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Governor

Karyn Polito  
Lieutenant Governor

Daniel Bennett  
Secretary

*The Commonwealth of Massachusetts*  
*Executive Office of Public Safety and Security*

**PAROLE BOARD**

*12 Mercer Road*  
*Natick, Massachusetts 01760*

*Telephone # (508) 650-4500*  
*Facsimile # (508) 650-4599*



Paul M. Treseler  
Chairman

Michael J. Callahan  
Executive Director

**DECISION**

**IN THE MATTER OF**  
**DAVID WEICHEL**

**W35310**

**TYPE OF HEARING:** Review Hearing  
**DATE OF HEARING:** August 11, 2015  
**DATE OF DECISION:** December 14, 2015

**PARTICIPATING BOARD MEMBERS:** Charlene Bonner, Tonomey Coleman, Sheila Dupre, Lee Gartenberg, Ina Howard-Hogan, Tina Hurley, 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 unanimous vote that the inmate is not a suitable candidate for parole. Parole is denied with a review in two years from the date of the hearing.<sup>1</sup>

**I. STATEMENT OF THE CASE**

On January 21, 1976, in Suffolk Superior Court, David Weichel pleaded guilty to second degree murder and was sentenced to life in prison with the possibility of parole after serving fifteen years of his sentence. In the same proceedings, he also pleaded guilty to home invasion, assault and battery with a dangerous weapon, and unlawfully carrying a firearm, receiving concurrent sentences of 10 to 15 years, 7 to 10 years, and 3 to 5 years respectively.

On the evening of August 16, 1975, James Winn was in his 3<sup>rd</sup> floor apartment in South Boston when he heard a knock at the door. The door was then forced open by David Weichel, who was armed with a handgun and accompanied by his brother, Frederick Weichel. David Weichel demanded to know the whereabouts of Mr. Winn's roommate, Stephen Barron. Weichel then fired two rounds into the ceiling trying to intimidate Mr. Winn into providing information.

<sup>1</sup> Although the vote to deny parole was unanimous, the majority (four Board members) voted to deny parole with a review in 2 years, while three Board members voted to deny parole with a review in 4 years.

While the questioning continued, Mr. Barron returned home. As Mr. Barron entered the apartment, Weichel shot him several times. Both of the Weichel brothers then fled the area, and Mr. Winn left the apartment to get help. When the police arrived, Mr. Barron was pronounced dead at the scene. David Weichel was later arrested by Boston Police, with a .22 caliber loaded revolver in his possession.

## **II. CRIMINAL AND PAROLE HISTORY**

David Weichel's criminal history began as a juvenile when he was first arrested at age 13 for knowingly receiving stolen property. He accumulated more juvenile charges for larceny and assault and battery. Prior to the murder, his adult criminal record consisted of convictions for assault to rape and assault and battery. Weichel's criminal record continued after his incarceration. In October of 1977 he was convicted of assault and battery on a corrections officer. He was also involved in the stabbing murder of another inmate in 1979. He was arraigned on murder charges but the case was later *Nolle Prossed*. While out on parole in late 2005, Weichel was charged with threats and violation of an abuse prevention order. In 2006, the threats charges were dismissed, but he plead guilty to violating the abuse prevention order.

Weichel appeared before the Board for his initial hearing in October of 1990. He was denied parole with a review in two years. Weichel was again denied parole in 1992, 1995, and 1997. After his review hearing in 2002, Weichel received a split vote and was given a one year review. At his one year review hearing he was granted parole. On January 21, 2003, Weichel was paroled to live with his wife in South Boston.

In 2004, parole staff suspected Weichel was frequenting bars at night, and a curfew was added to his conditions of release. Shortly thereafter, his parole was revoked and he was returned to MCI-Concord due to a new arrest for breaking and entering and larceny. Weichel was also in violation of his conditions of release for failing to abide by the liquor abstinence rule, and for associating with a known criminal. The charges of breaking and entering and larceny were eventually *Nolle Prossed*.

Weichel was re-paroled on April 15, 2005, but was returned to custody on November 19, 2005, after a domestic incident where Weichel verbally threatened his stepson with bodily harm. After his return to custody, Weichel was charged with violating an Abuse Prevention Order when he admitted he called his wife from prison. He was sentenced to 18 months in the house of correction and his parole was revoked.

Weichel next appeared before the Board in August of 2006 for a review hearing and was denied parole with a review in four years. His next review hearing was in August of 2010, where the Board again denied him parole with a review in five years. The Board cited Weichel's poor institutional adjustment and his multiple parole failures as reasons why he was not a suitable candidate for parole.

