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**PAROLE BOARD**

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Josh Wall  
Chairman

**DECISION**

**IN THE MATTER OF**

**DAVID TALBOT**

**W53646**

**TYPE OF HEARING:** Review Hearing

**DATE OF HEARING:** October 23, 2012

**DATE OF DECISION:** June 28, 2013

**PARTICIPATING BOARD MEMBERS:** Cesar Archilla, Charlene Bonner, Sheila Dupre, Ina Howard-Hogan, Roger Michel, Lucy Soto-Abbe, Josh Wall

**DECISION OF THE BOARD:** After careful consideration of all relevant facts, including the nature of the underlying offense, institutional record, performance on parole, we conclude by a unanimous vote that Mr. Talbot is not a suitable candidate for parole at this time. Parole is denied with a review in five years from the date of the hearing.

**I. STATEMENT OF THE CASE**

On June 19, 1989, David Talbot was convicted after trial of the second-degree murder of 32-year-old Nancy Fallon and sentenced to serve life in prison. The conviction was affirmed on appeal. *Commonwealth v. Talbot*, 35 Mass. App. Ct. 766, *rev. denied*, 417 Mass. 1101 (1994). At the time that he murdered Ms. Fallon, Talbot was on parole for an armed robbery, and the life sentence was ordered to run consecutive to the remainder of the 15 year sentence he was serving.

Talbot appeared before the Massachusetts Parole Board on October 23, 2012, for a review hearing. This is his second appearance before the Board. After his initial hearing in 2007, the Board denied parole citing the fact that he was on parole for an armed robbery at the time he committed the murder, his lengthy criminal record, the heinous nature of the murder,

and his poor institutional conduct.<sup>1</sup> The facts below are culled from the Appeals Court's opinion. *Talbot*, 35 Mass. App. Ct. at 766-72.

On August 30, 1988, David Talbot and his co-defendant, Patrick (AKA Michael) Burke<sup>2</sup>, met Nancy Fallon in a bar in Pittsfield and struck up a conversation with her. The bartender overheard Burke tell her that he liked her. Around 12:45 A.M., the bartender announced last call and noticed that the three had left the bar. That was the last time that Ms. Fallon was seen alive.

Between 2:00 and 3:00 A.M. on August 31, Talbot and Burke arrived unannounced at the West Springfield apartment of a relative of Mr. Burke. The two men did not appear to be "drunk." Burke borrowed money and a shirt from his relative and, when asked where he had been, Burke replied that he had been in a fight. After leaving West Springfield that morning, Talbot and Burke drove to Leominster in Ms. Fallon's car looking for a friend of Mr. Burke.

In response to questions from the friend about where they had obtained the car that they were driving, Talbot and Burke gave several contradictory answers, none of which made reference to Ms. Fallon. They said that they had bought the vehicle for \$50, that it belonged to Talbot's girlfriend, and then that it belonged to her daughter. Finally, Talbot stated that they had taken the automobile, while hitchhiking, from a man whom they stabbed and a woman whom they had thrown out of the car. When the friend asked Burke if he could do something like that, Talbot said: "He couldn't, but I could." Later that day, after two friends noticed blood on the windshield of the car, Talbot took a sponge, moistened it with vodka, and wiped the blood off the windshield, saying: "Well, we have to get rid of this."

The group then went to a friend's house and began drinking vodka. At one point, Burke left the house in Ms. Fallon's car. He abandoned the car and was stopped by police walking on the street because he appeared to be intoxicated. His friend Jean's pocketbook was in the car. He was placed in protective custody until someone came to pick him up. Around the same time, Talbot called Jean and told her to report to the police that her pocketbook had been stolen. She did not do so.

