



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security

PAROLE BOARD

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DECISION

IN THE MATTER OF

CURTIS EARLTOP

W33301

TYPE OF HEARING: **Review Hearing/Resolve Action Pending**

DATE OF REVIEW HEARING: **October 30, 2012**

DATE OF DECISION: **March 5, 2015**

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Sheila Dupre, Ina Howard-Hogan, Lucy Soto-Abbe

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying 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 a unanimous vote that the inmate is a suitable candidate for parole with specific conditions of treatment provided by The Department of Mental Health (DMH).

Curtis Earltop had a hearing on March 13, 2012; however, the Parole Board stopped the hearing after it was apparent that Earltop was not competent to proceed with his hearing and that he needed assistance from an attorney. Earltop was afforded Attorney Margaret Fox for his new hearing, which occurred on October 30, 2012. The Parole Board voted Action Pending and hired Dr. Robert Kinscherff to provide a mental health evaluation informing the Board of Earltop's current mental status and mental health needs. Based on Dr. Kinscherff's evaluation, the Parole Board requested an assessment from the Department of Mental Health (DMH) prior to making a final decision on parole. The official vote was Action Pending.

On February 25, 2015 the Parole Board was provided with documentation from Attorney Jeffrey Harris (who is now representing Earltop) that the DMH has deemed that Earltop qualifies for DMH services.

I. STATEMENT OF THE CASE

On February 7, 1971, Curtis Earltop approached a group of prostitutes on Massachusetts Avenue in Boston. While many of the prostitutes rejected his offers, Kathleen Johnson accepted and went with Earltop to 413 Massachusetts Avenue. She was found dead the next day by Boston Police. The cause of death was a gunshot to the head. Earltop's clothing was found in the apartment and he was arrested a few days later.

Earltop was found guilty of second degree murder after a trial by jury in Suffolk Superior Court on September 29, 1971. Earltop appealed his conviction, but his appeal was denied.

II. PAROLE HEARING ON OCTOBER 30, 2012

Curtis Earltop was 62 years-old at his eleventh appearance before the Parole Board. Earltop has consistently denied that he committed the offense for which he now serves. He described how the facts of the case against him were flawed and has always maintained his innocence. He provided some details as to why he could not have committed the crime for which he now serves.

The majority of the hearing focused on how Earltop has adjusted throughout his incarceration, as well as the Board's determination of his needs in order to maintain his current level of functioning. It was clear throughout the hearing that Earltop has both profound cognitive and mental health impairments. He had difficulty answering questions that required abstract thinking. Earltop responded to concrete questions and described his daily routine. Earltop has had approximately ten psychiatric hospitalizations at Bridgewater State Hospital (the first was while awaiting trial in 1971). He was eventually diagnosed with Schizophrenia in the 1980's and appears to have had his last commitment to Bridgewater State Hospital in 1999. He was discharged in 2000 to Old Colony Correctional Center.

His symptoms have included significant paranoia, disorganization, and auditory hallucinations that are primarily sexual in nature (but non-violent). Earltop agreed that he has experienced all of those symptoms, but remarked that he has been stable for many years. He stated that, at times, he hears voices "to masturbate," but denies having any command hallucinations to hurt himself or others. He stated that "I do Chinese exercises" when he hears voices telling him to masturbate. He also stated that "the medications help me. I hear the voices but I just ignore them." He insisted that he knows how important it is to continue to comply with those medications. Earltop described his daily routine, which consists of attending "current events" groups and working to obtain his GED. He stated that he also "cleans the social worker's office" and he attends the Native American group. Earltop stated that he enjoys watching television and going outside. He stated that "a bad day is when it rains all day and I can't go outside, and a good day is when I see my attorney so I have someone to talk to." Earltop stated that he has some friends within the institution who he is able to socialize with, but does not have any support in the community. Earltop has not had any disciplinary issues in over ten years and stated that he feels the setting he is in now, and the treatment he has received, have been highly beneficial to him. Earltop requested to be paroled to a group home that would provide him with similar structure and mental health services that he receives in the institution.

There were no members of the public present at the hearing in support of, or in opposition to, Earltop's parole. A letter from Boston Police Commissioner Edward Davis was submitted in opposition to Earltop's release.


III. DECISION

Due to Curtis Earltop's lengthy history of mental illness, long incarceration, and institutionalization, the Parole Board requested a mental health evaluation from Robert Kinscherff, Ph.D. to assist with an assessment of Earltop's mental health status and treatment needs. Among the many recommendations, Dr. Kinscherff advised that Earltop be evaluated by the Department of Mental Health (DMH). Dr. Kinscherff opined that Earltop would "be a strong candidate for DMH eligibility given the chronicity of his mental illness along with the pronounced functional impairments arising from his positive symptoms (auditory hallucinations) but primarily from the pronounced negative symptoms of his chronic psychotic disorder." Due to the Parole Board's concern regarding Earltop's profound functional limitations (which coincide with his need for more support and structure), the Parole Board requested an evaluation for services by DMH. DMH has completed the evaluation and has deemed that Earltop qualifies for such services.

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 here, it is the unanimous opinion of the Board that Curtis Earltop is a suitable candidate for parole with specific conditions that require him to comply with DMH treatment. Such conditions, per the recommendation of the DMH, will require Earltop to voluntarily accept admission to a DMH hospital, where he will initially be monitored in a locked psychiatric unit. Earltop will be required to comply with all treatment recommendations set forth by the DMH.

SPECIAL CONDITIONS: Parole to a DMH facility that is recommended by the DMH; Must comply with all treatment recommendations set forth by the DMH; No drug use or alcohol use, with testing for compliance at PO discretion; Parole Officer will receive permission to have access to mental health records.

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.


James DiLoreto Smith, Executive Director

3/5/15
Date