

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

IN THE MATTER OF

FRED DIXON

W87923

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: May 30, 2019

DATE OF DECISION: April 22, 2020

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Gloriann Moroney, 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, the criminal record, the 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 27, 2006, after a jury trial in Bristol County Superior Court, Fred Dixon was found guilty of second-degree murder in the death of 29-year-old Rey Devila. He was sentenced to life in prison with the possibility of parole. His co-defendant, Felix Marrero, was acquitted at a separate trial.

Fred Dixon and Rey Devila both lived on the fourth floor of the Ship's Cove apartment building in Fall River. Mr. Devila used a wheelchair to get around. On the night of June 29, 2004, Mr. Devila, Mr. Dixon, and Mr. Marrero arrived on the fourth floor of the building at around the same time. Shortly thereafter, Mr. Dixon's next-door neighbor heard a man scream more than once, "No, no, please, no, no." The voice was coming through the wall adjacent to Mr. Dixon's

¹ Mr. Dixon received three votes to grant parole and three votes to deny parole, failing to meet the two-thirds majority required by statute to grant parole.

apartment. This witness called the police. The witness then observed the wall near her front door shaking and heard the door to Mr. Dixon's apartment open. Next, she heard the door to the fire stairs (stairwell) open, followed by the sound of "[s]omething rolling down the stairs." Meanwhile, two additional witnesses heard loud noises coming from Mr. Dixon's apartment. One of those witnesses knocked on Mr. Dixon's apartment door and asked if everything was all right. No one opened the door, but a voice (which both witnesses recognized as Mr. Dixon's) answered, "Everything is all right...."

As police were arriving, Mr. Dixon and Mr. Marrero left the building. Police discovered Mr. Devila's body underneath his wheelchair, on a landing between the third and fourth floors of a stairwell located next door to Mr. Dixon's apartment. Mr. Devila's jeans had been pulled down, and his right pocket had been turned inside out. Police secured the scene and obtained a search warrant for Mr. Dixon's apartment. During the execution of the warrant, police observed blood stains on the wall that separated Mr. Dixon's apartment from his next-door neighbor's apartment. Police also observed blood in the stairwell where the body was found. DNA testing revealed that the blood in both Mr. Dixon's apartment and the stairwell matched the victim's DNA profile. In the late afternoon on the following day, both men stopped briefly at the home of Mr. Dixon's cousin. During the visit, Mr. Dixon told his cousin that "something happened."

On July 2, 2004, both men were arrested together in Boston. According to the medical examiner, Mr. Devila suffered two fractures of the jaw, a dislocated neck, and numerous lacerations and abrasions. He opined that the victim had sustained blunt trauma to the head and neck and died as a result of those injuries.

II. PAROLE HEARING ON MAY 30, 2019

Fred Dixon, now 51-years-old, appeared before the Parole Board for an initial hearing on May 30, 2019. He was not represented by counsel. In his opening statement to the Board, Mr. Dixon apologized to the Devila family for "robbing" them of their time with him. He stated that he was "ashamed and deeply remorseful" for his "cowardly" actions. Mr. Dixon also apologized to his own family, as well as the community, for the harm he caused. He told the Board that he experienced a troubled upbringing, marked by abuse and neglect. He explained that both parents suffered from significant mental health issues, so he had moved to a group home as a young teenager. He said that he displayed violent behavior and experimented with drugs and alcohol.

The Board noted that Mr. Dixon is serving his second state sentence and fourth (overall) period of incarceration. Mr. Dixon explained that his criminal history of robberies was motivated by a need for money to support his substance abuse habit. He agreed that the most serious offense on his record was a conviction for assault to kill, when he shot a man "five or six" times over the belief that he might rob him. Despite being struck by many of the shots fired, the victim survived. Mr. Dixon stated that despite his substance abuse and criminal record, he was able to maintain employment, mainly in construction. It was through a construction job that Mr. Dixon met and befriended his co-defendant, Mr. Marrero.

