



Deval L. Patrick
Governor

Andrea J. Cabral
Secretary

The Commonwealth of Massachusetts
Executive Office of Public Safety

PAROLE BOARD

12 Mercer Road
Natick, Massachusetts 01760

Telephone # (508) 650-4500

Facsimile # (508) 650-4599



Josh Wall
Chairman

DECISION

IN THE MATTER OF

FREDERICK CHRISTIAN

W64758

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: May 29, 2014

DATE OF DECISION: June 5, 2014

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

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 the crime, 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 a suitable candidate for parole. Parole to the Interstate Compact for residency in Tennessee is granted after completing the Motivational Enhancement program (eight weeks) followed by one year in lower security at the Department of Correction (DOC), during which time Christian must maintain good conduct and comply with all DOC expectations for programs, activities, and employment.

I. STATEMENT OF THE CASE

On May 25, 1994, Frederick Christian, then 17 years old, participated in an armed robbery during which Manuel Araujo and Kepler Desir were shot and killed. Manuel's brother, Carlos Araujo, was also shot during the incident, but survived. After a jury trial in Plymouth Superior Court in 1998, Christian was convicted as a joint venturer in the armed robbery, which led to two convictions for first degree murder based on the felony murder rule. He was sentenced to serve two concurrent mandatory terms of life in prison without the possibility of parole. That same day, he was also sentenced to serve a concurrent term of two and a half years for the assault. The Supreme Judicial Court upheld the convictions. *Commonwealth v. Christian*, 430 Mass. 552 (2000). On December 24, 2013, the Supreme Judicial Court issued a

decision in *Diatchenko v. District Attorney for the Suffolk District & Others*, 466 Mass. 655 (2013), in which the Court determined that the statutory provisions mandating life without the possibility of parole were invalid as applied to those, like Christian, who were juveniles when they committed first degree murder. The SJC ordered that affected inmates receive a parole hearing after serving 15 years. Accordingly, Christian became eligible for parole, and is now before the Board for an initial hearing.

The following facts are culled from the Supreme Judicial Court's 2000 opinion. On the day of the murder, a man named Henry Garcia was at Christian's apartment in Brockton. He told Christian that he and Desir planned to go to New York City that evening to restock their supply of narcotics, and that Desir planned to buy cocaine. Christian was also interested in purchasing narcotics in New York, but could not afford to do so. Desir was asked to lend Christian money, but refused. After Garcia left Christian's apartment, co-defendant Russell Horton arrived. They left soon after, and Christian took his gun from beneath a couch.

In the meantime, Desir had joined Manuel and Carlos. Around 8:00 that same evening, those three picked up Christian and Horton by car. While in the car, Desir and Horton discussed a plan to rob some local drug dealers. On Horton's instructions, Manuel drove the car to the drug dealers' house, where Horton and Christian got out of the car. They were gone for about five minutes, returned to the car, and informed the others that they would return later to carry out the robbery. At Horton's direction, Manuel drove the car to a parking lot near a school building where he stopped the car and they all waited.

Without warning, Horton opened fire on Carlos, Manuel, and Desir. He shot each in the head with single shots, killing Manuel and Desir. Carlos survived by feigning death. Christian was arrested the next day.¹

Prior to the murder, when he was 13 years old, Christian was convicted of shoplifting in Tennessee and was committed to the Tennessee Department of Youth Development. His Massachusetts adult criminal history consists of 1994 convictions for breaking and entering in the daytime and malicious destruction of property, both of which were placed on file.

II. PAROLE HEARING ON MAY 29, 2014

Frederick Christian, now age 37, appeared for his initial parole hearing after serving 20 years on two concurrent life sentences for first degree murder. Attorneys Joseph Mulhern and John Fennell represented Christian. Christian gave an opening statement in which he provided new information about the murders. He said that the original plan was to rob "Dominican drug dealers," but that Horton changed his mind and decided to rob Kepler Desir. Christian admitted that he agreed to that new plan after Horton asked him to "watch my back." Christian forthrightly stated that he had not previously provided this information because he felt it would hurt him during post-conviction legal proceedings. Christian said that "being caught and convicted was the best thing for me; if I had not been caught, I would have been back out on the streets and I would have hurt somebody or got hurt myself, and I would have been selling more poison." Christian was referring to selling crack cocaine, which he began doing in Brockton a few weeks before the murders.

