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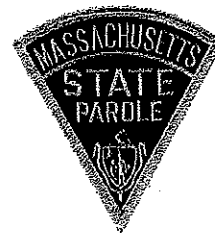
The Commonwealth of Massachusetts
Executive Office of Public Safety and Security

PAROLE BOARD

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Paul M. Treseler
Chairman

Gloriann Moroney
Executive Director

DECISION

IN THE MATTER OF

DAVID SIBINICH

W38839

TYPE OF HEARING: Review Hearing

DATE OF HEARING: February 6, 2018

DATE OF DECISION: March 1, 2019

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Colette Santa, 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 by unanimous vote that the inmate is a suitable candidate for parole. Upon District Attorney clearance, parole is granted to a long term residential program, via New York Interstate Compact, after 9 months in lower security with special conditions.

I. STATEMENT OF THE CASE

On March 17, 1982, in Berkshire Superior Court, David Sibinich was found guilty by a jury of armed robbery, assault in a dwelling with a dangerous weapon, assault with intent to murder, and assault and battery with a dangerous weapon. On March 19, 1982, he received concurrent life sentences for the first two charges and concurrent 8 to 10 year terms for the other charges. Mr. Sibinich filed an appeal, but his convictions were affirmed.¹ Further appellate review was denied.²

On December 15, 1980, Pittsfield police officers were dispatched to 168 Linden Street in response to a telephone call. When they arrived, police found 22-year-old David Sibinich in the

¹ *Commonwealth v. David Sibinich*, 15 Mass.App.Ct. 1105 (1983)

² *Commonwealth v. David Sibinich*, 389 Mass. 1101 (1983)

house. They also found the owner of the house, 80-year-old Esther Berenholc, tightly tied with wire, lying on the floor in her bedroom. She had been beaten and badly bruised about the face. Her fingers were also cut in several places, and she suffered multiple cut wounds on her head. She told the officers that "he" (meaning Mr. Sibinich) had tried to smother her with a pillow and choke her, before tying her up. The officers observed pillow stuffing scattered around the room, and also saw stuffing and blood on Mr. Sibinich's clothing and body.

Several other police officers arrived. Mr. Sibinich was arrested and searched. Police found a diamond ring, later identified as belonging to Ms. Berenholc, in one of Mr. Sibinich's pockets. They also confiscated a bloodstained knife from him, along with a six inch piece of wire, which was identical to that used to bind Ms. Berenholc. Mr. Sibinich stated to the officers that Ms. Berenholc had given him the ring that night.

Ms. Berenholc died on February 7, 1981, nearly two months later. An autopsy showed her death to have been from natural causes.

II. PAROLE HEARING ON FEBRUARY 6, 2018

David Sibinich, now 59-years-old, appeared before the Parole Board on February 6, 2018, for a review hearing. He was represented by Student Attorneys Regina Fountain and Samantha Loeb of Northeastern University School of Law. Mr. Sibinich was denied parole after his initial hearing in 1996. Parole was again denied after review hearings in 1999, 2002, and 2004. Following his appearance before the Parole Board in November 2005, the Board issued a split vote, and Mr. Sibinich was granted a one year review. He was seen by the Board in 2006 and granted parole. In 2012, however, Mr. Sibinich's parole was revoked. Mr. Sibinich had been charged in New York for drug related offenses regarding his alleged involvement in a drug conspiracy ring. He was sentenced to one count of attempt to possess cocaine and received a two year sentence concurrent with his life sentence. He was subsequently denied parole after his review hearing in 2013.

In Mr. Sibinich's opening statement to the Board, he apologized for the crime he committed, as well as his behavior during the last hearing. When a Board Member asked Mr. Sibinich to describe his plan for sobriety, he indicated that he would prefer a parole to an inpatient program at the VA hospital in Albany, New York. He stated that he now understands that sobriety comes first, so he works at staying sober. Since his last hearing, Mr. Sibinich said that he participated in Substance Abuse Education, Anxiety Management Group, and Correctional Recovery Academy (CRA) programs. He explained that learning how to use the tools taught during the CRA program have been most beneficial to him. He gave an example of utilizing self-talk to relieve a panic attack. He acknowledged that he is not currently working because he is in the CRA program. Mr. Sibinich denied medication use and acknowledged that he is seen for mental health on a monthly basis. He told the Board that his diagnosis is Post Traumatic Stress Disorder and suffers from anxiety attacks.

Mr. Sibinich spoke about the governing offense and said that since he was using drugs and alcohol at the time, he was in a "blackout" state. He remembers "bits and pieces," but the majority of what he knows comes from what he read regarding the offense. He indicated that he acted violently, as he was under the influence, but maintains that he does not act with violence when sober. A Board Member questioned Mr. Sibinich as to any challenges he could

face, if granted parole. He stated that his challenge would be to not "relapse." He has since learned that addiction never ends, but rather, it is an "ongoing problem." He explained, however, that he now recognizes his triggers. Mr. Sibinich told the Board that he has support from his brothers and sister-in-law. If paroled, he would prefer to attend a long term residential treatment program in New York. If released from the treatment program, he could reside with his brother or have his own apartment.

The Board considered testimony in opposition to parole from Berkshire County Assistant District Attorney Joseph Pieropan.

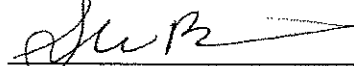
III. DECISION

The Board is of the opinion that Mr. Sibinich has demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Re-incarceration has served its purpose. Mr. Sibinich has availed himself of relevant programming to include Correctional Recovery Academy and Alcoholics Anonymous.

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. Sibinich's institutional behavior, as well as his participation in available work, educational, and treatment programs during the period of his incarceration. The Board also considered a risk and needs assessment and whether risk reduction programs could effectively minimize Mr. Sibinich's risk of recidivism. After applying this appropriately high standard to the circumstances of Mr. Sibinich's case, the Board is of the opinion that David Sibinich merits parole at this time. After District Attorney clearance, parole is granted to a long term residential program, via New York Interstate Compact, after 9 months in lower security with special conditions and clearance from the District Attorney.

SPECIAL CONDITIONS: Clearance from the District Attorney; Release to other authority – Interstate Compact NY; Waive work for Long Term Residential Program; Must be at home between 10pm & 6am; GPS for 6 months; Supervise for drugs, testing in accordance with agency policy; Supervise for liquor abstinence, testing in accordance with agency policy; Report to assigned MA Parole Office on day of release; No contact with victim's family; Must have mental health counseling for adjustment/transition; Long Term Residential Treatment; AA/NA at least 3 times/week.

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.



Shara Benedetti, Acting General Counsel

3/1/19
Date

