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PAROLE BOARD

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Charlene Bonner
Chairperson

DECISION

IN THE MATTER OF

GARY PHILLIPS

W36959

TYPE OF HEARING: Review Hearing

DATE OF HEARING: April 14, 2015

DATE OF DECISION: July 1, 2015

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Lee Gartenberg, Ina Howard-Hogan, Tina Hurley, Lucy Soto-Abbe.

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 by unanimous vote that the inmate is a not suitable candidate for parole. Parole is denied with a review hearing two years from the date of this hearing.

I. STATEMENT OF THE CASE

On February 8, 1979, in Hampden Superior Court, Gary Phillips pleaded guilty to second degree murder and was sentenced to serve life in prison. Gary Phillips committed a vicious murder by hammering to death his elderly neighbor, Daisy Loncrini, on May 21, 1978, in Agawam. Ms. Loncrini was 77 years old. Gary Phillips was 19 years old and lived in an apartment with his mother and stepfather. Ms. Loncrini lived by herself in an apartment in the same small apartment building, and she was friendly with Phillips' mother.

On the afternoon of May 21, 1978, Phillips was in the basement of the apartment building, drinking and playing loud music. The basement was used by his stepfather as an upholstery workshop. He says that Ms. Loncrini came to the basement shortly after 4:00 p.m. and asked him to turn down the music. Phillips responded by picking up an upholstery mallet and swinging it forcefully into Ms. Loncrini's face multiple times. He switched from the mallet to

a hammer, and hit Ms. Loncrini in the head several times. He then hid the body by covering Ms. Loncrini under a plastic bag and placing her behind a pile of boxes in the basement. He put the mallet, a bloody towel, and the victim's eyeglasses in a paper bag and threw the bag in a dumpster behind the apartment building. Phillips admitted these facts – multiple blows with each weapon used – when he testified during the plea colloquy at his sentencing hearing in Hampden Superior Court on February 9, 1979. Police found the bag in the dumpster. They also recovered the hammer from the workshop. Phillips' fingerprint was found on the eyeglasses.

There are several facts, which in combination, tend to show a prurient and sexually perverse motivation for the crime. The responding officer was Robert D. Campbell, who is currently the police chief in Agawam. Officer Campbell testified at the sentencing hearing on February 9, 1979. Photographs of the body cannot currently be located by the police, district attorney, or defense. Facts presented at the sentencing hearing do, however, document the condition of the body. Officer Campbell testified that Ms. Loncrini's "nylon stockings had been pulled down around the ankles and the dress had been pulled up to the chest area." After that statement, a photograph was immediately introduced, apparently to show the body as it had been described. Defense counsel raised no objection to that testimonial description. In cross-examining Officer Campbell, defense counsel did not contest the description of the dress or the nylon stockings, or the use of the word "pulled." Likewise, Phillips himself offered no disagreement with those descriptions when he testified at the sentencing hearing. According to a police report, "the undergarments appeared partially torn." There was human hair located on the victim's bare leg and FBI analysis established that this hair was microscopically similar to Phillips' hair. Also, in the Phillips' apartment, police recovered from a hamper the clothing Gary Phillips wore during the murder. Predictably, his shirt worn during the murder contained stains of human blood. Disturbingly, his underwear worn during the murder contained stains of human blood. These facts are recorded in the transcript of the sentencing hearing and contribute to the evidence of perverse motive.

As noted in the 2011 Record of Decision, it is not necessary to know whether Phillips murdered solely for a sexual motive or that motive developed as the crime progressed. It is also not necessary to know how Phillips acted out the sexual aspect of the crime. It is only necessary to know, based on the facts, that Phillips acted at some point with that motive and his rehabilitation process still must address that issue.

Parole has been denied in 1994, 1997, 2002, 2005,¹ 2006 and 2011. It is clear that Phillips had a very poor institutional record through 1993, having incurred multiple disciplinary reports, and that his conduct has improved considerably since 1993. He has not received another disciplinary report, and he has completed numerous programs, participated in AA, and been trained as a welder.

¹ The 2005 review hearing resulted in a tie vote, as the Board had only six members at that time. With less than a majority of Board Members voting to grant parole, this tie vote resulted in a denial and Phillips was placed on the next available hearing list, which in turn led to the 2006 hearing and denial.

II. OTHER CRIMINAL CONDUCT

In October of 1977, Phillips was charged with rape in Springfield District Court which was dismissed in December 1977. The case concerned sexual conduct with a 16-year-old female acquaintance. The girl initially reported to police that Phillips handcuffed her to a radiator and had forcible sex with her. She later recanted her version of events and the case was dismissed. Phillips states that the girl was a female friend with whom he had consensual sex. He says she lied about being raped rather than tell her abusive boyfriend that she had engaged in consensual sex with another man.

In 1978, Phillips was out on bail for a series of robberies when he murdered Daisy Loncrini. He pleaded guilty to five unarmed robberies on July 7, 1978.² In each of the robberies, Phillips and his step-brother selected a female victim carrying a purse, assaulted the victim, grabbed the purse, and fled. Police reports show that the amount of force used against the women varied, but that the incidents are accurately characterized as robberies, not "handbag snatches."

