



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

IN THE MATTER OF

CLYDE SMITH

W55466

TYPE OF HEARING: Review Hearing

DATE OF HEARING: January 5, 2016

DATE OF DECISION: March 31, 2016

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, 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, 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 that the inmate is not a suitable candidate for parole. Parole is denied with a review scheduled in three years from the date of the hearing.

I. STATEMENT OF THE CASE

On March 3, 1995, in Plymouth Superior Court, Clyde Smith was convicted of one count of unarmed robbery and one count of being a habitual offender. A sentence of life in prison, with the possibility of parole, was imposed on Mr. Smith for these convictions.¹

¹ Prior Records of Decision (February 11, 2010 and May 1, 2013) erroneously reported that Mr. Smith was sentenced to concurrent life terms after his conviction of two counts of unarmed robbery and one count of being a habitual offender. A review of the relevant sentencing mittimus, however, indicates that Mr. Smith was sentenced to only one life term as a result of his conviction of one count of unarmed robbery and one count of being a habitual offender. Records of the Probation Department, the Appeals Court of Massachusetts, and the United States District Court for the District of Massachusetts confirm this conclusion.

On November 22, 1993, in Bristol Superior Court, Mr. Smith was found guilty of one count of unarmed robbery and four counts of armed robbery. A separate term in prison of not more than 20 years, and not less than 15 years, was imposed on Mr. Smith for each of these robbery convictions. The Court further ordered that 10 years of each sentence be served by Mr. Smith as committed time and the balance of the sentence suspended for a three year probationary term.

On November 15, 1994, in Norfolk Superior Court, Mr. Smith was found guilty of three counts of armed robbery. A separate term in prison of not more than 12 years, and not less than 10 years, was imposed on Mr. Smith for each of these convictions of armed robbery. The Court further ordered that five years of each sentence be served by Mr. Smith as committed time and the balance of the sentence suspended for a three year probationary term.

On September 20, 1995, in Plymouth Superior Court, Mr. Smith was found guilty of two counts of armed robbery, nine counts of unarmed robbery, and one count of unarmed assault to rob. A term in prison of not more than 14 years, and not less than 12 years, was imposed on Mr. Smith for each of his robbery convictions. Mr. Smith was also sentenced to a term in prison of not more than 10 years, and not less than 9 years, for his conviction of unarmed assault to rob.

The facts surrounding Mr. Smith's convictions on March 3, 1995, for armed robbery and for being a habitual offender, are as follows: On March 30, 1993, Mr. Smith entered a Tedeschi's Food Shop in Brockton, Massachusetts. Mr. Smith approached the register with a dollar bill in his hand and placed a package of Lifesavers on the counter. When the clerk rang up the sale, the register opened. Mr. Smith leaned over the counter and removed money from the register, and he ordered the clerk to hand him additional cash from another drawer containing lottery proceeds. Mr. Smith then ordered the clerk to lie down on the floor. Mr. Smith fled the scene and was subsequently arrested. He was later convicted of one count of unarmed robbery and one count of being a habitual offender.

II. PAROLE HEARING ON JANUARY 5, 2016

Clyde Smith, now 52-years-old, appeared before the Parole Board on January 5, 2016, for a review hearing. This was his third appearance before the Board. Mr. Smith's initial appearance before the Board on January 26, 2010, resulted in the denial of parole. Mr. Smith appeared before the Board on January 29, 2013, for a review hearing and parole was, again, denied.

In Mr. Smith's opening statement to the Board, he apologized for his actions. During the course of the hearing, Mr. Smith spoke about the circumstances of his crimes. Mr. Smith estimated that he committed approximately 25 robberies prior to his incarceration. He cited his addiction to crack cocaine and alcohol as the primary factors influencing his criminal behavior. When questioned by the Board, Mr. Smith also addressed his institutional behavior, as he has been involved in numerous disciplinary incidents, such as fighting with other inmates and institutional staff, possession of contraband, and attempting to escape. According to Mr. Smith, he received approximately 32 disciplinary reports over the course of his incarceration. He reported to the Board that at least "a few" of these incidents occurred since his last appearance before the Board.

Mr. Smith described his most serious disciplinary incident, since his last appearance before the Board, as his use of obscene language with an institutional staff member. He was adjudged guilty of this offense in 2014. A review of Department of Correction records indicate that, in addition to this incident, Mr. Smith received disciplinary reports in 2013, 2014, and 2015 for infractions such as missed appointments, possession of pornographic material, and positive drug tests. In addition to making obscene comments to institutional staff, Mr. Smith was adjudged guilty of possessing pornographic material in 2014. The remaining infractions were either dismissed or administratively closed.

The Board also considered testimony from Attorney Kim Jones, who expressed support for Mr. Smith's release, as well as testimony from a representative from the Plymouth County District Attorney's Office, who expressed opposition to Mr. Smith's petition for parole.


III. DECISION

The Board is of the opinion that Mr. Smith has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board believes a longer period of positive institutional adjustment would be beneficial to Mr. Smith's rehabilitation.

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. Smith'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 whether risk reduction programs could effectively minimize Mr. Smith's risk of recidivism.

After applying this standard to the circumstances of his case, the Board is of the unanimous opinion that Mr. Smith is not yet rehabilitated. Mr. Smith, therefore, does not merit parole at this time. Mr. Smith's next appearance before the Board will take place in three years from the date of this hearing. During the interim, the Board encourages Mr. Smith 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

3/31/14
Date