

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 29, 2019

DATE OF DECISION: October 9, 2019

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Gloriann Moroney, Colette Santa, Paul Treseler¹

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 two years from the date of the hearing.²

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.

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

¹ Board Member Treseler was no longer a Board Member at the time of vote.

² Two Board Members voted to deny parole with a review in three years.

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, but 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 29, 2019

On January 29, 2019, Clyde Smith, now 55-years-old, appeared before the Parole Board for a review hearing. He was represented by Northeastern Law Student Megan Hiserodt. Mr. Smith was denied parole after his initial hearing in 2010, and after his review hearings in 2013 and 2016. In his opening statement to the Board, Mr. Smith apologized to the victims of his robberies and to the community at large. During the hearing, Board Members questioned Mr. Smith about his childhood. Mr. Smith stated that he, and his younger brother, began using alcohol, abusing prescription pills, and smoking marijuana and PCP when he was 7-years-old. His mother would provide him with drugs and encourage him to commit crimes, including shoplifting and burglaries. He subsequently dropped out of school in 9th grade. When asked about the governing offense, Mr. Smith stated that just prior to his crime spree, he tried smoking crack cocaine for the first time. He reported that he was immediately addicted and stayed up for days, robbing stores for drug money, getting high, and selling crack. Although he now recognizes that what he did was wrong, Mr. Smith explained that at the time, he was an addict and only thought about getting high.

The Board discussed Mr. Smith's 23 disciplinary reports, including four reports for fighting and 13 reports for refusing housing. Mr. Smith explained that the disciplinary reports for fighting were dismissed, when it was revealed that he was the victim of the assaults, and that he did not fight back. Mr. Smith reported that his recent disciplinary problems started with a phone call to a former inmate. He and the inmate discussed the possibility of introducing

Suboxone into the prison and splitting the profits from drug sales. Mr. Smith claimed that although he abandoned the conspiracy, he was nonetheless returned to higher custody at MCI Souza-Baranowski for his involvement in the plot. Mr. Smith explained that he had many enemies at MCI Souza-Baranowski (where he was returned), which is why he refused housing and was involved in fighting.

When the Board questioned him about substance abuse, Mr. Smith claimed that he has been sober since 2014, when he ingested Neurontin pills upon learning of his mother's death. Mr. Smith said that he only attends Alcoholics Anonymous when outside speakers come in, due to inmate drug use at the meetings. Mr. Smith also told the Board that mental health counseling has helped him maintain his sobriety, even when sharing cells with active drug and alcohol users. Mr. Smith claims to have completed almost all the programs offered to him at various institutions, including the completion of some programs twice. For his parole plan, Mr. Smith asked the Board to allow him a step down to minimum security and then release to a Long Term Residential Program. He plans to continue to attend Alcoholics Anonymous and hopes to find work as a barber or in construction.

Attorneys Chetan Tiwari and Kim Jones testified in support of parole and submitted letters of support, as well. Plymouth County Assistant District Attorney Christina Crowley testified in opposition to parole and also submitted a letter of opposition.

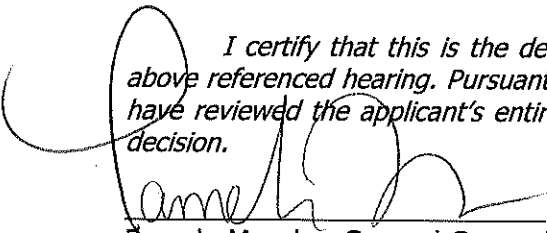
III. DECISION

Clyde Smith continues to incur disciplinary infractions. He has yet to demonstrate a level of rehabilitation that would make his release compatible with the welfare of society.

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 a risk and needs assessment and whether risk reduction programs could effectively minimize Mr. Smith's risk of recidivism. After applying this appropriately high standard to the circumstances of Mr. Smith's case, the Board is of the unanimous opinion that Clyde Smith is not rehabilitated and, therefore, does not merit parole at this time.

Mr. Smith's next appearance before the Board will take place in two 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.


Pamela Murphy, General Counsel

10/9/2019
Date