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Josh Wall
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DECISION

IN THE MATTER OF

DOUGLAS DUKETTE

W68697

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: January 23, 2014

DATE OF DECISION: September 12, 2014

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Ina Howard-Hogan, Josh Wall

DECISION OF BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, institutional record, the views of the public as expressed at the hearing or in written submissions to the Board, and the inmate's testimony, we conclude by unanimous vote that the inmate 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 FACTS

On February 18, 1999, 37-year-old Douglas Dukette shot and killed his roommate, Richard Comeau. After a jury trial in Middlesex Superior Court, he was convicted of second degree murder on October 25, 1999, and sentenced to serve life in prison. That same day, he was also sentenced to serve four to five years, concurrent with the life sentence, for unlawful possession of a firearm, and five years of probation, to be served from and after the life sentence, for larceny of a motor vehicle. Finally, a conviction for knowing receipt of stolen property was placed on file. The Massachusetts Appeals Court affirmed the convictions in 2002 in an unpublished opinion. *Commonwealth v. Dukette*, 56 Mass. App. Ct. 1117 (2002). The following facts are culled from the Appeals Court's decision.

Dukette had been staying with the victim in the victim's apartment in Stoneham. On the day of the murder, Dukette entered the victim's unlocked apartment between 3:00 P.M. and 3:30 P.M., while the victim was still at work. Dukette was spotted by another resident of the

apartment building several hours later, erratically driving the victim's Volvo out of the building's parking lot.

Dukette drove to Boston, parked the Volvo on Boylston Street in front of the Colonial Theater, and walked a few blocks to a bar. About 9:00 P.M., after leaving the bar, he ran into a man on the street and asked him for assistance in finding where he had parked the victim's car. After their efforts proved futile, the two returned to a nearby bar to call the police to find out if the car had been towed. While there, Dukette ordered two drinks. At that point, he said that he had shot someone and that the gun, a .357 Magnum that "was still smoking," was inside the car. He also displayed the victim's wallet, which contained credit cards and a driver's license, and told the man that those items belonged to the victim.

Having heard Dukette's story, the man left the bar and reported the details to two police officers who were parked nearby in an unmarked cruiser. The police went to the bar and, after pat-frisking Dukette, discovered the victim's wallet and car keys. Dukette concocted a story that he had been drinking the previous evening with the victim and had taken the victim's wallet and car keys to prevent him from driving. After further questioning, during which Dukette told police that he had not seen the victim since the night before, Dukette voluntarily accompanied both officers to the police station. Boston Police then notified the Stoneham police about what they had learned. Soon after, Stoneham Police discovered the victim's body at his Stoneham home, and Boston Police placed Dukette under arrest. As established at the autopsy, the victim was shot once in the face with the bullet entering near the nose, causing multiple skull fractures, and entering the brain. The medical examiner documented black soot deposit and stippling, which is evidence that the shot was fired from a distance of two feet or less.

At trial, Dukette maintained that he was drunk and had shot the victim accidentally.

II. CRIMINAL AND INSTITUTIONAL HISTORY

Douglas Dukette had a long criminal record before the murder, including 12 separate charges of operating under the influence of alcohol. The first OUI charge, in 1979, was continued without a finding after Dukette admitted to the facts of the case. Nine of the charges resulted in criminal convictions. Two cases were dismissed. Dukette has many other district court criminal convictions, including domestic assault and battery, assault with a dangerous weapon, and two counts of assault and battery on a police officer.

During his incarceration, Dukette has received nine disciplinary reports. He completed the following rehabilitative programs: Introduction to Treatment in 2002, Relapse Prevention in 2003, Violence Reduction in 2003, 12 Step in 2004, Cognitive Skills in 2004, Alternatives to Violence (two phases in 2008), Smart Recovery in 2010, Correctional Recovery Academy in 2011, Emotional Awareness in 2011, Alternatives to Violence practice group in 2011, and Menswork in 2011.

III. PAROLE HEARING ON JANUARY 23, 2014

Douglas Dukette appeared for his initial parole hearing after serving 15 years of a life sentence for the second degree murder of Richard Comeau. In his opening statement, Dukette said that he had transitioned from being "a bitter man who did not accept responsibility." He was referring to the fact that he claimed at trial and for many years thereafter that the shooting was accidental. A Board Member asked Dukette when he first saw the murder as something other than an accident. He said, "I'm not quite sure; 2006 or 2007; for a long time I felt it was an accident; I kept looking at it as 'why did this happen?' Now I know it was my irresponsible actions that day."

Dukette gave the following information on the murder, including the circumstances leading up to it. "I knew [the victim] for a little over a year. We met at work. We were machinists at Sterling Machine in Lynn. I was just separated from my wife and family. I was drinking heavily. I was drinking every day when I met the victim. I drank after work until I went to bed. I drank all weekend. I had some withdrawal symptoms during the work day. We became friends. He was supportive and helpful. He was a very generous person. Richard was very supportive; he tried several times to get me to slow down on my drinking. Family and other friends tried to get me to slow down too. I always felt Richard was there to help me; he was always positive. Nothing built up that day, it was just the alcohol. I took a cab to Malden and bought a quart of beer and then walked to the victim's apartment in Stoneham. I looked in the closet and saw a backpack. I was curious, so I opened it. I saw a gun. I cocked the gun. I took a shower. Around 5:00 o'clock Richard came home. I told him about the gun. I went to get the gun and I came out of the closet with the gun and the gun went off. I don't remember having my finger on the trigger. I went to get the gun to show him it was in the closet. When the gun went off, it took a few minutes before I knew he was hit. I saw blood trickling. There was no argument. He didn't say anything when I held the gun. It all happened so fast. I created the situation by picking up the gun and continuing to drink. I took the gun, bullets, his wallet, and his car keys. I don't really remember doing those things. Next thing I remember, I was in Boston and I couldn't find the car. I spoke to a guy in a bar. I remember that conversation; I told him that I killed someone."

