

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

12 Mercer Road
Natick, Massachusetts 01760

Telephone # (508) 650-4500
Facsimile # (508) 650-4599

Charles D. Baker
Governor

Karyn Polito
Lieutenant Governor

Terrence Reidy
Acting Secretary

Gloriann Moroney
Chair

Kevin Keefe
Executive Director

RECORD OF DECISION

IN THE MATTER OF

JAMES BING
W58466

TYPE OF HEARING: Review Hearing

DATE OF HEARING: August 11, 2020

DATE OF DECISION: August 25, 2021

PARTICIPATING BOARD MEMBERS: Gloriann Moroney, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Karen McCarthy, Colette Santa

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 that the inmate is not a suitable candidate for parole. Parole is denied with a review in four years from the date of the hearing.¹

I. STATEMENT OF THE CASE

On April 24, 1995, James Bing was found guilty by a Suffolk Superior Court jury of two counts of assault with intent to rape a child under 16. He was sentenced to life in prison with the possibility of parole. He was also convicted of two counts of rape of a child and received a concurrent life sentence. On that same date, he was convicted of two counts of indecent assault and battery on a child under 14 and received an 8 to 10 year-sentence. He also received a 2½ to 3-year sentence for convictions on two counts of open and gross lewdness. All sentences were ordered to run concurrently with the life sentence of assault with intent to rape.

According to testimony from the victim's mother and brother, as well as a SAIN interviewer, the victim was raped and molested at the hands of her father, James Bing, on numerous occasions over the course of about one year. The abuse began when she was seven years old. The victim said that her father would often bring her into his bedroom, when no one was at home, and remove her clothing. She indicated that he would take his private part and

¹ One Board Member voted to deny parole with a review in three years from the date of the hearing.

put it inside of her. On several occasions, he threatened to send her to foster care if she told anyone. The victim also indicated that these incidents occurred after her father sent her brothers to the store, so that no one would be home.

On March 6, 2002, the Massachusetts Appeals Court affirmed Mr. Bing's convictions and the denial of his motion for a new trial.² On May 2, 2002, the Supreme Judicial Court denied further appellate review.³

II. PAROLE HEARING ON AUGUST 11, 2020

James Bing, now 59-years-old, appeared before the Parole Board on August 11, 2020, for a review hearing. He was not represented by counsel.⁴ Mr. Bing was denied parole after his initial hearing in 2009. He postponed his 2014 review hearing and was denied parole after his 2015 review hearing. In his opening statement to the Board, Mr. Bing stated that he is a different person than he was in 2015. He has stayed away from negativity and believes that he is more capable of functioning. The Board noted that Mr. Bing has several mental health diagnoses and was transferred to Bridgewater State Hospital, as recently as March 2020, for 30 days. Mr. Bing stated that he was feeling better after his stay at Bridgewater State Hospital and has since been compliant with his medication. Mr. Bing also has Post-Traumatic Stress Disorder, having been shot by the grandson of a female acquaintance. He told the Board that the shooting took place because he (Mr. Bing) had been sexually inappropriate with the female acquaintance, groping her in her home. In light of these conditions, the Board asked Mr. Bing if he was open to the assistance of counsel in the context of parole. Mr. Bing stated that he is willing to work with an attorney, but he declined legal representation for this hearing because he did not want a delay.

As to the governing offense, Mr. Bing denies that he engaged in sexual intercourse with his daughter. Rather, he "crossed the line" by making her believe that he had sex with her. He admitted to inappropriately touching his daughter, as well as "using her as a tool" in the strained relationship with his wife. The Board questioned Mr. Bing, repeatedly, as to the physical acts he engaged in with his daughter that constitute "crossing the line," but Mr. Bing declined to specify. The Board noted that Mr. Bing's institutional adjustment has improved in recent years, as he has accrued fewer disciplinary reports since his initial incarceration. Mr. Bing lives in the Residential Treatment Unit, where he has participated in such programs as Coping Skills and Anger Management.

Mr. Bing considers himself a sex offender because of his convictions, telling the Board that he "accepts full responsibility for [his] actions." However, he does not "accept the full story" of the governing offense since "there was no sex." As such, he refuses to participate in the Sex Offender Treatment Program, despite the Board's recommendation that he complete the program to address the causative factors underlying the rape of his daughter. Board Members explained that the reports produced by professional staff at the Sex Offender Treatment Program are extremely beneficial, as they assist the Board in making a more thorough assessment of parole suitability. Board Members also explained the difficulty in forming an opinion as to appropriate treatment, or necessary conditions, without the benefit of expert reports that address Mr. Bing's risk to reoffend. Although he claims to have understood the Board's position, Mr. Bing decided to "take his chances" in seeing the Board without this treatment.

² *Commonwealth v. Bing*, 54 Mass.App.Ct. 1103, 763 N.E.2d 584 (2002).

³ *Commonwealth v. Bing*, 436 Mass. 1104, 768 N.E.2d 1086 (2002).

⁴ The Board made a referral to the Committee for Public Counsel Services for counsel to represent Mr. Bing in preparation of, and during, his review hearing. Mr. Bing declined legal representation for this hearing.

The Board considered the testimony of Mr. Bing's ex-wife in opposition to parole. The Board also considered additional letters in opposition to parole, including letters from Suffolk County District Attorney Rachael Rollins and Boston Police Commissioner William Gross.

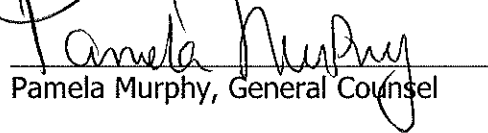
III. DECISION


Mr. Bing has served approximately 26 years for the rape of a child. He is currently housed in the Residential Treatment Center at Old Colony Correctional Center. Although he has engaged in some programming since his last hearing, he continues to decline participation in the Sex Offender Treatment Program. Mr. Bing is encouraged to engage in the SOTP. Mr. Bing needs to accept responsibility for his criminal behavior. The Board is concerned as to his recent non-compliance with his mental health care plan. Release remains incompatible with the welfare of society. A referral was made regarding mental health issues. Despite this, he elected to proceed without counsel after consultation.

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

Mr. Bing'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. Bing to continue working toward 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.


Pamela Murphy, General Counsel


Date