



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

IN THE MATTER OF

FRANK EBERHART

W90123

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: October 19, 2021

DATE OF DECISION: August 24, 2022

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

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 that the inmate is not a suitable candidate for parole.¹ Parole is denied with a review scheduled in one year from the date of the hearing.

I. STATEMENT OF THE CASE

On June 19, 2007, after a jury trial in Middlesex County Superior Court, Frank Eberhart was convicted of second-degree murder in the death of 43-year-old Janice Ellis and was sentenced to life in prison with the possibility of parole.² The Appeals Court affirmed Mr. Eberhart's conviction.

On May 5, 2006, Janice Ellis and Frank Eberhart met for the first time at his apartment, which he shared with two others. That evening, acquaintances of Mr. Eberhart's roommate invited Ms. Ellis to join them in smoking crack cocaine. After the drugs had been consumed,

¹ Three Board Members voted to deny parole and three Board Members voted to grant parole. A majority vote is required for parole to be granted. Because of the split vote, the Board will conduct Mr. Eberhart's review hearing in one year from the date of this hearing.

² Mr. Eberhart was indicted and tried for first-degree murder. The jury convicted Mr. Eberhart of the lesser-included offense of second-degree murder.

Mr. Eberhart and Ms. Ellis left the apartment together around midnight. Mr. Eberhart dropped Ms. Ellis off at her friend's house and then returned to his apartment. A short time later, Mr. Eberhart called Ms. Ellis to return to his apartment, which she did. Mr. Eberhart later admitted to police that, while in his apartment, he strangled Ms. Ellis to death and left her naked body on his bed. He denied having sexual intercourse with her, but DNA analysis revealed that his sperm cells were recovered from her vagina. In the early morning hours of May 11, Mr. Eberhart moved Ms. Ellis' body to the alley, where she was later found by a young boy as he cut through an alley in Lowell. The cause of death was determined to be manual strangulation. Ms. Ellis had also sustained several abrasions, broken cartilage and bone, and hemorrhaging in her head.

Mr. Eberhart eventually confessed to police that he had killed Ms. Ellis during an argument about her giving him a fake rock of cocaine. He stated that she pulled out a knife and pointed it at him, prompting him to strangle her in self-defense.

II. PAROLE HEARING ON OCTOBER 19, 2021³

Frank Eberhart, now 66-years-old, appeared before the Parole Board for an initial hearing on October 19, 2021, and was represented by Attorney Brian Kelly. He postponed his hearing in February 2021. In his opening statement to the Board, Mr. Eberhart extended his "sincerest apology to the family for what [he has] done...and takes full responsibility for what happened." The Board noted that Mr. Eberhart served as a traveling medic in the Army for seven years. Although he received an honorable discharge, Mr. Eberhart was unable to re-enlist due to his addiction to freebase cocaine. Mr. Eberhart acknowledged his criminal history in both Massachusetts and Florida, which includes charges of battery and kidnapping. The Board noted that his previous arrests involved violence against women. Mr. Eberhart told the Board that he was diagnosed with schizophrenia in 1996 and was institutionalized several times before the murder. He stopped taking his schizophrenia medication on a regular basis because "[he] was using drugs." He was not taking his medication at the time of the murder.

Upon Board Member questioning, Mr. Eberhart provided his account of the murder. He met Ms. Ellis on the night of the governing offense, and they proceeded to do drugs together. After they had sexual intercourse, he told Ms. Ellis that she couldn't stay the night at his apartment. Ms. Ellis then drew a knife on him in response (although a knife was not found at the scene). Mr. Eberhart admitted that he strangled her to death and then left her on his bed for 3 to 4 days because he "panicked... [he] didn't know what else to do." He finally moved her body to an alley, wrapped in a blanket. Mr. Eberhart reflected that the murder was "so very wrong... I don't know how I could have done something like that... I must have been pretty high."

The Board noted that Mr. Eberhart has incurred only 5 disciplinary reports throughout his incarceration, none of which were violent. He has participated in rehabilitative programming, including Daily RTU, SA Education, TCUD Assessment, Criminal Thinking, and Violence Reduction.

A member of the Victim Services Unit read into the record a statement in opposition to parole from Ms. Ellis' daughter. The Board also considered the testimony of two of Ms. Ellis'

³ The entire video recording of Mr. Eberhart's October 19, 2021, hearing is fully incorporated by reference to the Board's decision.

sisters in opposition to parole. The Board considered the testimony and letter from the Middlesex County District Attorney's Office, which took no position on Mr. Eberhart's request for parole.

III. DECISION

The Board is of the opinion that Frank Eberhart has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Eberhart has served 15 years for the governing offense. He needs to engage in additional programming to address his propensity for violence towards women. The Board remains concerned about his honesty and history of violence, particularly towards women.

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. Eberhart'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. Eberhart's risk of recidivism. After applying this standard to the circumstances of Mr. Eberhart's case, the Board is of the opinion that Frank Eberhart is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Eberhart's next appearance before the Board will take place in one year from the date of this hearing. During the interim, the Board encourages Mr. Eberhart to continue working toward 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.


Pamela Murphy, General Counsel

8/24/22
Date