On Saturday, September 3, 1988, at about 11:30 A.M., the Marlborough police found Ms. Fallon's car, which contained Jean's missing purse and Talbot's cowboy boots. The police noticed dry bloodstains on the passenger side and also in the rear of the hatchback. Upon further examination, more blood was recovered from the car as well as from Talbot's boots. The blood was type A, the same blood group as Ms. Fallon's. In addition, Talbot's palm print was found on the hatchback window, behind the driver's side, on the outside of the vehicle. As a result of finding Jean's purse, the police telephoned her and reported their discovery. She told the police that Talbot and Burke had taken the purse. As a result, the State Police began looking for the men.

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<sup>1</sup> In 1990, while he was incarcerated, Talbot was convicted of possession with intent to distribute a class A substance and possession with intent to distribute within an institution. He was sentenced to serve a consecutive term of three years to three years and one day for this offense. Talbot now seeks parole to the consecutive three years to three years and one day sentence.

<sup>2</sup> Patrick Burke was convicted of first-degree murder and sentenced to serve life in prison without the possibility of parole.

On September 4, 1988, Ms. Fallon's body was discovered by a tracking dog approximately 75 feet up the hill from Route 20, buried under several inches of dirt, leaves, and sticks. Her white jean jacket, stained with blood, was found in the woods. An autopsy revealed that Ms. Fallon had died from multiple stab wounds, strangulation, and blunt force injuries. The blunt force trauma resulted in hemorrhage in the sternum area and fractured ribs on both sides of her body. The medical examiner testified that "it would have taken considerable force to have fractured ribs in the back of the individual and in the front." The fracture of the ribs was consistent with "kicking or stomping." Blunt force caused an accumulation of blood in the chest area, a laceration of the lung deep inside the chest, diffuse hemorrhage in the upper abdominal area, and fractures of her nose and her lower jaw which "literally separated." Three of her teeth were knocked out. Blunt force trauma to her head caused severe hemorrhaging. The autopsy also revealed twenty-two stab wounds in a limited area along the middle to lower area of Ms. Fallon's left breast. The doctor testified that the nature of the wounds indicated that Ms. Fallon was not moving at the time they were inflicted.

On September 5, 1988, the police apprehended Talbot and Burke in Ipswich. Upon arrest, Mr. Talbot gave the officers a false name.

Talbot's criminal history is extensive. He has 12 convictions for breaking and entering and four convictions for larceny, all in 1981. He was convicted of armed robbery in 1981. While on parole for the armed robbery, he committed a long series of larcenies based on credit card fraud, which resulted in 90 criminal convictions. He has two convictions for escape. In 1981, he escaped from the courthouse and was apprehended later that day. In 1983, he escaped from the Northeastern Correctional Center in Concord and was apprehended three months later.

## **II. PAROLE HEARING ON OCTOBER 23, 2012**

David Talbot appeared for his second parole hearing on the life sentence he is serving. He was represented by Attorney John Rull. Talbot's parole was denied after his initial hearing in 2007 with a five-year review. Talbot said that he was sorry because he did "sit by and watch without taking action." He said that "my hands carried her to the car and then to the guardrail, and did drag her back up and leave her there." He is now 48 years old, has served 20 years, and is requesting to be paroled to serve a from and after sentence of three years to three years and one day. The from and after sentence is for distribution of heroin, and resulted from Talbot's actions in dealing heroin in prison in 1990. He was caught possessing 55 bags of heroin and two hypodermic needles. Talbot said at this hearing that he did not use the heroin, but had been obtaining it in order to sell it in prison. He said he had been selling heroin for eight months; he sold heroin for \$30 a bag and sold syringes for \$250 each.

