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DECISION

IN THE MATTER OF

JAMES JOHNSON

W35941

TYPE OF HEARING: Review Hearing

DATE OF HEARING: November 29, 2016

DATE OF DECISION: June 1, 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 July 24, 1975, in Suffolk Superior Court, James Johnson pled guilty to two second degree murders for which he received two concurrent life sentences. He also pled guilty to the following related crimes: armed robbery (6-10 years), possession of dangerous weapon (3-5 years), assault by means of firearm (3-5 years), and armed assault with intent to rob (6-10 years). These sentences were to run concurrent with each other, but consecutive to the life sentences.

On July 8, 1974, at 3:40 p.m., 53-year-old Joseph Bardsley was walking home when he was approached by three men, later identified as James Johnson (age 24), Donald Cook, and Louis Goforth. Mr. Johnson confronted Mr. Bardsley with a sawed off shotgun and told him to stop. At that point (being at the gate to his home), Mr. Bardsley yelled to his wife to let the dogs out. Mr. Johnson responded by firing one shot, striking Mr. Bardsley in the neck. He fell

to the ground and died from the single gunshot wound. Mr. Johnson and his co-defendants immediately fled the scene.

At around 8:00 p.m. that same day, 44-year-old Gabriel Peters (an ice cream truck vendor) and his 16-year-old assistant were selling ice cream in Roxbury. Mr. Johnson and his co-defendants (from the murder earlier that day) saw the truck and decided to rob it. Mr. Johnson reached into the rear of the truck and tried to grab Mr. Peters, but Mr. Peters pulled away. Mr. Cook then fired one shot with a gun he possessed, and Mr. Peters went to the floor, reaching over his head to grab a can of mace. Mr. Johnson ran to the side rear window and fired a shot, striking Mr. Peters, who then collapsed in the truck. Shortly thereafter, Mr. Johnson pulled Mr. Peters' body into the street, went through his clothes, and removed some money. The men then fled the scene.

It should be noted that these murders were committed while Mr. Johnson was on escape status from a furlough.

II. PAROLE HEARING ON NOVEMBER 29, 2016

Mr. Johnson, now 66-years-old, appeared before the Parole Board for a review hearing on November 29, 2016. He was not represented by an attorney. After Mr. Johnson's initial hearing in 1991, parole was denied. Parole was also denied after review hearings in 1995, 1998, and 2001. After his review hearing in 2004, however, Mr. Johnson was granted parole and was released in 2005. In 2008, he was found to be in violation of parole regarding unpaid motor vehicle fines, but his parole was not revoked. In 2010, parole was revoked, however, when Mr. Johnson was arrested for assault and battery on his girlfriend. Mr. Johnson had failed to notify his parole officer of this arrest, and it was later learned that his girlfriend had a criminal record. The domestic violence charges were eventually dismissed when his girlfriend said she had lied about the assault. After a review hearing in 2011, Mr. Johnson was denied parole with a review in five years.

In his opening statement at this hearing, Mr. Johnson apologized to the Board and to the families of the victims. The Board questioned Mr. Johnson about his time on parole, as well as his two parole violations. Mr. Johnson readily admitted that he kept things from his parole officer, including his two arrests. He told the Board that he chose not to tell his parole officer about his 2010 arrest because "I didn't do anything...I was trying to make it go away...I didn't want to go back behind the wall for something I didn't do." He also told the Board that he had relationships with three women during his time on parole. The first two women used crack cocaine, but he said he left them when he found out about their drug use. However, he did not tell his parole officer about either relationship or his discovery of their illegal behaviors. His third girlfriend smoked marijuana, but he did not think it was a problem because he never smoked with her. Mr. Johnson further stated that he did not think he had to inform his parole officer about any of his girlfriends' drug habits.

Mr. Johnson also discussed the details of the murders. He admitted that he was the main leader in both murders (shooting both victims with the sawed-off shotgun), and stated that his actions were driven by drug withdrawal sickness and the need to get money to "score" more drugs. After the first murder, he said they were still "dope-sick," so they decided to go

out again to try and find drugs or rob someone for more money. After murdering Mr. Peters, they were able to get more drugs.

Mr. Johnson said that during the past six years (since his return to custody), he has been employed full time and has completed several programs, including Pathways to Freedom, Cognitive Skills programs, and Computer Skills. The Board questioned Mr. Johnson about his substance abuse programming, given the fact that the murders he committed seemed to be fueled by addiction. Mr. Johnson said that he does not currently attend AA/NA, nor has he gone in years, as the meeting room was too crowded the last time he tried to attend. One Board Member asked him why he did not begin to engage in programming until 2014, when he was returned to custody in 2010. Mr. Johnson claimed that he was waitlisted for all programs until 2014.

The Board expressed its concern that Mr. Johnson, now 66-years-old, has not exhibited any time in the community where he has not violated the law, violated probation, escaped from institutions, or violated parole. The Board also noted that when he was on parole, Mr. Johnson displayed a complete lack of candor, deciding which information he would tell his parole officer and which information he would hide. The Board also asked Mr. Johnson what, specifically, he learned about the two men he murdered over 40 years ago. Mr. Johnson could not provide any details about either victim, except to say that "they didn't deserve what I did to them." The Board expressed concern that he lacked empathy and insight into the lives he took and was unaware of the impact his actions had on the victims' families. Mr. Johnson acknowledged that he has not participated in victim empathy programming during his decades of incarceration.

Mr. Johnson stated that his only supports in the community are his two older sisters, neither of whom could attend the hearing. If paroled, he plans to live alone. The Board considered oral testimony in opposition to parole from one of the victim's sons and granddaughter. Suffolk County Assistant District Attorney Charles Bartoloni testified in opposition to Mr. Johnson being granted parole.

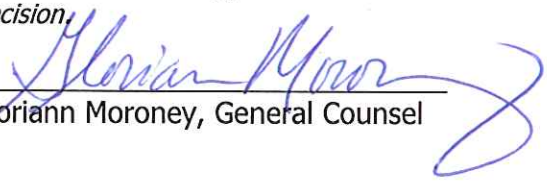
III. DECISION

The Board is of the opinion that Mr. Johnson has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Johnson committed two brutal murders, while on escape status, and has done little to address his causative factors since his return to custody in 2010.

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

Mr. Johnson'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. Johnson 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

6/1/17
Date