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PAROLE BOARD

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Charlene Bonner
Chairperson

DECISION

IN THE MATTER OF

DAVON MCNEIL

W82395

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: June 16, 2015

DATE OF DECISION: August 5, 2015

PARTICIPATING BOARD MEMBERS: Dr. 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 three years from the date of the hearing.

I. STATEMENT OF THE CASE

On September 15, 2003, after a jury trial in Plymouth Superior Court, Davon McNeil was found guilty of second degree murder and sentenced to life in prison. McNeil's conviction was affirmed in November 2006 (*Commonwealth v. McNeil*, 67 Mass. App. Ct. 1115 (2006)). In May 2007, the Supreme Judicial Court denied further appellate review (*Commonwealth v. McNeil*, 449 Mass. 1102 (2006)).

The facts of the case are as follows: On July 19, 2000, at approximately 12:30 pm, Brockton Police responded to a series of gunshots in the area of 30 Fuller Street. Upon arrival, police learned that all parties involved in the shooting had fled the area. Minutes later, police received information from the city hospital that a gunshot victim (later identified as Bruce Montrond) had just been brought to the emergency room. Mr. Montrond died as a result of two gunshot wounds; one to the chest and one to the abdomen.

After a thorough investigation into Mr. Montrond's murder, police determined that earlier in the day on July 19, Karen Lopes (Mr. Montrond's cousin) had given Mr. Montrond and a friend a ride to Fuller Street. Ms. Lopes had pulled over near 34 Fuller Street and Mr. Montrond and his friend then exited the car. At that time, McNeil was also walking on Fuller Street and he and Mr. Montrond began to have a verbal dispute. Ms. Lopes had remained in the car (facing away from the group), when she heard what sounded like gunshots coming from behind her. She turned and looked towards the noise and saw a black male with a gun, firing in the direction of Mr. Montrond. The shooter, later identified as McNeil, then ran to a white car parked in the driveway of 30 Fuller Street and drove away. Ms. Lopes then leaned over to open the front passenger door, as Mr. Montrond collapsed into her car. She then drove the victim to the hospital. When shown a photo array, Ms. Lopes identified Davon McNeil as the shooter. There were also several other individuals who witnessed the shooting and had identified McNeil as both the shooter and the person arguing with the victim before he was shot.

On July 24, 2000, 22-year-old McNeil was arrested in Dorchester and charged with the murder of 20-year-old Bruce Montrond.

II. PAROLE HEARING ON JUNE 16, 2015

McNeil is now 37-years old. This is his first appearance before the Parole Board and he was not represented by an attorney. McNeil has been incarcerated since 2000 and is currently serving his sentence at Bridgewater State Hospital (BSH), where he is an inmate Cadre worker.

McNeil began the hearing by offering an apology to the victim's family. He stated that he "selfishly shot and killed your son. I was a coward, savage, young punk who hid behind a 38 caliber. Bruce had nothing to do with my deep rooted anger. Bruce didn't do anything wrong. For this I beg your forgiveness. Please forgive me." McNeil then provided the Parole Board with pertinent information about his childhood and described how specific life experiences contributed to his poor decision making as a young man. McNeil recalls that as a young boy, his mother brought him to various correctional institutions to visit his father. He described how this affected him and his relationship with his mother. McNeil stated that he lived with various family members, where he received "a lot of love, but a lot of misguidance." He also stated that he smoked marijuana freely and witnessed his mother using crack cocaine. He said his family was very close and, although his grandparents provided a model of strong work ethic, he was exposed to a culture of gambling, drugs, hustling, and addiction throughout his daily life. McNeil reported that such destructive behavior was normal to him. McNeil was eventually introduced to his friend's older brother, who introduced McNeil to selling drugs. McNeil identified this introduction as the pinnacle of his criminal lifestyle. He told the Board that by age 12 or 13, he was selling crack cocaine.

McNeil stated that he progressed in the business of selling drugs, which supported the lifestyle of both him and his mother. As part of his drug sales, McNeil stated that he owned two guns. He said that despite his prior criminal convictions, he never had serious intentions of changing his lifestyle. McNeil stated that it was not until this sentence, did he begin to invest in changing his life and seriously reflect on what he had done.