Talbot told the Parole Board in 2007 that he was not present when co-defendant Patrick Burke murdered Nancy Fallon. He said that he was drinking with Burke and Ms. Fallon, but they left without him. He said he fell asleep outside the bar and had no knowledge of the murder until Burke returned and woke him up. Burke drove him to the body of Ms. Fallon and Talbot helped move the body. Talbot provided a revised version of events at this parole hearing: "I was very drunk and I fell asleep in the back of the car; I passed out; I woke up and Mike was stabbing the victim." He adjusted that account when he told the story a second time to say that he woke up and witnessed some fighting before the stabbing began. He said that "they were screaming at each other when I woke up; then they were physically fighting with

each other," and then Burke stabbed Ms. Fallon. Talbot added that "there was screaming but I don't know what they said; I did and said nothing; I watched it for minutes." Talbot said that Burke later told him that "they were 'making out in the grass and she said no.'" Burke also said he "'choked her to calm her down and then she got back in the car.'" When asked about his prior false claim that he was not present for the murder, Talbot admitted that he has for many years presented himself as a person who was wrongfully convicted. He said he no longer "sees it that way."

Talbot told the Board that he last used drugs or alcohol in 1992, and that he has attended AA/NA weekly and has not missed a meeting in ten years. He said that he has improved his behavior because when he gets angry "I think now" before acting out. He said he has anger issues because "my father beat me; I learned you have to tear others down to build yourself up; I was a bully." He considered Toastmasters and Building a New You as the two most important programs he has taken. He said that Toastmasters assisted him with self-esteem. Building a New You was a "church program to change yourself." He has been working with "Walks and Grounds" since June 2011.

Board Members questioned Talbot about his two previous parole failures. He committed this murder while on his second parole for an armed robbery. Talbot said he began drinking the first day on parole and "I was out four or five days" before committing this offense. The first parole on the armed robbery failed when Talbot committed scores of criminal violations by misusing credit card information to commit larcenies. He obtained the credit card information through his work as a gas station attendant. He said that while on the first parole he "went from Walpole to the liquor store, drank every day, 12 beers throughout the day," used marijuana daily, and LSD weekly.

Berkshire Assistant District Attorney Joseph Pieropan spoke in opposition to parole. He pointed out that Talbot's "new version of the crime is inconsistent with the injuries and inconsistent with sequence of events." He explained that the stab wounds were "clean and uniform," showing that the victim was not able to move or fight back at the time of the stabbing. Talbot's "new version has her moving and fighting at the time she is stabbed." Talbot's wife and adult step-children testified in support of parole. He met his wife in 1983 in California, where he fled after escaping from prison.

### **III. DECISION**

David Talbot participated with Patrick Burke in a brutal murder. There were no witnesses to the murder and Talbot has lied in the past about the events. Because of those circumstances, including Talbot's lack of credibility, the true sequence of events will likely never be established reliably. At this hearing, Talbot admitted that he lied to the Parole Board in 2007 when he testified that he was not present when Burke murdered Nancy Fallon. He now says he was present and observing, but did not participate. He said he has changed his long-held belief that he was wrongfully convicted. In addition to the jury verdict, Talbot's actions and inculpatory statements in the hours after the murder indicate that he was an active joint venture.

Rehabilitation is a long road for David Talbot. He perpetrated an extensive scheme of larcenies on his first parole. He committed this murder while on his second parole. He drank and used drugs on both paroles. He has a long criminal record, two escapes from custody, and

was an active heroin dealer in prison while serving this sentence. His perjury at his 2007 parole hearing showed that he made little progress towards rehabilitation in his first 15 years of the life sentence. Talbot has made progress since 2007 with some improvement in his prison conduct. Most notable is his apparent sobriety for many years. Given his long history of criminal and antisocial conduct, including two parole failures and two escapes, he needs years of active program participation, productive activity, compliant conduct, and pro-social thinking and behavior in order to establish that he is no longer a public safety risk.

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, the Board finds that Mr. Talbot is not a suitable candidate for parole. Parole is denied with a review in five years, during which time Mr. Talbot should continue with programs, sobriety, and good conduct. At his next hearing, he will have to deal with the concern, created by his own lies, that he has not revealed all the facts of the murder.

*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.*

  
Caitlin E. Casey, Chief of Staff

  
Date