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*The Commonwealth of Massachusetts*  
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**PAROLE BOARD**

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Josh Wall  
Chairman

**DECISION**

**IN THE MATTER OF**

**GARY COLBY**

**W50062**

**TYPE OF HEARING:** Review Hearing

**DATE OF HEARING:** July 10, 2012

**DATE OF DECISION:** May 13, 2013<sup>1</sup>

**PARTICIPATING BOARD MEMBERS:** Cesar Archilla, Charlene Bonner, Sheila Dupre, Ina Howard-Hogan, Roger Michel, 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 a suitable candidate for parole. Parole to Interstate Compact for residence in Virginia.

**I. STATEMENT OF THE CASE**

On March 1, 1991, Gary Colby was convicted in Essex Superior Court of the second degree murder of 30-year-old Beverly Autiello. The Supreme Judicial Court affirmed the conviction. *Commonwealth v. Colby*, 422 Mass. 414 (1996).

In the early morning hours of April 9, 1977, Mr. Colby broke into the Haverhill home of Beverly Autiello and her four-year old daughter looking for a woman named Marjorie Brown. Ms. Brown was a friend of Beverly Autiello and of Gary Colby; her car was parked outside Ms.

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<sup>1</sup> This decision was delayed because it had been assigned to an employee who left the agency without completing the decision. Due to the delay, the original period of required additional incarceration was removed from the decision because it has been met by the inmate. The Parole Board regrets the uncertainty and inconvenience that this delay caused to those involved.

Autiello's home. Marjorie had left the house, however, around 11:00 p.m., and was not present when Mr. Colby broke in. Mr. Colby entered Beverly Autiello's bedroom and struck her, possibly with an axe. He also violently assaulted her daughter, who had to be hospitalized for ten days. Mr. Colby fled the scene prior to the police arriving.

Ms. Autiello was still alive when the police arrived. Her breathing was labored as she lay on the floor, clawing into the carpet. The autopsy revealed that she had suffered from multiple fractures of the skull and lacerations to the brain caused by at least two powerful blows to the head.

Mr. Colby left Massachusetts for Virginia shortly after the murder and the case eventually went cold. As a result of a "cold case review" twelve years later, the police re-interviewed the surviving child victim, Marjorie Brown, and Mr. Colby's then-fiancée, Linda Ellenwood. As a result of these interviews, the investigation focused on Mr. Colby. Massachusetts police asked Virginia authorities to interview him. During that interview, Mr. Colby confessed to the murder.

## **II. INSTITUTIONAL HISTORY**

Mr. Colby has served 23 years on this sentence and has maintained an exemplary record within the correctional system. In April of 1997, he was transferred to Virginia through the Interstate Compact for the purpose of allowing him to be closer to his family. Virginia reports document that he has been a "model" inmate. He has received no disciplinary reports during his 23 years of incarceration.

While in the custody of the Virginia Department of Correction, he has participated in and successfully completed Breaking Barriers (a cognitive behavioral program), Anger Management, Sheet Metal Vocational Program, religious services, and the Prevent Recidivism by Educating for Parole Success (PREPS). PREPS is a re-entry program that provides instruction on how to manage and control the social and emotional adversities which can often accompany a return to society. He is very active in the Veterans Support Group.

He is currently employed as a houseman. He was previously selected by the administration to be a dog trainer/handler. He held this position for approximately four years and upon completion, he became certified with the American Kennel Association as a dog handler and trainer.

## **III. PAROLE HEARING ON JULY 10, 2012**

Mr. Colby seeks to reside with his wife, Mary Ellen Colby, in Roanoke, Virginia. He would continue with spiritual support from his church, and look to his family and friends for additional help. Mr. Colby reports a strong support system of family and friends. This is Mr. Colby's third parole hearing; parole was denied after hearings in 2004 and 2009. He is 65 years old and has been incarcerated for 23 years.

Mr. Colby described the crimes in a manner that did not deflect or avoid responsibility. The details were not fully accurate, but this did not appear to be intentional. Mr. Colby is 65 years old, he has some cognitive limitations or impairments, and the crimes occurred 35 years

ago. He said he went to Virginia after the crimes, where he lived and worked using his real name. He got married and settled in Roanoke where he worked at a motel as a desk clerk. He drank beer regularly but did not use drugs. He stated that "I don't drink in prison because I want a clean record." He said that "this is the only incidence of violence in my life." He was given probation in Florida before the murder for stealing a credit card; he successfully completed probation.

Mr. Colby did not advance beyond ninth grade. He has worked towards a GED in prison, but said "I couldn't complete it because of difficulty with math and reading." He served in the Army from 1966 to 1969 with an honorable discharge. He has a history of reasonably steady employment both before and after the murder. He reported that his first wife died due to complications related to diabetes. He said that "I felt sad and lonely when she died; I got depressed at times and did increase my drinking some."

Mary Ellen Colby offered testimony in support of her husband's parole. She is a computer operator who has been in the same job for 28 years. She said that "he has been a loving, supportive husband." Ms. Colby's sister-in-law said: "I know him as a loving and caring person; he is still an active part of our family."

The surviving victim testified in opposition to parole. She described the physical injuries she received as a child and the fear she has lived with. She has made a courageous recovery and has four children with her husband, who has served 23 years in the United States Army. Two other family members testified in opposition, as did Essex Assistant District Attorney Elin Graydon.

#### **IV. DECISION**

Gary Colby presents an unusual history: he committed a murder and injured a child but otherwise has lived a peaceful and seemingly productive life. The governing offenses appear to be the only violent acts he has perpetrated. It has been 36 years since that very violent conduct. He was married as a young man, but his wife died due to a medical condition. He had military service with an honorable discharge, after which he worked for a living. For 12 years after the murder, he maintained employment, abided by the law, and developed a healthy relationship that resulted in marriage. After confessing to the crimes and pleading guilty, Mr. Colby has been a "model" inmate in the Virginia prison system. He has served 23 years in prison and used that time productively to demonstrate that he has good self-control, is not violent, and has pro-social thinking and conduct. He is readily compliant with the institution's rules and expectations. He is cooperative, flexible, and patient in dealing with staff and inmates. Mr. Colby has cognitive limitations and a limited emotional range, but these are not factors that increase his risk to re-offend. Based on these facts, the Parole Board concludes that Mr. Colby shows no present capacity to re-offend violently, and that he would be highly likely to carry into the community his current good habits of pro-social thinking and conduct, cooperative attitude, and flexible responses in interacting with others.

After 23 years of incarceration, the four goals of sentencing – punishment, deterrence, public protection, and rehabilitation – have been met. 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. Colby is a suitable candidate for parole.

*SPECIAL CONDITIONS:* Parole to Virginia home plan (via Interstate Compact) after completion of Virginia Department of Corrections Thinking for a Change cognitive behavioral program; no alcohol use; no drug use; substance abuse evaluation with requirement to follow recommended treatment; one-on-one counseling to address transition issues for one year minimum and then at parole officer discretion; no contact with victim and victim's family.

*I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing. This signature does not indicate authorship of the decision.*

Josh Wall

Josh Wall, Chairman

May 14, 2013

Date