. Indeed, a Parole Board decision should support each of those four goals, and should not undermine a goal of sentencing. 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, the Parole Board encourages Pucillo to continue his investment in rehabilitation and be prepared to respond to the concerns outlined by the Parole Board in this decision at his next hearing. Pucillo will receive a review hearing in two 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 Smith, Executive Director


Date