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PAROLE BOARD

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Paul M. Treseler
Chairman

DECISION

IN THE MATTER OF

DAVID WEICHEL

W35310

TYPE OF HEARING: Review Hearing

DATE OF HEARING: August 8, 2017

DATE OF DECISION: August 23, 2018

PARTICIPATING BOARD MEMBERS: Paul Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, 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 not a suitable candidate for parole. Parole is denied with a review scheduled in five years from the date of the hearing.¹

I. STATEMENT OF THE CASE

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

¹ Two of the four Board Members noted that if Mr. Weichel's circumstances with placement in the Disciplinary Department Unit (DDU) changes, he should ask for reconsideration.

On the evening of August 16, 1975, David Weichel and his brother, Frederick Weichel, forced their way into a South Boston apartment. David Weichel (armed with a handgun) fired two shots into the ceiling and demanded the occupant to disclose the whereabouts of his roommate, Stephen Barron. At some point, Mr. Barron entered the apartment, whereupon David Weichel shot him several times. Both Weichel brothers then fled the scene. When police arrived, Mr. Barron was pronounced dead. David Weichel was later arrested by Boston police with a .22 caliber revolver in his possession.

II. PAROLE HEARING ON AUGUST 8, 2017

David Weichel, now 64-years-old, appeared before the Parole Board for a review hearing on August 8, 2017. He was not represented by counsel. Mr. Weichel appeared before the Board for his initial hearing on October 1, 1990. He was denied parole. Mr. Weichel was again denied parole in 1992, 1995, 1997, and on July 25, 2002. On December 30, 2002 Mr. Weichel was paroled to his home. On March 3, 2003 Mr. Weichel was arraigned on charges of breaking and entering and larceny under \$250. The charges were *Nolle Prossed*. In addition to the arrest, Mr. Weichel was also found to be associating with a known criminal and drinking alcohol in violation of his parole provisions. On April 26, 2004 his parole was revoked. On August 21, 2004 Mr. Weichel was paroled back to his home. On November 19, 2005 Mr. Weichel was returned to custody after a domestic incident where he was accused of threatening his stepson with bodily harm. On December 15, 2005 the threat charges against Mr. Weichel were dismissed but he pleaded guilty to another charge of violating an Abuse Prevention Order when he admitted to calling his wife from prison. He was sentenced to 18 months in prison. On July 6, 2006 Mr. Weichel's parole was revoked. He appeared for a review hearing on August 22, 2006 and parole was denied. Parole was denied again in 2010 and 2015.

The Board asked Mr. Weichel what his motive was for killing Stephen Barron. Mr. Weichel said that in May of 1972 Mr. Wiechel and a co-defendant "Mackah" and another co-defendant "O'Reilly" were arraigned on charges of Assault with Intent to Rape. Mr. Weichel said that Mr. O'Reilly "put the white hat on himself and the black hat on me." Mr. Weichel said that charges were dismissed against his co-defendants, but Mr. Weichel was sentenced to 18 months. Mr. Weichel said he told Mr. O'Reilly that he was going to kill him for setting him up. Mr. Weichel told the Board that a short time later, Mr. Weichel's brother Stephen Weichel, recently released from prison, was looking for O'Reilly's home and work address. Mr. Weichel said that Mr. O'Reilly and another person found his brother Stephen and shot him dead. Mr. Weichel said that he was released two months later and "they caught me and they shot me seven times." Mr. Weichel said after he got out of the hospital, he then shot and killed Stephen Barron.

The Board noted that in 1977, Mr. Weichel was convicted of assault and battery on a corrections officer and in 1979, Mr. Weichel was charged with a murder of another inmate which was later *Nolle Prossed*. The Board asked Mr. Weichel what his role was in the inmate's murder. Mr. Weichel said he and four other inmates were charged with the murder of another inmate. Mr. Weichel told the Board that the murder occurred in 1976, that the inmate who testified against him was found not credible and that he was not there and he did not live in the unit in 1976 when the victim was murdered. When a Board Member asked about the stabbing of an inmate in 2016, Mr. Weichel explained that he was having problems with some inmates. He said he was trying to avoid them, by using skills he learned in a Violence Reduction class. Mr. Weichel said the fight started when an inmate asked to talk to him inside a cell and the inmate began to attack him

instead, biting Mr. Weichel's head. Mr. Weichel said he grabbed a knife and stabbed the inmate in the throat and side in self-defense. Mr. Weichel said the knife was in the cell, but that it didn't belong to either inmate. Mr. Weichel is appealing the disciplinary report that resulted from the fight.

A Board Member questioned Mr. Weichel about his rehabilitative efforts since his parole hearing two years ago. Mr. Weichel noted his employment and that he has completed every program available to prisoners in general population at the maximum security prison. He received his five year certificate in both Alcoholics Anonymous (AA) and Narcotics Anonymous (NA), a certificate in Able Minds, and went through the Violence Reduction class. Mr. Weichel said that he tried to transfer out of state in order to get access to additional programming.

A Board Member asked Mr. Weichel about the challenges he faced during his last paroles. Mr. Weichel explained that he wasn't prepared to be paroled directly from a maximum security prison, without a step-down to either a lower security facility, counseling, or some kind of re-entry program. When the Board noted Mr. Weichel's arrests on parole for breaking and entering and for violating a restraining order, Mr. Weichel claims that he has since learned to reach out to his parole officer to settle disputes, rather than try to handle things himself. Board Members highlighted the need for Mr. Weichel to engage in substantive rehabilitative programs that address substance abuse, anger, violence, and any mental health issues that may impair his ability to function as a law-abiding citizen in society. Mr. Weichel told the Board that he has very limited access to such programs due to his security status. The Board encouraged Mr. Weichel to work towards obtaining a lower security status, through good conduct, so that he could eventually participate in the suggested programs.

A Board Member also questioned Mr. Weichel about his submission of parole plans, if he were to be released. Mr. Weichel stated that he submitted letters of confirmation for housing and employment, explaining that after a step-down, he would live with friends and work (for a friend) in real estate. Mr. Weichel emphasized that a graduated re-entry program was important to his success on parole.

Mr. Weichel's daughter, and two of his friends, spoke in support of parole. Suffolk County Assistant District Attorney Charles Bartoloni submitted a letter in opposition to parole.

III. DECISION

The Board is of the opinion that David Weichel has not yet demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Weichel is currently in the Special Management Unit (SMU), awaiting transfer to the Department Disciplinary Unit (DDU) at MCI Cedar Junction for an aggravated assault on another inmate in November 20016. Mr. Weichel will need to identify opportunities to further rehabilitate himself over the course of the next few years, as well as maintain a positive deportment.

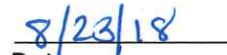
The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the 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. Weichel'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. Weichel's risk of recidivism. After applying this standard to the circumstances of Mr. Weichel's case, the Board is of the unanimous opinion that David Weichel is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Weichel's next appearance before the Board will take place in five years from the date of this hearing. During the interim, the Board encourages Mr. Weichel 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. 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.


Gloriann Moroney, General Counsel


Date