On the day of the murder, Mr. Dixon and Mr. Marrero were drinking and smoking crack cocaine. That night, both men returned to Mr. Dixon's apartment building, where Mr. Devila also lived. Mr. Dixon told the Board that he and Mr. Devila were acquaintances, who occasionally smoked together. He explained that no animosity existed between them. As Mr. Dixon and Mr.

Marrero approached Mr. Dixon's apartment, they observed Mr. Devila in the hallway. Mr. Dixon entered his apartment to use the bathroom, while Mr. Marrero remained in the hallway to speak with Mr. Devila. Mr. Dixon told the Board that when he exited his bathroom, Mr. Marrero and Mr. Devila were in his living room engaged in a verbal argument about money. Mr. Dixon said that he told them to "take [the argument] out in the hallway," which they did.

A short time later, Mr. Dixon left his apartment to go to the store with Mr. Marrero. He opened a door, separating the hallway from the stairwell, and observed Mr. Marrero and Mr. Devila still engaged in a verbal argument, which was growing more "heated." Mr. Dixon told the Board that the argument became "extremely physical" when Mr. Marrero, offended by an insult from Mr. Devila, "flew into a rage." Mr. Dixon said that he watched as Mr. Marrero attacked Mr. Devila, and the two men engaged in a physical struggle, falling down the stairs. Mr. Dixon watched Mr. Devila's face and jaw strike the metal steps on the way down. At that point, when Mr. Devila was no longer moving, Mr. Marrero took money from Mr. Devila's pocket and left the scene with Mr. Dixon. The Board pressed Mr. Dixon as to why he did not attempt to help Mr. Devila or call police. He explained that the "code of the street," which was to not involve police, was embedded in him at the time. He admitted that instead of leaving Mr. Devila on the stairs to die, he could have called for medical assistance that may have saved his life. Mr. Dixon was unable to answer the Board's questions about a bloodstain containing Mr. Devila's DNA that was recovered from his apartment wall during the investigation.

The Board noted that Mr. Dixon is employed and has received only a few disciplinary reports during his incarceration. Mr. Dixon credited his positive institutional adjustment to his desire to no longer be the same "irresponsible" man. To achieve this, Mr. Dixon has engaged in multiple programming efforts, including Restorative Justice, Correctional Recovery Academy, and Graduate Maintenance Program. He is currently on the waitlist for a 32 week Restorative Justice program. He stated that his commitment to sobriety and AA/NA has been most beneficial to his rehabilitation. The Board raised concerns, however, that Mr. Dixon had used the drug K2 in 2013, after years of sobriety. Mr. Dixon explained that he learned from that experience, realizing that he must rely on his support network to remain sober. If granted parole, Mr. Dixon hopes to transition to lower security, followed by a pre-release, before entering a long-term residential program. He stated that it was important for him to continue AA/NA, while saving money to afford his own apartment. The Board noted that Mr. Dixon has strong family and community support.

The Board considered testimony in support of parole from Mr. Dixon's mother, sister-in-law, and pastor. The Board considered additional letters of support. The Board considered testimony in opposition to parole from Bristol County Assistant District Attorney Jason Mohan.

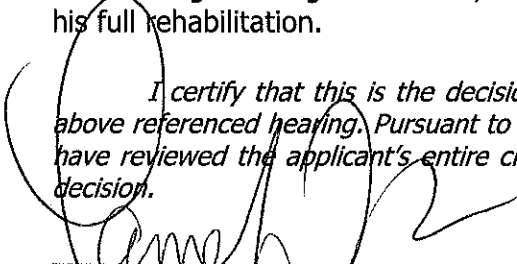
III. DECISION

The Board is of the opinion that Fred Dixon has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Dixon appears to be making strides in his rehabilitation. He should continue to address his causative factors as he has a long criminal history. He should pursue the Restorative Justice Victim Offender Education Program.

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

Mr. Dixon'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. Dixon to continue working towards 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

4/22/2020
Date