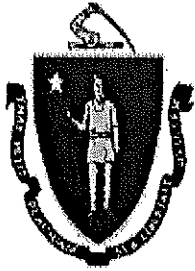


*The Commonwealth of Massachusetts*  
*Executive Office of Public Safety and Security*



**PAROLE BOARD**

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**Kevin Keefe**  
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**DECISION**

**IN THE MATTER OF**

**JAMES O'NEILL**

**W88517**

**TYPE OF HEARING:** **Initial Hearing**

**DATE OF HEARING:** **August 19, 2021**

**DATE OF DECISION:** **June 22, 2022**

**PARTICIPATING BOARD MEMBERS:** Gloriann Moroney, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, 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 by unanimous vote that the inmate is not a suitable candidate for parole. Parole is denied with a review scheduled in three years from the date of the hearing.

**I. STATEMENT OF THE CASE**

On October 19, 2006, after a jury trial in Middlesex Superior Court, James O'Neill was convicted of second-degree murder in the death of 50-year-old Craig Durand and was sentenced to life in prison with the possibility of parole. His conviction was upheld on appeal.<sup>1</sup>

On January 2, 2004, both firemen and police responded to a trailer home in Marlborough for a report of a deceased person at that location. James O' Neill, then 47-years-old, led them to

<sup>1</sup> *Commonwealth v. O'Neill*, 80 Mass. App. Ct. 1109, 954 N.E.2d 591 (2011).

a bedroom, where firemen observed a folded tarp on the floor. When they pulled back the tarp, the body of Mr. O'Neill's roommate, Craig Durand, was discovered lying face down with the upper portion of his body inside a trash bag. Mr. Durand was pronounced dead at the scene. A subsequent autopsy revealed that Mr. Durand suffered six stab wounds, three to the chest and three to the back. The cause of death was determined to be multiple stab wounds, and the manner of death was determined to be a homicide.

At that time, and in the days following, Mr. O'Neill spoke to police on multiple occasions. He initially described his relationship with Mr. Durand as good. However, further investigation revealed that Mr. O'Neill told multiple people (in the fall of 2003) that he did not like Mr. Durand and no longer wished to live with him. Further, Mr. O'Neill's accounts of his whereabouts and activities on January 1 and 2, 2004, varied in significant details. Some of the details of his whereabouts and activities were directly contradicted by video evidence, phone records, and witness statements. Mr. O'Neill also provided varying accounts to police and witnesses about the circumstances related to the discovery of Mr. Durand in his bedroom.

On January 8, 2004, investigators received a call from an employee at Shrewsbury Crossing, an assisted living facility in Shrewsbury. The employee informed police that a male party had left a voicemail message, inquiring as to whether he had reached St. Mary's Church in Shrewsbury. The caller indicated that he had killed a man in Marlborough and had to turn himself in. Two individuals (who were close to Mr. O'Neill) positively identified the voice on the message as that of Mr. O'Neill. When police determined that the call had been placed from a payphone in Worcester, a fingerprint was recovered from the payphone and determined to be that of Mr. O'Neill's left middle finger. Mr. O'Neill was subsequently charged with the murder of Mr. Durand. He was arrested in Lake Placid, New York on May 31, 2004.

## **II. PAROLE HEARING ON AUGUST 19, 2021**

James O'Neill, now 66-years-old, appeared before the Parole Board on August 19, 2021, for an initial hearing and was represented by Attorney Benjamin Brooks. Mr. O'Neill postponed his initial parole hearing in both 2019 and 2020. In his opening statement, Attorney Brooks indicated that Mr. O'Neill recognizes that the death of Mr. Durand was "tragic" and "unnecessary," but states that he takes no responsibility for the murder itself. Nonetheless, Attorney Brooks maintained that Mr. O'Neill is a suitable candidate for parole, as he had been a productive member of society prior to his arrest. Mr. O'Neill maintained his innocence at the hearing, asserting that the evidence used against him at trial was "fabricated." Board Members apprised Mr. O'Neill of their concern as to the differing accounts of the governing offense that he has provided over the years. The Board also expressed the challenges of accepting Mr. O'Neill's representations about his involvement, or lack thereof, in the murder.

Through counsel, Mr. O'Neill told the Board that he had obtained his GED and maintained steady employment in the food service industry prior to the murder. He worked in the kitchen, while incarcerated, but left that position in 2014. The Board recognizes Mr. O'Neill's minimal disciplinary history, as well as his completion of some programs to include Anger Management and Alternatives to Violence. However, it was noted that Mr. O'Neill was not engaged in any programming efforts at the time of this hearing. Mr. O'Neill cited the absence of programs that are geared towards his needs and interests, as well as his significant medical issues, as barriers

to his program participation. The Board noted that Mr. O'Neill has suffered two heart attacks, while incarcerated, and is being treated for several other illnesses.

If paroled, Mr. O'Neill hopes to utilize his network of former work colleagues to locate housing in Worcester. He stated that he is in touch with his brother, who provides him with financial support. Mr. O'Neill expressed an interest in returning to work in the food service industry to support himself.

The Board considered an opposition letter from the victim's brother, which was read into the record at the hearing. The Board also considered testimony, and a letter of opposition, from Middlesex County Assistant District Attorney Adrienne Lynch.


### **III. DECISION**

The Board is of the opinion that James O'Neill has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. O'Neill is serving a life sentence for the 2004 stabbing death of his roommate Craig Durand. He has never acknowledged or accepted responsibility for the murder of the victim and lacks insight into his offense. He has been minimally involved in programming during his incarceration and has failed to address areas of concern, such as victim empathy, violence, anger, and the underlying causes of his behavior. Although he has a minimal disciplinary history, he has failed to establish that he is rehabilitated at this time. Additionally, the parole plan he provided is vague. He is encouraged to engage in rehabilitative programming and develop a comprehensive parole plan.

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

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