

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:** Initial Hearing

**DATE OF HEARING:** October 27, 2022

**DATE OF DECISION:** January 18, 2023

**PARTICIPATING BOARD MEMBERS:** Tina Hurley, Dr. Charlene Bonner, Tonomey Coleman, Dr. Maryanne Galvin, James Kelcourse, Colette Santa

**STATEMENT OF THE CASE:** On August 20, 2009, after a jury trial in Middlesex County Superior Court,<sup>1</sup> David Phim was convicted of second-degree murder in the death of 15-year-old Vuthavy Phay and was sentenced to life in prison with the possibility of parole. He was also sentenced to a concurrent term of four to five 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 appeared before the Parole Board for an initial hearing on October 27, 2022. He was represented by student attorneys from Boston College Law School. The entire video recording of Mr. Phim's October 27, 2022, hearing is fully incorporated by reference to the Board's decision.

**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.

The Board is of the opinion that David Phim has not yet demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. On April 7, 2007,

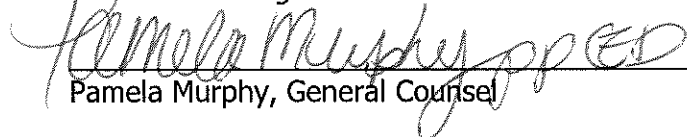
<sup>1</sup> This was the defendant's second trial, the first having ended in a mistrial.

20-year-old Mr. Phim participated in the shooting death of 15-year-old Vuthavy Phay. The Board acknowledges that Mr. Phim denies involvement in the murder. Mr. Phim shared that he was engaged in a criminal lifestyle from the time he was a young teenager. Mr. Phim became involved with a gang and started abusing alcohol around the age of fourteen. The Board notes he has completed some rehabilitative programming to include GMP, Criminal Thinking, and Alternatives to Violence. Before his next hearing, the Board encourages him to complete the renunciation process. He should continue to pursue vocational training and obtain his OSHA certification. The Board also suggests that Mr. Phim could benefit from the Restorative Justice program in all its forms. He should work on a comprehensive parole plan that contemplates relapse prevention and building a support network in the community.

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. Phim'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. Phim's risk of recidivism. After applying this standard to the circumstances of Mr. Phim's case, the Board is of the unanimous opinion that David Phim is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Phim's next appearance before the Board will take place in two years from the date of this hearing.<sup>2</sup> During the interim, the Board encourages Mr. Phim 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.*

  
Pamela Murphy, General Counsel

1/18/23  
Date

<sup>2</sup> One Board member voted to deny parole with a review in four years.