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Paul M. Treseler
Chairman

Michael J. Callahan
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DECISION

IN THE MATTER OF

JAMAL SPENCER

W50106

TYPE OF HEARING: Review Hearing

DATE OF HEARING: September 20, 2016

DATE OF DECISION: March 9, 2017

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

I. STATEMENT OF THE CASE

On March 11, 1991, in Suffolk Superior Court, Jamal Spencer pled guilty to the second degree murder of Sabrina Smith. Mr. Spencer was sentenced to life in prison with the possibility of parole for her murder. That same day, Mr. Spencer was also convicted of: armed assault with intent to rob or murder, for which he received a concurrent sentence of 18 to 20 years; assault and battery by means of a deadly weapon, for which he received a concurrent sentence of 8 to 10 years; and possession of a firearm, for which he received a concurrent sentence of 4 to 5 years.

On May 11, 1990, Jamal Spencer and his co-defendants went to an apartment in Dorchester to settle a dispute with Sabrina Smith and her boyfriend. At some point during their ensuing discussions, Mr. Spencer removed a .45 caliber gun from his pocket and shot Ms.

Smith's boyfriend in the left side of his chest. Mr. Spencer then fatally shot Ms. Smith in the chest. Ms. Smith's boyfriend survived the shooting.

II. PAROLE HEARING ON SEPTEMBER 20, 2016

Jamal Spencer was paroled in June 2006, following his initial hearing in 2005. Mr. Spencer was returned to custody in August 2007, when he was arrested for unlawful possession of a firearm and ammunition. That day, police responded to a call for "shots fired" and recovered a .9mm Beretta with a high capacity magazine and ammunition from Mr. Spencer's residence. Mr. Spencer pleaded guilty to those offenses and was sentenced to serve 4 years to 4 years and 1 day in prison. Mr. Spencer was denied parole after his review hearing in 2011.

Mr. Spencer, now 45-years-old, appeared before the Parole Board for a review hearing on September 20, 2016. In his opening statement to the Board, Mr. Spencer apologized to Ms. Smith's family and the other victim, as well as his own family and supporters. Mr. Spencer discussed the events that surrounded Ms. Smith's murder. When asked why he went to the victims' home on the night of the murder, Mr. Spencer said that he had been told that the victims had gone to his aunt's home and surrounded her house. Mr. Spencer and his two cousins went to the victims' home to confront them. When he spoke with Ms. Smith's boyfriend, Mr. Spencer found out that the story he had been told was untrue. There had been a "misunderstanding" regarding who had previously broken into the victims' home. Mr. Spencer stated that he and Ms. Smith's boyfriend "went back and forth" and "it got out of hand." Ms. Smith eventually went back into the house. When she returned, her boyfriend approached her and then Mr. Spencer pulled out his gun. He fired first at Ms. Smith's boyfriend, and he then fired at Ms. Smith. Mr. Spencer said that he was told previously that the couple had firearms in their possession. After the shooting, Mr. Spencer went home and told his mother what he had done. Mr. Spencer's mother told him to turn himself in, which he did. Mr. Spencer stated that he was "sorry for that night."

Mr. Spencer addressed the time that he spent on parole in 2006. In October of that year, Mr. Spencer was a passenger in a vehicle that was stopped by the police. There were open containers of alcohol in the car and his brother (the driver) did not have a driver's license. Mr. Spencer was not arrested, and the police officer allowed him to drive the car home. However, he waited 15 days before telling his parole officer about the encounter with the police and, thus, received a Final Warning from the Parole Board. The Board questioned Mr. Spencer as to why he did not contact his parole officer after his encounter with the police. Mr. Spencer explained that he had told his counselor about the police stop, but now knows that he must immediately contact his parole officer in that type of situation.

The Board asked Mr. Spencer to discuss the events that resulted in his return to custody in August 2007. At the time, Mr. Spencer was living with his girlfriend and had allowed his nephew to stay in their home for a couple of days. Mr. Spencer's girlfriend did not want his nephew to stay with them, so he was "sneaking him in and out" while his girlfriend was at work. On the night of the arrest, Mr. Spencer said that his nephew "got involved" with some young people outside, who had told his nephew that he did not belong in that neighborhood. Mr. Spencer said that the police then received a call that someone had been shot, which Mr. Spencer claimed was not a "true report." Police officers knocked on Mr. Spencer's door multiple

times (with no response). Mr. Spencer admitted that he had heard the police banging on the door, but did not open it since he did not want either himself or his nephew going to prison.

The police eventually gained entry into Mr. Spencer's home through a window and discovered a high capacity firearm on the hallway floor (near the bathroom), two boxes of .9mm ammunition (as well as loose rounds) on his refrigerator, and marijuana and a Corona bottle in his yard. Mr. Spencer said that he did not know anything about the marijuana or the Corona bottle. He claimed that he did not know how long the gun was on his hallway floor, but that it had not been there all day. When a Board Member told Mr. Spencer that she was trying to make sense of his story, Mr. Spencer acknowledged that it "doesn't make sense." Mr. Spencer maintained that the gun belonged to his nephew and was not fired that night. He said that since he allowed his nephew in his home, he "took responsibility for that."

Mr. Spencer has not received a disciplinary report since 2011. During his incarceration, he has participated in multiple programs, including Violence Reduction, the Path to Freedom, Alternatives to Violence, and Jericho Circle. At the time of this hearing, he was participating in the Graduate Maintenance Program.

The Board considered oral testimony from Mr. Spencer's pastor, girlfriend, sister, friend, and Alcoholics Anonymous sponsor, all of whom expressed support for his parole. Letters of support were also submitted on his behalf. Suffolk County Assistant District Attorney Charles Bartoloni submitted a letter in opposition to Mr. Spencer being granted parole.

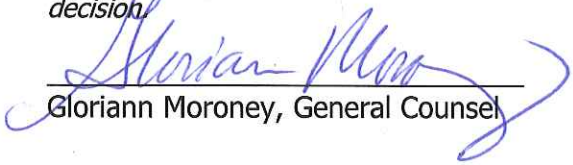
III. DECISION

Mr. Spencer was sentenced in Suffolk Superior Court to 4 years to 4 years and 1 day for possession of a firearm – a crime committed on parole. The Board finds Mr. Spencer's version to be incredulous. Mr. Spencer has not yet demonstrated a level of rehabilitative progress that would make his re-release compatible with the welfare of society. At this time, the Board remains concerned that Mr. Spencer is a risk to public safety.

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

Mr. Spencer's next appearance before the Board will take place in four years from the date of this hearing. During the interim, the Board encourages Mr. Spencer 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.


Gloriann Moroney, General Counsel

3/9/17
Date