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DECISION

IN THE MATTER OF

James Riva II

W38533

TYPE OF HEARING: Review Hearing

DATE OF HEARING: October 28, 2014

DATE OF DECISION: January 20, 2015

PARTICIPATING BOARD MEMBERS: 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, 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 in five years from the date of the hearing.

I. STATEMENT OF THE CASE

On October 31, 1981, after a jury trial in Plymouth County Superior Court, James Riva II was convicted of second degree murder for killing his paternal grandmother, Carmen Lopez, age 74, and was sentenced to life imprisonment. He also received a 19 to 20 year sentence for arson, to be served from and after his life sentence.

On April 10, 1980, police and fire personnel responded to the home of Carmen Lopez in Marshfield for reports of a house fire. After the fire was extinguished, the body of Mrs. Lopez was found lying in a fetal position on the bedroom floor. An autopsy later revealed that she had been shot multiple times. The medical examiner detected two penetrating wounds to the chest area and one penetrating wound to the back. Investigators questioned neighbors and learned that James Riva II, the grandson of Mrs. Lopez, had been at the house shortly before the fire started.

According to Riva, he began experiencing difficulties with his mental health at age 16. By age 19, his difficulties had manifested into auditory and visual hallucinations and delusions. He described telepathic messages which told of certain individuals who were vampires that sucked blood from him. He also had several psychiatric hospitalizations in the years preceding the murder.¹

Several months prior to the murder, Riva, who was then 22 years old, broke into a local gun store and stole the murder weapon. He believed he needed the gun to protect himself from the vampires. He painted the gun and the bullets gold as he believed that this was the only way vampires could be shot. He placed the gun in his grandmother's basement in a ski boot and took it out a few times prior to the murder to shoot at trees in the woods.

Riva also believed that his grandmother was trying to poison him. He thought that he could smell the poison in the food she made for him. His delusions evolved into beliefs that he was a "food animal" for the vampires and that he must replenish himself by consuming blood. Riva sucked blood from various animals, including cats, dogs, and horses. He believed that the only way he could become a part of society and not be a victim was to consume blood. He also received messages that told him "If you let them [vampires] do this [suck blood from him] we will all do it to you."

On the day of the murder, Riva borrowed his father's car and drove to his grandmother's house. His grandmother asked him to do some laundry for her. While in the basement, he retrieved the gold painted gun and bullets. He went back upstairs to where his grandmother was sitting on the couch and watching television. As he approached her, he shot her once. After the first shot, his grandmother threw a glass of water at him. He then shot her again. He knew immediately that she was dead. He dragged her body into her bedroom and then retrieved her wheelchair and brought it into the room. He ripped open her pajamas and sucked the blood from the bullet holes. He poured dry gas on her, which he had purchased earlier in the day. He then lit her body on fire and left the house. Approximately ten minutes had elapsed from the time that he first shot his grandmother to the time that he left the house.

Riva got into his father's vehicle and drove to pick up his father. At one point during the drive, he pulled over on the side of the road and placed the gun (which he had put in a tackle box) in a small ditch and covered it with leaves. His father received a phone call regarding the fire when Riva arrived at his father's workplace. The two men then drove to Mrs. Lopez's house and were questioned by police. Riva admitted to being at his grandmother's house earlier in the day. Following additional questioning by police the next day, he was arrested. He was charged with first degree murder.

Riva appealed his convictions and the trial court's order denying his motion for a new trial. The Appeals Court affirmed the judgments of conviction and the order denying his new trial motion. See Commonwealth v. Riva, 18 Mass. App. Ct. 713 (1984). Riva's application for further appellate review was thereafter denied. See Commonwealth v. Riva, 393 Mass. 1105 (1985). Riva has been unsuccessful in several additional attempts to have his convictions overturned. See Commonwealth v. Riva, 34 Mass. App. Ct. 1126 (1993) (judgments affirmed); Commonwealth v. Riva, 416 Mass. 1102 (1993) (denying application for further appellate

¹ Mr. Riva's extensive psychiatric history is summarized in Commonwealth v. Riva, 18 Mass. App. Ct. 713, 715-717 (1984).

review); Commonwealth v. Riva, 51 Mass. App. Ct. 1104 (2001) (affirming a December, 1999, trial court order dismissing Riva's motion for new trial); Commonwealth v. Riva, 434 Mass. 1105 (2001) (denying application for further appellate review).

II. PAROLE HEARING ON OCTOBER 28, 2014

Riva was represented by student attorneys Devon Morse and Nichole Clarke. This was Riva's third appearance before the Parole Board. He was denied in 2004 and 2009, receiving five year denials respectively. The Parole Board determined at both hearings that Riva continued to pose a risk to public safety.