¹ Horton, who was not a juvenile at the time of the murders, was tried separately and convicted of two counts of first degree murder and one count of assault with intent to murder. The convictions were upheld on appeal. *Commonwealth v. Russell J. Horton*, 434 Mass. 823 (2001).

Christian grew up with three siblings in a two-parent household in a small town in Tennessee. His mother worked as a nurse and then a post office employee. His father worked for 30 years in a tire factory and also did construction work as a second job. His parents still live in Tennessee and Christian would like to live with them if he receives parole. Christian had meningitis as an eight-year-old, and was hospitalized for two months. A doctor informed the family that the illness might compromise some intellectual functioning. Christian reported that he struggled in school and was often in special education classes. He dropped out in ninth grade because "I had a hard time with the work and I just quit; I was hanging out with older kids and I started smoking marijuana and drinking alcohol." He "sold drugs for a few weeks but my father heard about it from a friend; my father threatened that he would call the police if I didn't quit; I stopped because I knew he would call the police, he had done that before." As a juvenile, he had two shoplifting cases and a case in which he and some friends took items from the house of a girl they were visiting. He was held in a juvenile detention facility for that offense. Christian recounted that he escaped from that facility "on my seventeenth birthday; I jumped out of a third story window; I wanted to see my girlfriend." While on escape, he shuttled back and forth to Massachusetts, where he stayed with relatives in Mattapan. His father was encouraging him to turn himself in. His second trip to Massachusetts was in April 1994, a few weeks before the murder. He lived in Mattapan for a short time before moving to Brockton to live with a female friend.

He has been held at Old Colony Correctional Center for the past 10 years of his sentence. He became a Muslim in 1999 and credits his religious conversion for significantly advancing his rehabilitation. He said that "Islam taught me discipline; I make five prayers a day with the first one two hours before sunrise; Islam teaches me to be the best I can be and to respect everyone's rights." Much of Christian's daily activity is connected to his religion. He goes to the mosque every morning and afternoon, and also frequently attends a mosque event in the evening. His employment requires him to clean the mosque and the chapel six afternoons a week. Christian said that, before his conversion, "I was wasting my life; I was wasting time playing cards and playing basketball; I was hanging out with people not doing the right things; I saw the things they did and distanced myself." In 1999, he changed his group of associates to "people who were involved in religion and other good activities; I noticed it was a lot easier to stay away from trouble and things you shouldn't be doing."

When asked to report on his primary accomplishments in prison, Christian immediately said, "Going back to school and earning a GED; I wanted to show my sisters and brother that I wasn't a complete idiot even though I was incarcerated; that was in 1999 and 2000; my brother was showing some signs that he might follow my negative example and I wanted this to be a better example for him." Christian also said, "Alternatives to Violence was the most significant program for me; I did two phases and I am waiting for the third; I heard about the program from other people and everybody who came out of the program said it changed them emotionally and they learned how they can look at things differently; ATV taught me how to listen and how to handle different situations; it taught resolution of conflicts without violence; part of that is to give others their rights and respect." Christian took both phases of the program when he was serving a life sentence without parole eligibility. He was asked how he got into the programs. He said, "I got into ATV through the Director of Treatment; I clean her office sometimes; I volunteer when there is no one assigned to clean the office; I asked her for it and she gave me an opportunity." When asked to reflect on the value of the program, Christian said, "It's a beautiful program; everyone should do it."