McNeil detailed the precipitants and incidents that led to the shooting death of Bruce Montrond. His version of the murder was generally consistent with known facts. McNeil detailed the argument between himself and several friends in the days prior to the shooting, as well as the eventual escalation of events on the day of the murder. McNeil told parole staff (prior to this hearing) that he drew his gun because a friend of his yelled "he got a gun!" This was in reference to Mr. Montrond's friend, who was standing near Montrond and McNeil. Board Members pressed McNeil on his assertion that he fired only after his friend alerted him to the possibility that Mr. Montrond's friend had a gun. McNeil denied shooting in self-defense per-se, yet he made it clear that the fear he experienced of possibly being shot led him to "recklessly" fire his weapon. He said that he and his friend then jumped in their car and drove away. McNeil described a scenario in which he went to his grandmother's home in Dorchester and confessed to her. He said that he was immediately remorseful for what he had done. He stated that his grandmother encouraged him to turn himself in and to "leave it in God's hands." McNeil instead tried to flee, but was apprehended five days after the murder. He initially denied committing the offense when arrested by the police.

McNeil stated that in 2007, after "a culmination of things," he accepted full responsibility. He described looking at a picture of his daughter (who was two months old when he went to prison) and "my conscience began to wake up." He stated that was the first step in a process that led him to positive change. The second event that prompted him to change was learning that his mother lost her legs due to medical issues. He described her coming to visit him and how he realized that while incarcerated, he couldn't be there to help her with all of her needs. McNeil stated that he then began to internalize words his grandmother had told him when he was first incarcerated, as well as advice his father had given him, about making positive use of his time instead of choosing to continue on the path of self-destruction. McNeil stated that he also learned from the transformation his aunts had made in their own lives. He stated that he keeps a card posted on his cell wall from his aunt that reads "this will not be your legacy." He realizes now that he can lead a positive and productive life, and that he will never again hurt anyone.

The Board asked McNeil about the number and content of tattoos that he accumulated while incarcerated. He admitted that he did not have any tattoos before he came to prison, but in 2005, he decided to have the words "street certified" and "gangsta code" tattooed on his body. He agreed that such phrases illustrate a lack of positive rehabilitation and that in deciding to get such tattoos, he continued to have the mentality of a young man who glorified the criminal street life. McNeil now regrets having these tattoos and insists that his current values (gained through programming and rehabilitation) are in direct conflict with the person he once was.

McNeil provided the Board with a detailed history of his transformation and described the programs which provided him with the tools necessary to change his behavior and mentality. McNeil stated that the Correctional Recovery Academy was the most influential program he completed. McNeil was able to start a "self-improvement group" for patients suffering with mental illness at BSH. McNeil stated that being able to help those who struggle with talking about their own feelings has been a significant source of growth for him.

McNeil continued throughout the hearing to verbalize how far he has come on his path toward rehabilitation. He stated that although the bulk of his programming did not commence until 2010, his personal mission to change began in 2007. McNeil said that he has gained the necessary tools and desire to live a productive, law abiding life. He stated that he has the employment skills, the ambition, and a support system that will assist him with successful re-entry into the community.

McNeil had many supporters attend his hearing. Speaking in support of his parole were his father, the mother of his daughter, his aunt, a cousin, and a family friend. Each supporter provided their personal knowledge of McNeil's transformation and outlined how they will be able to assist him upon his release. He had one friend who stated that he will assist him financially, as well as with employment opportunities.

The mother of the victim spoke in opposition to McNeil's parole. She stated that "he destroyed my life." She said that her husband died soon after their son was murdered and that she attributes his death to the stress he endured as a direct result of the murder of their son. She described how the death of her son has impacted her life and how she has not been able to move beyond such a loss. Plymouth County Assistant District Attorney Suzanne McDonough testified against parole for McNeil and provided the Board with a letter in opposition from District Attorney Timothy Cruz.

III. DECISION

Davon McNeil appeared before the Parole Board for the first time after serving 15 years of his life sentence. Until 2005, McNeil had continued to value the street mentality that led to his criminal lifestyle, as demonstrated by his acquisition of tattoos glorifying such thinking. He admits that his internal transformation only began in 2007, followed by a recent investment in the core programs in 2010. However, McNeil appears to have made the commitment to genuinely invest in positive rehabilitation and he appears to be benefitting from his investment in programming. McNeil has worked his way into a Cadre position, where he helped develop a group for mentally ill inmates to share their feelings and experiences. The Parole Board recognizes that since 2010, McNeil has been working hard to reach the stage of rehabilitation that will enable him an opportunity to be successful in the community. However, he still has more work to do. A longer period of positive adjustment and continued rehabilitation is needed before McNeil meets the legal standard for parole.

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 McNeil does not merit parole at this time. Parole is denied with a review in three years. The Parole Board will review McNeil's progress in three years, which will allow him adequate time to continue on his path of rehabilitation and to demonstrate a longer period of positive stability.

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, General Counsel



Date