Riva is currently 57 years old and has served 34 four years in prison. Riva has spent nearly half of his incarceration in and out of Bridgewater State Hospital (BSH) in order to treat his mental illness. Given his lengthy history of mental illness and the direct correlation of his mental illness to the murder, the Parole Board reviewed and questioned Riva extensively about his history of symptoms and treatment.

Riva detailed a complicated history of physical and sexual abuse, psychiatric symptoms, and drug and alcohol abuse. He insisted that his mother was significantly abusive toward him, both physically and emotionally. He stated that his mother preformed "weird witch's rituals" on him, which included having him drink "witch's brew." In addition, he stated that his father would give him marijuana and whiskey at a very young age as treats. He reported that his father also physically abused him. In terms of sexual abuse, Riva has reported in the past that his mother's female friends would sexually abuse him and that his father would encourage him to have sex with young girls. Riva reported that he began abusing numerous drugs at the age of thirteen. The quality and quantity of drugs, particularly hallucinogens, may have precipitated some of his psychiatric symptoms. Riva stated that, by age sixteen, he was experiencing auditory and visual hallucinations, which included telepathic messages that told of certain individuals who were vampires that sucked blood from him. There is documentation to support Riva's substance abuse and psychiatric symptoms. However, his family members have not supported Riva's claims of sexual and physical abuse. When Riva was asked why these abuse allegations have not been supported by family members, he said that while he respected their opinions, he stands by his own experiences.

In addition, Riva has sent a number of letters to his mother, as recently as 2009. The content of the letters have a threatening tone and blame his mother for his problems. Riva was asked about these letters, to which he now agrees were inappropriate. He insisted that he has stopped writing these letters after the last Parole Board decision in 2009. Riva contends that since being treated appropriately with medications, his mental illness has been stable and he has not been symptomatic since 1999. Given this assertion, the Parole Board was concerned about the timing and content of the letters he sent to his mother. Riva agreed that he had harbored significant anger toward his mother and inappropriately assigned blame to her for his history of problems. He insisted that he has resolved his anger toward her in a therapeutic fashion and will continue to do so.

His first known treatment of substance abuse was in 1973 and his first known psychiatric hospitalization was in 1974, after stealing tear gas grenades from a police station. He was given the choice by the court to be incarcerated or to agree to a psychiatric hospitalization at McLean Hospital. He agreed to be hospitalized, but reportedly refused any recommended medications. In 1975, Riva was admitted to Westwood Lodge after he called a psychiatrist and reported he was feeling angry toward his father and that his father may be injured or killed if they got in a fight. He left against medical advice and stopped his medications. In the summer of 1978, Riva was admitted to Boston University Hospital for killing and mutilating a cat. He was then transferred to Taunton State Hospital due to being perceived as a dangerous person. During this admission, it was determined that Riva was acutely psychotic. Riva would cut up animals and drink their blood, which he believed that he needed to do in order to survive. He also suffered from persecutory ideation, as he insisted that people were trying to kill him. His delusions included the belief that staff were trying to poison him. He reportedly crawled through air vent ducts in the ceiling and escaped.

His next known psychiatric treatment was through Mayflower Counseling. He was referred for testing and diagnosed at that time with Undifferentiated-type Schizophrenia and Impulse Disorder. In 1980, he was again referred to Mayflower Counseling through the Plymouth District Court to determine if he was a dangerous and emotionally unstable person. It is unclear why he was court-involved at that time, but he had requested a gun permit. Psychiatric records reveal that Riva was recommended for continued counseling and treatment with medications, but he was not compliant with such recommendations. Riva's first admission to BSH was in 1980, while he was awaiting trial for the murder of Mrs. Lopez. He was diagnosed with Paranoid-type Schizophrenia and Antisocial Personality Disorder. It should be noted that he was found competent to stand trial following an evaluation and treatment. There is a history of at least one opinion that he was not criminally responsible for the offense.

As noted, Riva had a history of psychiatric hospitalizations prior to committing the offense. In 1990, Riva stabbed a corrections officer whom he reportedly thought was trying to kill him. He was found not guilty by reason of insanity in 1991. He had a total of four admissions to BSH throughout his incarceration and was discharged from BSH in 1999, which was his last admission. In terms of Riva's documented history of mental illness and substance abuse, he agrees that his heavy use of hallucinogens may have precipitated or worsened his psychiatric symptoms. Riva agreed that he had a history of non-compliance with treatment and that he escaped from Taunton State Hospital. Riva contends however, that since the advancement of medications, as well as his own investment in treatment, he has stabilized and intends to continue to comply with treatment, whether mandated or not.