A Board Member asked Dukette to describe how his version of events has changed over the years. He said, "My defense at trial was that I tried to claim it was an accident. The only difference today is that I see myself as responsible. I don't feel I accidentally killed him because I created the whole situation. At trial, I was still trying to run away from my actions." Board Members saw no meaningful distinction between Dukette's version at trial and his current version. He is still maintaining that he had no motive, no intent, and no willful or purposeful action in committing the murder. Board Members concluded that there is motive, intent, and homicidal conduct that Dukette has never revealed or described. Board Member Coleman pointed out the many parts of Dukette's story that are in conflict with the evidence and common sense. At the hearing, Dukette indicated that he was at a distance of approximately ten feet when the shot was fired. The autopsy, however, documents stippling which establishes that Dukette shot Mr. Comeau at a range of two feet or less.

A Board Member asked Dukette about the work he has done in prison. He said, "I've done a lot of work on myself. I've been sober since August 2000, just before trial. I was in denial at first, but then one day I woke up and decided I needed to do something. It went

beyond my alcoholism; I had self esteem issues. I like myself better now." A Board Member asked "what could you have done better during your incarceration?" Dukette hesitated, and then said, "I don't think I have an answer." The Board Member pointed out that "it took you a while to get motivated." Dukette responded, "I was depressed; I was in a deep depression for quite a while. I wish I did the work a long time ago."

Dukette was asked to provide more information on his substance abuse issue. He said, "I had trouble with alcohol since I was a teenager. I started drinking every day at age 18. I tried to stop at 18 or 19. I had eight or nine OUI convictions. I didn't try to get help, but if I got in trouble I'd try to stop. I stayed sober for two or three years when I got out of jail. I smoked marijuana daily and I used cocaine off and on. I had five years of sobriety from 1989 to 1994. My life was good then. I was drinking and using some drugs at the Cambridge jail while I was waiting for trial; I got about 10 tickets. I smoked coke and marijuana two days before [the murder] but alcohol was my primary thing. I started AA in 2007 at Norfolk." Dukette had little insight into the pattern of behavior that resulted in nine OUI convictions. He noted that he had low self-esteem, but apparently never considered why he continued to drive drunk despite numerous criminal convictions, put the public at risk repeatedly, and was unaffected by the intervention of the criminal justice system, including judges, probation officers, and defense lawyers who tried to help him.

Dukette described his current activities. "I have a runner's job on the unit. I clean up every morning. I'm not in any programs now. I'm on waitlists. I've done all the programs. I walk outside, I play chess and cards, I read, I socialize. I get along with everybody." A Board Member questioned why Dukette went so many years without program participation. He said, "The first two or three years, I was sleeping a lot. That was the only real gap. The first program I did took a year and there were no other programs for me. Things weren't available." The Board Member pointed out that Dukette's program participation appears to have a gap between 2004 and 2008. Dukette responded, "In 2007, I was going to AA and NA." He has not done any educational programming.

Richard Comeau's two brothers spoke in opposition to parole. John Comeau recalled that his brother was a highly skilled machinist who had been trying to help Dukette learn the trade. He gave the Board his view of what happened: "my brother was going to California the next week in order to visit me; he had told me that he was done with this guy because he didn't want to help himself; I think Richard was trying to get him out of the apartment." Paul Comeau said, "Thank you for asking the good questions and picking apart his story. At trial he said he was sorry. If he really was sorry, he'd take responsibility for what he really did." Middlesex Assistant District Attorney Jamie Charles spoke in opposition to parole.

Dukette's father, son, and daughter spoke in support of parole. His daughter said, "When this tragic accident happened, it turned so many lives upside down; it was a tragic loss for all the parties involved."


A Board Member asked Dukette if he knew the victim was going to California in a few days. Dukette acted like he did not hear the question. When the question was repeated, he said, "No." He gave the appearance that he was not being candid. Dukette was also asked whether he was working at the time of the murder. He acknowledged that he was not working because he had been fired from the job.

III. DECISION

Douglas Dukette committed a senseless murder of an altruistic man who had provided guidance, assistance, and support to Dukette. Despite fifteen years of incarceration and some program involvement, Dukette shows little evidence of rehabilitation. He continues to maintain that he had no motive, no intent, and no intentional conduct in shooting Mr. Comeau. He does not see the murder as an intentional or a violent act. Through the years he has described the killing as an accident. At this hearing, he said he was responsible for the shooting but still presents a version of events that amounts to an accident and not an intentional crime. His version of events is contrary to the evidence, the jury verdict, and common sense. Not only does this show a lack of candor, but it also shows lack of empathy for the victim. Importantly, because he does not acknowledge a violent act, Dukette will have difficulties absorbing the lessons of violence reduction programming. Dukette has sought rehabilitation for a substance abuse issue, but has made inadequate efforts to reform areas of anger, criminal thinking, violence, lack of empathy, and lack of candor. Consequently, he remains a danger to the community.

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 Mr. Dukette does not merit parole at this time because he is not rehabilitated. The period of review will be five years, during which time Mr. Dukette should commit to rehabilitation to address issues of anger, violence, criminal thinking, criminal conduct, lack of candor, and lack of empathy.

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.


Janis DiLoreto Smith, General Counsel

9/12/14
Date