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Paul M. Treseler
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DECISION

IN THE MATTER OF

GREER TONEY
F25175

TYPE OF HEARING: Review Hearing

DATE OF HEARING: May 24, 2016

DATE OF DECISION: October 24, 2016

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, 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 the 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 that the inmate is not a suitable candidate for parole. Parole is denied with a review scheduled in two years from the date of the hearing.¹

I. STATEMENT OF THE CASE

On March 7, 1979, in Suffolk Superior Court, a jury convicted Greer Toney of second degree murder in the stabbing death of Denise Curry. Ms. Toney was sentenced to life in prison with the possibility of parole. Ms. Toney moved for a new trial on two separate occasions (March 1979 and April 1980). Ms. Toney's first motion for a new trial was based on the claim that the jury's finding of her guilt was against the weight of the evidence presented at trial. Ms. Toney's second motion argued that a new trial was justified by newly discovered evidence. Both motions for new trial were denied by the Superior Court. Ms. Toney appealed the denial of both motions. All appeals were consolidated for review by the Supreme Judicial Court, which affirmed the judgment of conviction, as well as the denials of the motions for a new trial.

¹ Five Members of the Parole Board voted to deny Ms. Toney's petition for parole and schedule a review hearing in two years. One Board Member voted to deny parole and schedule a review hearing in three years. One Board Member voted to reserve with conditions.

On August 13, 1978, at approximately 10:15 p.m., Robin Mines, Dianne Tinsley, and Denise Curry (the victim) were on Whitfield Street, in Dorchester, when a car passed them driven by a female accompanied by two male passengers. Some epithets were exchanged between the victim and one of the passengers, whereupon the car stopped and the occupants emerged. The female approached the victim and, after some words were exchanged, began hitting her repeatedly, while the two males prevented Robin Mines and Dianne Tinsley from interfering. At some point, one of the men pulled the assailant off the victim and said, "Toney, let her go, let her go." As the assailant relinquished her hold, Ms. Mines observed something "long" and "bloody" in the hand of the assailant. The two men and the assailant went back to the car and drove off. The victim staggered a few steps and collapsed; she died shortly thereafter of a stab wound to the heart. A medical examiner testified that the wound could have been caused by a knife or a pair of scissors.

II. PAROLE HEARING ON MAY 24, 2016

Ms. Toney, now 65-years-old, appeared before the Parole Board on May 24, 2016, for a review hearing and was represented by Attorney John Rull. This was Ms. Toney's third appearance before the Board. Ms. Toney first appeared before the Board on October 19, 1993, for an initial hearing, which resulted in parole being granted. Ms. Toney was released to parole supervision on November 22, 1993. On October 16, 2015, Ms. Toney was returned to custody for multiple violations of the terms and conditions of her parole. On November 12, 2015, Ms. Toney's parole was provisionally revoked and, on February 11, 2016, the Parole Board affirmed the revocation.

In Ms. Toney's opening statement, she described this day as a "day of atonement." She stated that, despite the almost 40 years that she maintained her innocence, she was publicly admitting for the first time that she did, in fact, stab Denise Curry. Ms. Toney also admitted to creating a story about a fictitious sister "Doris," who she previously indicated was the suspect. Ms. Toney apologized to the victim's family, as well as to the Board for violating the conditions of her parole. She described the violations as "one of the biggest mistakes I have made" and blamed no one, but herself. When the Board asked why she was now admitting her guilt, Ms. Toney stated that she had recently seen (for the first time) the 1993 Record of Decision granting her parole. When she read the portion that mentioned that the victim's mother will never know what happened to her daughter, it finally struck Ms. Toney that "we have to change that." Ms. Toney also mentioned her agony in keeping this suppressed over the years.

In describing her version of the offense, Ms. Toney stated that she was driving down the street with her boyfriend, her brother-in-law, and "all the kids" in the back of the car, when they approached three girls walking in the middle of the street and blocking traffic. Ms. Toney honked the horn and yelled for them to move. One of the girls yelled back. Ms. Toney pulled over, exited the car, and "got into Denise's face ... and I cursed, said some curse words and the boyfriend that I was with then said, 'Come on, Toney. Let's go.' I reached in my pocket. I took the scissors out, and I did like this (gesturing), 'Get off me,' and I stabbed Denise." Ms. Toney explained that she had scissors in her pocket because she had planned to deliver them earlier in the day to a sister incarcerated at MCI-Framingham, who worked as a cosmetologist at the prison. Ms. Toney stated that she did not intend to stab Denise. She said that she was not paying attention and was completely out of control. When asked by the Board to explain her anger, Ms. Toney stated that six months before the murder, she had made the decision

(over her mother's objection) for her mother to have surgery. Her mother subsequently died on the operating table, and Ms. Toney felt guilty as a result.

The Board questioned Ms. Toney about who else knew that the story she had maintained for 40 years was a lie. Ms. Toney acknowledged that the adults in the car that night knew the truth. Ms. Toney also stated that family members knew not only the truth about the crime, but also the lie surrounding the creation of a fictitious sister. The Board noted that Ms. Toney's parole violations involved communication issues with her parole officer and association issues with people whom Ms. Toney knew to avoid. Ms. Toney stated that she has learned from her mistakes. The Board observed that Ms. Toney's missteps on parole had the flavor of manipulating, scheming, and game playing cited in the prior parole vote, raising the question as to whether anything had changed. Ms. Toney stated that "they were right," but her parole violations occurred before her decision to confess. She also stated she now understands that the privilege of parole does not allow her to pick and choose which rules demand compliance.

The Board considered oral testimony from Ms. Toney's daughter, grandson, and friends, all of whom expressed support for Ms. Toney's parole. The Board also received numerous letters from Ms. Toney's additional family members and friends expressing support for her parole. The Board considered testimony from Ms. Toney's niece, who expressed opposition to Ms. Toney being granted parole. In addition, the Board received a letter from Suffolk County Assistant District Attorney Charles J. Bartoloni, which expressed opposition to Ms. Toney being granted parole.

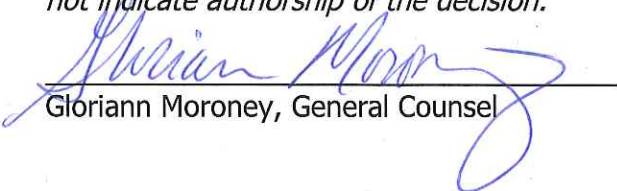
III. DECISION

The Board is of the opinion that Ms. Toney has not demonstrated a level of rehabilitative progress that would make her release compatible with the welfare of society. In light of Ms. Toney's confession coming for the first time in almost 40 years, and in consideration of the recent violations of the terms and conditions of parole, the Board believes a longer period of positive institutional adjustment, as well as programming that focuses on causative factors, would be beneficial to Ms. Toney's rehabilitation.

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 Ms. Toney's institutional behavior, as well as her participation in available work, educational, and treatment programs during the period of her incarceration. The Board has also considered a risk and needs assessment, and whether risk reduction programs could effectively minimize Ms. Toney's risk of recidivism. After applying this standard to the circumstances of Ms. Toney's case, the Board is of the opinion that Ms. Toney is not yet rehabilitated and, therefore, does not merit parole at this time.

Ms. Toney's next appearance before the Board will take place in two years from the date of this hearing. During the interim, the Board encourages Ms. Toney to continue working towards her 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.


Gloriann Moroney, General Counsel

10/24/16
Date