On August 30, 1993, while on a furlough day release from state prison, Phillips committed an offense of open and gross lewdness. A family of three, together in a car stopped at a stoplight near Metro West Medical Center in Framingham, observed Phillips on the sidewalk with his pants unzipped, his genitals exposed and visible to the family, in the act of fondling his genitals. As Phillips exposed and fondled himself, an elderly woman was on the same side of the street walking towards him. The family warned the woman and immediately reported the offense to police. Police stopped Phillips in the vicinity, and the family members identified him as the man they saw committing the lewd offense. All three family members (father, mother, and 13-year-old girl) gave detailed and consistent accounts to police on the day of the crime. Police interviewed Phillips on the same day but he denied any exposure of his genitals. He did not offer the explanation that he now provides, which is that he was innocently in the act of public urination. Phillips eventually admitted to the offense in pleading guilty to open and gross lewdness on October 12, 1993.

III. PAROLE HEARING ON APRIL 14, 2015

Gary Phillips was represented by Northeastern University School of Law, Prisoners' Rights Clinic Student Attorneys Jennifer Denker and Paula Carvajal.

The Parole Board discussed Phillips' understanding of the previous decisions rendered by the Board. Phillips provided his understanding and highlighted the years he has spent committed to his rehabilitation, as well as disputing any need for specialized sexual offender treatment. As in past hearings, Board Members reviewed prior sexual conduct, accusations, and the appearance of sexual overtones during the commission of his governing offense.

² In July 1978, Phillips pleaded guilty and received a 2 ½ year sentence for Assault and Unarmed Robbery. In February 1979, while serving the sentence for assault and unarmed robbery, Phillips he began serving the life sentence for the murder which was ordered to take effect forthwith.

Phillips described each incident and responded to questions accordingly. The Board asked Phillips why he would plead guilty to an open and gross offense, knowing that such a plea would have significant consequences, if he did not commit the crime. Phillips provided details of his conduct on that afternoon, disputed the eye witness accounts, and explained why he felt at that time the best option was to accept a plea and move on. He continues to insist that he was urinating and at no time did he perform any sexual acts. Phillips denied any history of sexual deviance or victimization at any period in his life. With regards to the murder of Ms. Loncrini, Phillips disputed prior depictions of his behavior that suggested he was either motivated by sex or that he sexually victimized Ms. Loncrini in any way. Phillips recognized why some Board Members have had continued concerns about his history of offenses and conduct that could be interpreted as sexual deviance. However, Phillips remained steadfast in his accounts of each accusation and bolstered his argument with the opinion of Leonard Bard Ph.D., who conducted an independent psychological evaluation on Phillips in 2008. Dr. Bard concluded that Phillips is not in need of specialized sexual offender treatment, nor does he pose a risk for committing sexual offenses. In addition, Phillips noted that in 1982 he had been deemed not to be sexually dangerous based on the opinion of Robert Moore, M.D. The Parole Board acknowledged that such evaluations and opinions were reviewed.

Phillips was asked to describe in detail how and why he murdered Ms. Loncrini. The Parole Board also acknowledged the receipt of Attorney Patricia Garin's letter disputing testimony by the Assistant District Attorney during Phillips' 2011 hearing. In doing so, Phillips was provided with the opportunity to clarify what he perceived as misrepresentations of the facts at his last hearing. Phillips provided supporting evidence that was consistent with his testimony as he described the details of the offense. Board Members asked Phillips what could have precipitated such a violent offense against a 77 year-old woman. While Phillips described that period of his life, the stress and depression that he had endured during that time, and the immediate stressors that contributed to his violent behavior, the Parole Board struggled with trying to understand why he committed the offense. As in past hearings, Phillips described how he "snapped" after being asked to turn down the music by Ms. Loncrini. He described his fear and confusion at that time and the role that alcohol played on his state of mind. Phillips attempted on many occasions to provide his own insights to the satisfaction of Board Members. He provided a detailed history of his relationship with his care-givers, the psychological abuse that he suffered from the treatment of his step-father, and the rage that built up over a period of time due to a number of psycho-social stressors. Phillips assured the Parole Board that he has addressed his needs, and he has since matured into an individual with the coping skills and emotional growth that will enable him to be a successful member of society.

Board Members also addressed the concern that Phillips had a pattern of victimizing women, whether it was via robbery, or taking advantage of at least one young woman sexually, or fondling himself in public in the presence of a female, or the murder of Ms. Loncrini. Phillips continued to deny that any of these offenses were sexual offenses. While Phillips acknowledged that his crimes and accusations of offenses have involved females, he believes that any deep rooted issues he has had with females, either conscious or unconscious, have been addressed. Phillips described his many healthy relationships he has with women today, including with his daughter and advocates. In addition, Phillips provided insight into his anti-social behavior during the period of his life when he murdered Ms. Loncrini. Such insight depicted his level of anger, lack of direction, and poor outlook for his future. Phillips again stated that he has matured, grown, and has demonstrated throughout his incarceration that he

is no longer that misguided young man. He also reminded the Parole Board that he has been sober for 36 years, which has enabled him to live his life with clarity and he is driven to maintain his sobriety.