Christian reported that he has "been going to AA/NA since 2007; I've never used since I've been incarcerated but I drank alcohol and smoked marijuana when I was younger; I was invited to a meeting so I went; as I listened to what people said about their lives, I was

attracted to the program; people shared emotional stories; I needed AA/NA because of my marijuana use." He said he still attends the weekly AA/NA meeting once or twice month. He was heavily involved in the Toastmasters program in 2007 and 2008. Christian said that Toastmasters increased his ability to speak in public which added to his confidence level to get more involved in other activities and programs. For the past three years, Christian has participated in the Garden Program at Old Colony. He works with other inmates growing vegetables that are given away. He said he became interested in the program "when I heard that the food went to the elderly and the homeless; I wanted to be part of that." He began participating in the African-American Coalition in 2007. He said, "We talk about African-American males taking responsibility and not blaming others." Christian said that he is "accepted in Motivational Enhancement and I start that next month."

The inmate offered these details on the murder. "I bought a gun about a week after I started selling drugs; I carried it every day but I had never used it; I bought it because the first time I had come to Massachusetts I learned that there were a lot of people getting shot over things like jackets and sneakers; I met Russell Horton two weeks before the murders; on that night at about 8:00 p.m. Horton talked about robbing some Dominican drug dealers and we planned it; Horton paged someone and Manuel showed up in a car with Mr. Desir and Carlos Araujo; I didn't know them; Horton had his own gun that night; he pulled out his gun at one point when we were all in the car and passed it around; everybody held the gun and wiped prints off when they passed it to the next guy; we went to the drug dealers house but we did not do the robbery because there was a yellow car in front and Horton said that meant their protection was there." Christian explained that the five men drove around and returned a few times to the drug dealers' house but the yellow car remained in front. After Horton and Christian walked from the car to look at the house a final time they saw the same car, and Horton told Christian, "I'm just going to rob Quarter (Kepler Desir); I got issues with him anyway." Christian testified that Horton "told me to have his back and I said 'OK'; we got back in the car and Horton told Manny to move the car; we pulled into a parking lot; we were sitting there not even five minutes; there was a little bit of conversation between Horton and Mr. Desir; I don't remember what they were talking about; then the shots rang out; I saw flames from the gun; I don't know if Horton went through Mr. Desir's pockets; he might have; we never split anything; I didn't take anything; I don't remember anything Horton said to me or anything I said to him."

A Board Member asked Christian why he got involved in programs even though he was not eligible for parole and could not earn good time for program participation. Christian said, "I had hope; I never gave up hope; that was one of the reasons I tried to better myself; you have to apply yourself if you want to change; a lot of guys waste time playing cards, dominos, or basketball; that was never for me; you have to work if you want to change; I tell younger guys that even though your are here, you can learn; I try to get them to go to the library and I show them that you can order the books you want so you can learn about things."

Plymouth District Attorney Timothy Cruz spoke in opposition to parole. District Attorney Cruz emphasized Christian's joint venture role in the robbery plan and the brutal murders. Carlos Araujo, the surviving victim, testified in opposition. Mr. Araujo said, "in five months he would have been 18 and then we wouldn't be here; I ask that he never be let out." Mr. Araujo clarified that he just happened to run into his brother that day and that it was unusual for him to be hanging out with Manuel. He did not know Kepler Desir, Horton, or Christian. He said that on that night he repeatedly asked to be dropped off at his girlfriend's house. Barbara Crowder, who was Kepler Desir's partner at the time of the murder, spoke in opposition. She described that the pain of losing Mr. Desir continues to be a difficult burden for her and her

children. She said that she had emphatically told Mr. Desir that if he lived with her he needed to stop his "street" activities.

Sara Christian, the inmate's mother, was unable to attend the hearing due to her work schedule in Tennessee. She provided information before the hearing by participating in a conference call with Board Members. She and her husband have been married for 41 years and they live alone in a four bedroom home that they own. Frederick Christian lived in that house before he moved to Boston. She is active in her local church and she reported that she has two job opportunities available for her son. One job would be working with her brother-in-law in an established contracting business. Christian's cousin and a female friend, both of whom live in Massachusetts and visit Christian, spoke in support of parole. A social worker who works for the Committee for Public Counsel Services also spoke to describe the work that she has done with the inmate on preparing a re-entry plan. Christian did not present a psychologist offering an expert opinion on issues related to his petition. That presented no impediment to parole as Christian does not have mental health issues and he has 20 years of adult conduct for the Board to evaluate.

