



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security

PAROLE BOARD

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RECORD OF DECISION

IN THE MATTER OF

DAVID PHIM
W94978

TYPE OF HEARING: **Review Hearing**

DATE OF HEARING: **October 22, 2024**

DATE OF DECISION: **February 6, 2025**

PARTICIPATING BOARD MEMBERS: Edith J. Alexander, Dr. Charlene Bonner,¹ Tonomey Coleman, Sarah B. Coughlin, Tina M. Hurley, James Kelcourse, Rafael Ortiz

VOTE: Parole is granted to an approved home plan after 18 months in lower security.

PROCEDURAL HISTORY: On August 20, 2009, after a jury trial in Middlesex County Superior Court,² David Phim was convicted of second-degree murder in the death of 15-year-old Vuthay Phay and was sentenced to life in prison with the possibility of parole. He was also sentenced to a concurrent term of 4 to 5 years for unlawful possession of a firearm, and a consecutive term of one year probation on one count of unlawful possession of a loaded firearm. A charge of unlawful possession of ammunition was placed on file. Mr. Phim was denied parole after his initial hearing in 2022. Mr. Phim appeared before the Parole Board for a review hearing on October 22, 2024. He was represented by student attorneys Sydnee Kay and Madeline Curran of Boston College under the supervision of Attorney Frank Herrmann. The Board's decision fully incorporates, by reference, the entire video recording of Mr. Phim's October 22, 2024, hearing.

STATEMENT OF THE CASE: On April 7, 2007, 20-year-old David Phim participated in the shooting death of 15-year-old Vuthay Phay, a guest at a party at a house in Lowell. Mr. Phim was dating a resident of the house. In addition, he was in a gang that had a rivalry with another resident of the house. On the day of the shooting, Mr. Phim had punched his girlfriend after learning she was pregnant. Testimony at trial proved that, later in the evening, Mr. Phim

¹ Board Member Bonner was not present for the hearing, but reviewed the video recording of the hearing and the entirety of the file prior to vote.

² This was Mr. Phim's second trial, the first having ended in a mistrial.

went to an alleyway behind her house with a firearm and fired several rounds into one of the building's windows, murdering Mr. Phay.

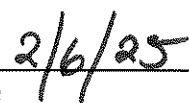
APPLICABLE STANDARD: Parole "[p]ermits shall be granted only if the Board is of the opinion, after consideration of a risk and needs assessment, that there is a reasonable probability that, if the prisoner is released with appropriate conditions and community supervision, the prisoner will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." M.G.L. c. 127, § 130. In making this determination, the Board takes into consideration an incarcerated individual's institutional behavior, their participation in available work, educational, and treatment programs during the period of incarceration, and whether risk reduction programs could effectively minimize the incarcerated individual's risk of recidivism. M.G.L. c. 127, § 130. The Board also considers all relevant facts, including the nature of the underlying offense, the age of the incarcerated individual at the time of the offense, the criminal record, the institutional record, the incarcerated individual's testimony at the hearing, and the views of the public as expressed at the hearing and/or in written submissions to the Board (if applicable).

DECISION OF THE BOARD: Mr. Phim appeared for the second time before the Board. While incarcerated, he has engaged in vocational programming and has professed career goals. He has completed OSHA, ServeSafe, and Culinary Arts. He has been sober for 10 years. He has completed the renunciation process. He has been disciplinary report free since 2013. Mr. Phim has maintained his innocence. He presents with a re-entry plan and has identified goals for after his return to the community. Per his request, the Board grants parole to an approved home plan after 18 months in lower security.

SPECIAL CONDITIONS: Approve home plan before release; Waive work for program; Curfew between 10pm and 6am at Parole Officer's discretion; Electronic monitoring for six months and then at Parole Officer's request to Board if GPS needs to be continued; Must be supervised for drugs, testing in accordance with Agency policy; Must be supervised for liquor abstinence, testing in accordance with Agency policy; Report to assigned MA Parole Office on day of release; No contact with TRG gang members. No contact with victim(s); No contact with victim(s)' family; Must have substance abuse evaluation and follow recommendations; Must have mental health counseling for adjustment.

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.


Tina M. Hurley, Chair


Date