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PAROLE BOARD

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Josh Wall
Chairman

DECISION

IN THE MATTER OF

FRANKIE GARNER

W66262

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: November 20, 2012

DATE OF DECISION: April 24, 2013

PARTICIPATING BOARD MEMBERS: Cesar Archilla, Dr. Charlene Bonner, Sheila Dupre, Ina Howard-Hogan, Lucy Soto-Abbe, Josh Wall

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 writing, 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 three years.

I. STATEMENT OF THE CASE

A Hampden County jury convicted Frankie Garner on March 24, 1999, for the second degree murder of Orlando Taylor in a Springfield nightclub. The jury also convicted Mr. Garner of unlawful possession of a firearm. He received a life sentence for the murder, with 2 to 4 years concurrent for the firearm charge. Having served 15 years of the life sentence, Frankie Garner is eligible for parole.

The Appeals Court affirmed Mr. Garner's convictions. These facts are culled from the summary of trial evidence contained in the Appeals Court decision. Frankie Garner was involved in a shootout during an after-hours gathering at Roscoe's nightclub in Springfield on January 25, 1998. Mr. Garner smuggled a gun through nightclub security by asking a female friend to hide it in her purse. Once inside the club, friends of Mr. Garner argued with Orlando Taylor and tried to take a chain from his neck. Mr. Garner fired his gun from across a pool table and struck Orlando Taylor in the chest. Other shots were fired in the club, one of which

struck Mr. Garner's girlfriend. She was not injured as the bullet was deflected by a lipstick container in her pocket.

Frankie Garner fled from the club, but was apprehended by police a short time later. Police recovered six live rounds of ammunition, all of which could be fired from a .357 magnum, from Mr. Garner's back pants pocket. Police recovered a .357 magnum handgun in the club parking lot. Forensic testing determined that the .357 magnum contained Frankie Garner's fingerprint, and that it was used to fire the shot that killed Orlando Taylor. As documented in the autopsy report, the bullet traveled through the abdomen, and caused "severe damage to the liver, intestine, and abdominal aorta."

Frankie Garner was 21 years old at the time of the crime. He had a substantial criminal history. His adult convictions included three assault and battery cases and five drug offenses. Two cases involving firearms did not result in convictions. His numerous juvenile delinquencies, which began at age 12, include two unlawful possession of a firearm cases, two cocaine distribution cases, two receiving stolen motor vehicle cases, possession of an air rifle, several marijuana possession cases, and an indecent assault and battery on a child.

II. PAROLE HEARING ON NOVEMBER 20, 2012

Frankie Garner appeared for his initial parole hearing on November 20, 2012. He admitted that he fired the shot that killed Orlando Taylor. He had denied that in his statement to police. He did not testify at his trial, but his lawyer argued unsuccessfully to the jury that Mr. Garner was outside the club at the time of the murder and did not fire the fatal shot. At this hearing, Mr. Garner presented an elaborate series of events that he said occurred in the club. He ascribes all of the violent conduct preceding the murder to his friends and the victim. Mr. Garner describes himself trying to keep others safe after the shooting began, and says that "I shot my gun because I feared for my life." He denied that he was a member of the gang known as "the Ave," but admitted that members of that gang were among his friends from "the Eastern Avenue projects."

Board Members questioned Mr. Garner about his institutional history. Mr. Garner was housed at Souza-Baranowski from 1999 through 2006. He said he started working at the prison in 1999 and that "working is what changed my life." He said that "I am on a path to change my life, and if my parole is denied I would stay on that path." He has been at MCI Gardner since 2007. He has below average program participation. He completed the Correctional Recovery Academy in 2011. He received his GED in 2006. His institutional behavior is above average. He has 16 disciplinary reports: one is for fighting in 2003; three involve theft of food from the kitchen; and three in 2009 involve gambling. He has not received a disciplinary report related to substance abuse. Mr. Garner said that "I carry myself as a role model in the institution."

Mr. Garner addressed his criminal history. He began selling crack cocaine at age 10 or 11, and stealing cars at age 11. He entered the criminal justice system at age 12. He said that his parents used crack and that he witnessed their drug use. He described his brother as an important influence who always encouraged him to choose a different path than his parents did.

Three people spoke in support of parole, including the inmate's brother, who is a middle school teacher in Washington, D.C. and resides in Maryland. Orlando Taylor's mother testified in opposition to parole. She said that her son had a disagreement with Frankie Garner's girlfriend that led to a problem between the two young men. Having listened to Mr. Garner's version of events in the nightclub, she did not believe that he was taking responsibility for the murder. She said that Mr. Garner was a member of the gang known as "the Ave." She recalled his disrespectful behavior in the courtroom during his trial. She said that she "came to the hearing to hear remorse, but I did not hear it." Hampden Assistant District Attorney James Orenstein, the trial prosecutor, spoke in opposition to parole and clarified several factual issues about trial evidence.

III. DECISION

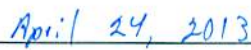
Frankie Garner has served fifteen years of his life sentence for second degree murder. He has an abundance of social skills, which he has used to navigate the prison environment and to make a good presentation at his parole hearing. He has relied more on social skills, however, and less on self-reflection and insight. His program participation is limited, and his non-violent disciplinary reports continue at a steady pace that shows good self-control but not a full commitment to change.

The four goals of sentencing – deterrence, punishment, public protection, and rehabilitation – have not yet been accomplished. Mr. Garner needs a more thoughtful approach to rehabilitation that includes more insight into his criminogenic risks and needs, with programs designed to address those matters. At this point, Mr. Garner remains a risk to re-offend and his parole is not compatible with the welfare of society. Accordingly, parole is denied. The review will be in three years, during which time Mr. Garner needs to remain employed, follow all the rules of the institution, and commit to rehabilitative programming.

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.



Josh Wall, Chairman



Date