III. DECISION

Frederick Christian, at age 17, agreed with Russell Horton to rob some "Dominican drug dealers." As they prepared to commit the robbery, Christian and Horton ended up in a car with three men who were associates of Horton's. Horton changed the plan to rob one of the associates, Kepler Desir. Christian agreed to assist after Horton said, "watch my back." Without warning, however, Russell Horton shot the three men and robbed at least one of them. Manuel Araujo and Kepler Desir died from the gunshots. Christian was armed with a handgun, but did not pull the gun out during the incident. Christian denies that he knew of Horton's intention to shoot the victims, and the best evidence supports that denial. Christian led a negative lifestyle as a teenager, and he spent a short time as a drug dealer. The planned armed robbery, however, is the only serious violent incident that Christian has been involved in and he did not commit the violence. He was convicted as a joint venturer in an armed robbery which also led to conviction for two murders based on the felony murder rule. The Parole Board concluded that Christian had no advance knowledge of and provided no encouragement or assistance for Horton's spontaneous shooting of the three victims.

Because he does not have a history of committing violent acts, Christian's path to rehabilitation is less complicated than most inmates convicted of murder. He has been incarcerated for 20 years. During that time, he has been employed and has been well behaved considering his age and length of sentence. While he has received disciplinary reports, they have been for inconsequential rules infractions and none are for violence, substance abuse, destructive conduct, or disruptive behavior. Moreover, by 1999, after only one year at the DOC, Christian was involved in productive activity in prison.² While still at Walpole, he began serious religious participation as a Muslim. He eventually developed a practice of numerous daily religious activities undertaken both privately and at the prison mosque. He changed his associates to people who were involved in religious activities and rehabilitative programs. He attended Alcoholics Anonymous and Narcotics Anonymous regularly and completed rehabilitative programs that teach attitudes and strategies to avoid violence. He participated in several programs and activities through the years even though he was not eligible for parole and could not receive good time for sentence reduction. He has 15 years of pro-social conduct, cooperative behavior, and productive activity. Through this commitment and effort, Christian

² Christian spent four years in custody at the Plymouth County Jail awaiting trial. In accordance with the law, he received credit on his sentence for that time.

rehabilitated himself. Both his conduct in prison and his testimony at the hearing provide solid evidence of his successful rehabilitation.

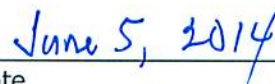
The standard we apply in assessing candidates for parole is set out in 120 C.M.R. 300.04, which provides that, "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." Applying that appropriately high standard here, the Board finds that Mr. Christian is a suitable candidate for parole. Christian reported at the hearing that he is already admitted to the Motivational Enhancement program which begins this month (June 2014) and lasts eight weeks. He identified the program as something that would assist him. Motivational Enhancement is developed and conducted by professionals. Its curriculum is not remedial, but instead involves preparing for future success. Christian's transition, therefore, will include completing Motivational Enhancement. Successful transition requires a gradual release through lower levels of security. Christian's gradual release, designed to prepare him for re-entry, will be for a period of one year. The final step will give Christian structured community access through a pre-release program that allows him to work in the community during daytime hours. Parole will be under conditions that will assist Christian with services and supervision.

SPECIAL CONDITIONS: Parole to the Interstate Compact for residence in Tennessee after completing the Motivational Enhancement program and then completing one year in lower security; complete at least three months of residential program treatment in Tennessee; no drug use; no alcohol use; substance abuse evaluation at the program with requirement to follow any treatment recommended; counseling for adjustment issues; no contact with surviving victim and his family.

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