

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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RECORD OF DECISION

IN THE MATTER OF

EUGENE IVEY

W64154

TYPE OF HEARING: Review Hearing

DATE OF HEARING: October 1, 2019

DATE OF DECISION: March 26, 2020

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

STATEMENT OF THE CASE: On February 19, 1998, Eugene Ivy pleaded guilty in Plymouth Superior Court to second-degree murder of Shawn Kapustin and received a life sentence with the possibility of parole. On November 27, 2002, Ivey was convicted of three counts of assault and battery on a correctional officer and one count of assault and battery by means of a dangerous weapon and received sentences of 4-5 years for each. These sentences are to run from and after his life sentence. Mr. Ivey was 17-years-old at the time of the murder.

Mr. Ivey, now 42-years-old, appeared before the Parole Board for a review hearing on October 1, 2019 and was represented by Attorney Lisa Newman-Polk. Mr. Ivey was denied parole after his initial hearing in 2009. He postponed his review hearing in 2014. The entire video recording of Mr. Ivey's October 1, 2019 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 decision that the inmate is a suitable candidate for parole. Reserve to from and after sentence of ABDW (assault and battery by means of a dangerous weapon) and AB (assault and battery) on a CO (correctional officer) (3cts). He participated in the shooting death of 22-year-old Shawn Kapustin. It is the opinion, that Mr. Ivey demonstrated a level of responsibility that would not make his release incompatible with the welfare of society. He has fully invested in his rehabilitation.

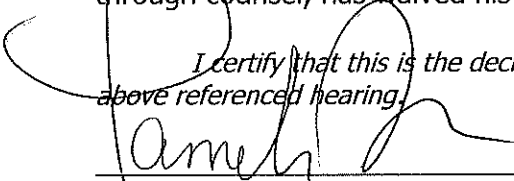
The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the 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 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 the ability to extricate themselves from horrific, crime-producing settings; and unique capacity to change as they grow older." *Id.*

In forming this opinion, the Board has taken into consideration Mr. Ivey'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. Ivey's risk of recidivism. After applying this appropriately high standard to the circumstances of Mr. Ivey's case, the Board is of the opinion that Mr. Ivey is rehabilitated and merits parole at this time.

Special Conditions: Reserve to from and after sentence of ABDW and AB on a CO (3cts); 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; Adhere to the rules and regulations of the DOC, remain disciplinary report free and program compliant.

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. Ivey, 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

3/26/2020
Date