The remainder of the hearing focused on specific rehabilitative efforts that Phillips has made throughout his 36 years of incarceration. He highlighted his institutional adjustment and his pursuit of educational, occupational, and self-help programming. Phillips answered questions regarding how specific programs assisted him with his rehabilitation and what he anticipated his needs would be in order to be a successful citizen. Phillips outlined a comprehensive parole plan that would include residential treatment, continued AA and counseling, and his acceptance into Groundscapes Express as an employee who would assist with erosion control services. Phillips also discussed his ongoing support system that includes his sister, his daughter, and advocates who have remained committed to his pursuit for a successful reintegration into the community.

Phillips and his student attorneys concluded the hearing by addressing specific concerns of the Parole Board in relation to his history of offenses. They reiterated that his specific needs have been addressed during his lengthy incarceration and commitment to treatment.

Several people spoke in support of Phillips' parole. Liza Hirsch, who served as Phillips' prior student attorney, stated that she has continued to work with Phillips because she believes in his ability to succeed in the community. Based on her years of experience both working with and supporting Phillips, she felt compelled to provide testimony about his character and growth that she witnessed. Lauren Petit, who represented Phillips in his 1997 hearing, also provided testimony as to Phillips' strengths, his character, and his strong relationship with his daughter. Ms. Petit contends that Phillips has been rehabilitated and is deserving of parole.

Speaking in opposition of Phillips' parole were three members from Ms. Loncrini's family. In addition, a letter from Ms. Loncrini's niece was read at the hearing. All three family members provided a history of the significant impact the murder had on their family. They wanted the Parole Board to recognize that the pain and suffering their family has endured has affected them for generations. One family member was particularly concerned with the fact that Phillips was on bail at the time of the murder for his series of robberies against women. The family strongly opposed Phillips' parole release.

Assistant District Attorney Howard Safford from Hampden County offered his opinion regarding Phillips' suitability for parole. While Attorney Safford did not offer a definitive opinion regarding whether he should be released or not, he did state that since Phillips has engaged in programming, he believes he has done a significant job in his rehabilitation.

IV. DECISION

Phillips is 56 years old and he has been incarcerated for 36 years. This was his sixth appearance before the Parole Board. The crux of many of his denials have concerned the brutality of the crime on a 77 year-old woman and Phillips' continued denial of any sexual motive or need for specialized treatment. In addition, given the allegations of sexual offenses, including a plea to open and gross lewdness, the Parole Board has conflicting views as to whether Phillips is indeed in need of sexual offender treatment. Some Parole Board Members

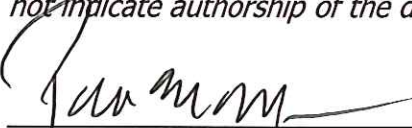
also continue to have concerns regarding his candor, as the facts introduced in evidence at the sentencing hearing of the murder of Ms. Loncrini conflict with Phillips' testimony of the offense as not being sexually motivated. That said, other Board Members are satisfied with Phillips' explanation and do not view him as having had any sexual motivation in the commission of this murder. Such Board Members also accept the expert opinion of Dr. Bard, and do not view Phillips as needing specialized sex offender treatment.

Additional concerns raised by the Board include the fact that Phillips also committed a series of robberies against women, and he was on bail on those charges when he murdered Daisy Loncrini. Board Members have concerns that Phillips has a pattern of victimizing women, and that he has not acknowledged or addressed this issue.

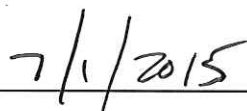
Phillips has continued to take the position that he does not need any specific treatment to address either sexual deviation or violence against women. Given the facts of the murder and the facts of Phillips' other criminal conduct, his position regarding specific treatment needs does not satisfy the Board that he is suitable for parole release. What is most concerning to the Parole Board is the inability to understand why Phillips committed such a senseless and brutal murder on a 77 year-old woman. While Phillips has explained his motivation (or lack thereof) the Parole Board continues to have concerns about Phillips' character and potential to re-offend. The Parole Board does recognize Phillips' many years of positive conduct and rehabilitative efforts. It is noteworthy as well that he has not been cited or charged with any additional sexual victimization while he has been incarcerated. In addition, Phillips, by all accounts has been sober for 36 years, which may be the key factor to his positive adjustment for so many years.

While Parole Board Members have differing opinions as to Phillips' treatment needs, the unanimous decision of the Parole Board is that he does not meet the legal standard for parole at this time. He will be given a review hearing in two years which will allow Phillips to consider the concerns of Board Members and he can choose to address such concerns accordingly.

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.



Peter Mimmo, Staff Attorney



Date