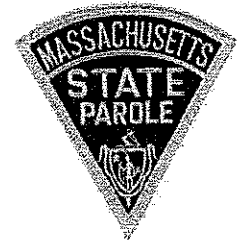


The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

12 Mercer Road
Natick, Massachusetts 01760

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

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RECORD OF DECISION

IN THE MATTER OF

DONNIE BOUPHAVONGSA

W65663

TYPE OF HEARING: Review Hearing

DATE OF HEARING: August 6, 2020

DATE OF DECISION: February 3, 2021

PARTICIPATING BOARD MEMBERS: Gloriann Moroney, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Karen McCarthy, Colette Santa

STATEMENT OF THE CASE: On January 13, 1998, after a jury trial in Middlesex Superior Court, Donnie Boupavongsa was found guilty of first degree murder in the beating death of Joshua Molina. He was sentenced to life without the possibility of parole. On that same day, Mr. Boupavongsa was also convicted of assault and battery by means of a dangerous weapon and sentenced to 9 to 10 years concurrent with the life sentence. Mr. Boupavongsa was 16-years-old at the time of the murder.

On December 24, 2013, the Massachusetts Supreme Judicial Court issued a decision in *Diatchenko v. District Attorney for the Suffolk District & Others*, 466 Mass. 655 (2013), in which the Court determined that the statutory provisions mandating life without the possibility of parole are invalid as applied to juveniles convicted of first-degree murder. Further, the Court decided that such juvenile offenders must be given a parole hearing. Accordingly, Mr. Boupavongsa was granted a hearing before the Parole Board. He was denied parole at this initial hearing in 2015 and at his review hearing in 2018.

Mr. Boupavongsa appeared before the Parole Board for a review hearing on August 6, 2020 and was represented by Attorney Michael Bourbeau. The entire video recording of Mr. Boupavongsa's August 6, 2020 hearing is fully incorporated by reference to the Board's decision.

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. Reserve to an approved home plan with DMH services after 12 months in total in lower security. Mr. Bouphavongsa and co-defendants beat 17-year-old Joshua Molina to death on November 20, 1997. Mr. Bouphavongsa has completed several meaningful programs to address his causative factors and maintained a positive adjustment. Since his last hearing, his renunciation from [named STG group] has been accepted by the DOC. In addition, he has been transferred to a lower security facility. He has maintained compliance with his mental health regimen to include medication compliance. According to licensed mental health worker Kim Mortimer, subject has learned to recognize his mental health warning signs. According to his expert, the function of violence was to maintain gang status. Mr. Bouphavongsa was 16-years-old at the time of the offense. The Board considered his age, level of maturity, vulnerability to negative influences, and his capacity to change when rendering its decision.

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 the context of an offender convicted of first or second degree murder, who was a juvenile at the time the offense was committed, the Board takes into consideration the attributes of youth that distinguish juvenile homicide offenders from similarly situated adult offenders. Consideration of these factors ensures that the parole candidate, who was a juvenile at the time they committed murder, has "a real chance to demonstrate maturity and rehabilitation." *Diatchenko v. District Attorney for the Suffolk District*, 471 Mass. 12, 30 (2015); See also *Commonwealth v. Okoro*, 471 Mass. 51 (2015).

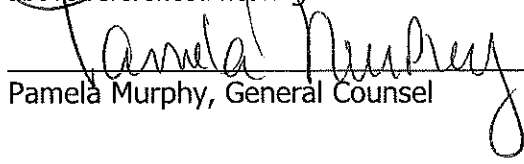
The factors considered by the Board in Mr. Bouphavongsa's case include the offender's "lack of maturity and an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking; vulnerability to negative influences and outside pressures, including from their family and peers; limited control over their own environment; lack of ability to extricate themselves from horrific, crime-producing settings; and unique capacity to change as they grow older." *Id.* The Board also recognizes the petitioner's right to be represented by counsel during his appearance before the Board. *Id.* at 20-24.

In forming this opinion, the Board has taken into consideration Mr. Bouphavongsa'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. Bouphavongsa's risk of recidivism, the Board is of the unanimous opinion that Mr. Bouphavongsa is rehabilitated and merits parole at this time.

SPECIAL CONDITIONS: Waive work for two weeks; Must be at home between 10 p.m. and 6 a.m.; ELMO-electronic monitoring; Must take prescribed medication; 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, and mood disorder; Adhere to DMH case plan.

IMPORTANT NOTICE: The above decision is an abbreviated administrative decision issued in an effort to render an expedited resolution in response to the COVID-19 pandemic. Mr. Bouphavongsa, through counsel, has waived his right to a full administrative decision.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing.



Pamela Murphy, General Counsel

2/3/2021
Date