## **III. PAROLE HEARING ON AUGUST 11, 2015**

On August 11, 2015, David Weichel represented himself at his review hearing before the Parole Board. He is currently incarcerated in a maximum security setting at Souza Baranowski Correctional Center.



Weichel began and ended the hearing with statements about his current inability to do programs, move to lower security, or participate in the re-entry process because of his classification status. Since his return to custody in 2006, Weichel has spent little time participating in rehabilitative programs, choosing instead to focus his time litigating issues with the Parole Board, suing to have the abuse prevention order against him vacated, challenging the Department of Correction (DOC) regarding his classification status, requesting early parole hearings, and requesting an out-of-state transfer. He claimed that he has taken every program available to him in the institution and that there is nothing left for him to do. He told the Board, "I am just sitting on my hands doing nothing. Nothing is going to change for me positively - only negatively." Despite blaming the DOC for his classification, which he claims restricts his ability to participate in programs, he told the Board that he has no desire to go to MCI-Norfolk to do rehabilitative programs, stating instead "I want to go to the street."

When describing the incident that resulted in his 2006 return to custody, Weichel admitted he threatened his step-son telling him, "You'll stop [selling drugs] or I'll break your face." He defended his actions by saying he was trying to stop activity that would lead to a parole violation. Weichel did not seem to fully understand the fear he may place in someone who knows his criminal history and is then threatened by him with bodily harm. He went on to tell a story of a time when "2-3 black dudes came running in the house armed." Weichel told the Board that the situation was handled by his wife and the police were not involved. When a Board Member commented "That is not normal," Weichel responded with, "All these years in prison, I don't know what normal is."

Board Members pointed out to Weichel that throughout the years, whether incarcerated or not, it appears he feels there are a different set of rules and regulations that apply to him. He always makes an excuse or claims some other mitigating factor which he believes lessens the severity of his deviance. He could not abide by the conditions set forth by the Parole Board. He did not abide by the obligations set forth by a court in the abuse prevention order, instead minimizing his violation of the order by saying "It was a technical violation with no threats." Again, he could not see that the phone call to the plaintiff of the restraining order asking her to help drop his parole violation charges could be viewed as intimidating or even threatening.

Weichel's institutional adjustment has been poor since his initial incarceration in 1976. He has incurred over one hundred disciplinary infractions and has been returned to higher custody eleven times, including his two parole violations. Since his last hearing in 2010, he has incurred two additional disciplinary reports. One was for a positive urine screen for unauthorized drugs or alcohol, and the second was for possession of contraband (drugs). Weichel was defensive about his disciplinary history and minimized his actions that were clearly contradictory to institutional rules. He admitted to paying a monetary debt for another inmate, and when the inmate could not repay him, Weichel accepted a "crushed Motrin" instead. Weichel incredulously told the Board that he had no idea it would be something other than Motrin and could not provide any reason why the pill might be crushed.

Weichel said he would like to be paroled to a long-term residential program. He would participate in counseling and further transitional services, find a job, and eventually get his own apartment. He said he has the support of many friends in the community, but also admitted



that he has been involved in unhealthy relationships in the past and that he needs to work on relationship issues.

Two friends spoke in support of Weichel's parole and told the Board how each of them would provide support for Weichel if he were to be released.

The Suffolk County District Attorney's Office submitted a letter in opposition to parole, setting forth the details of Weichel's crime, his poor institutional adjustment, and his prior parole failures as reasons for denying Weichel's parole request.

#### **IV. DECISION**

David Weichel appeared before the Parole Board following a denial in 2010 with a five year set-back. He was paroled in 2002 and again in 2004. On both occasions, he violated the conditions of his parole by incurring new charges, and as a result was returned to custody. From David Weichel's presentation at the hearing, it is apparent that he has not made any noticeable progress since last seeing the Board in 2010. Since 2010, he has received two additional disciplinary reports. The more notable of the two was for a positive drug test in 2014. In addition, he has participated in limited programming and is not employed. Weichel does not seem motivated to rehabilitate himself. He needs to engage in programming to continue addressing his substance abuse issues and criminal behavior. Weichel has a violent criminal history and a long history of drug abuse. His deviant behavior resulted in parole violations, numerous disciplinary reports, and crimes while on parole. It appears as though he is unable to comply with the rules and regulations placed on him, whether incarcerated or out in the community. He needs to show he can comply with institutional and societal obligations and expectations, and avoid anger, violence, and defiant behavior.

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 David Weichel does not merit parole at this time. The review will be in two years, during which time Weichel should engage in substantive rehabilitative programming to address substance abuse, anger, violence, and any potential mental health issues that may impair his ability to function as a law abiding citizen in society.

*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.*

  
Michael J. Callahan, Executive Director

December 14, 2015  
Date