Riva was asked to detail his history of symptoms just prior to committing the murder of Mrs. Lopez. In earlier versions to the Parole Board, Riva described how he was not compliant with psychiatric treatment at the time. He had increasing fear that his grandmother was trying to poison him. Several months prior to murdering his grandmother, he had broken into a local gun store and stole a gun to "protect him against vampires." He painted the gun and bullets gold, as he believed that was the only way the vampires could be shot. He placed the gun in his grandmother's basement. Riva reported that he continued to believe that he needed blood to replenish himself and would drink the blood from animals including cats, dogs, and horses, in order to prevent him from becoming a victim of vampires. Riva stated that this belief, as well as the belief that his grandmother was trying to poison him, was persistent and ultimately drove

him to murder his grandmother. He admitted that he shot his grandmother as she tried to fight back and then shot her multiple times until he was sure she was dead. He stated that he dragged her body into her bedroom while she was in her wheelchair and he ripped open her pajamas and sucked blood from the bullet holes. Riva then poured dry gas on her that he had purchased that day, lit her on fire, and then left the house.

During this hearing, Riva added that he had poured dry gas on his grandmother's body to "keep her from returning to life as I thought she was a vampire." He also added that he joined the society of vampires so that he would no longer be subjected to blood being stolen from him. The Parole Board asked Riva about any other precipitants to wanting to kill his grandmother. As noted in his brief submitted to the Board, Riva stated that he had been living with his grandmother, but that she asked him to move out due to her failing health and to an argument about his long hair and lack of employment. Riva denied that he murdered his grandmother out of revenge or anger for insisting that he leave her residence. Riva continued to describe his symptoms of mental illness as the only driving force to the murder of his grandmother.

Riva has been incarcerated at Old Colony Correctional Center since 2006, where he has continued his treatment for mental illness. Riva has a history of program participation and completion that addresses his substance abuse history and mental health issues. He continues to participate in individual therapy and is a practicing member of Islam. Riva has also engaged in programs to address his violence and to increase his education. He received his Bachelor's Degree in Sociology. Riva believes that, given his demonstrated history of rehabilitation and his insight into the necessity of remaining stable and compliant with treatment, he is now ready to transition to a mental health facility in the community. He specifically requested to transition to Worcester State Hospital, which will provide him with Department of Mental Health (DMH) services.

Speaking in support of Riva's parole were members of his extended family. One individual was married to Riva's cousin for fifteen years. She testified that she had never heard of Riva having any intention or desire to hurt his grandmother. She also testified that since the murder, Riva has expressed only remorse for what he has done.

There were many members of the Riva family who attended the hearing and/or submitted letters in opposition to Riva's parole. Those members of Riva's family who spoke in opposition to his parole highlighted the life of Carmen Lopez, who was described as an extremely hard working care taker and the pillar of the Riva family. Family members discussed the immense loss and the effects that such a loss has had on their family. In addition, family members discussed their fear of Riva and their concern for public safety, should he be released. Family members also disputed his claims that he was abused by his mother and testimony was provided that, in fact, he has continued to post threatening messages on a website that includes writings from inmates. These posts displayed continued hostility toward his mother and other family members and were posted well after 2009.

Plymouth County Assistant District Attorney Timothy Cruz provided a letter of opposition detailing the severe brutality of the crime and the ongoing concern for public safety. ADA Matt Libby attended the hearing. The District Attorney's Office is strongly opposed to parole for Riva. Marshfield Police Chief Phillip Tavares also spoke in opposition to Riva's parole. Chief

Tavares provided testimony that Riva had terrorized the Marshfield community with his sadistic and violent acts and stated that he strongly opposed parole for Riva. Chief Tavares also testified that Rivas is a continued threat to public safety.

III. DECISION

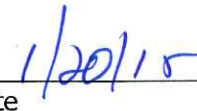
Riva has been incarcerated for 34 years for the violent and sadistic murder of his grandmother. Riva shot his grandmother multiple times, drank blood from her bullet wounds, and then lit her on fire. Riva has a lengthy history of mental illness that has been correlated with his violent behavior. His mental illness was further compromised by his extensive substance abuse history. Riva had many opportunities for treatment; however, he was consistently non-compliant with treatment recommendations and even escaped from Taunton State Hospital by climbing through ducts in the ceiling. Riva has been abusing drugs and alcohol since the age of 13 and began experiencing major mental health symptoms (including violent delusions) since the age of 16. In 1990, while incarcerated for the murder of his grandmother, he committed a violent assault on a corrections officer and was charged accordingly. He was found not guilty by reason of insanity for that offense in 1991. Since 1999, after being discharged from BSH for the fourth time, he has reportedly been stable and compliant with his mental health treatment. Riva has also engaged in programming to address his history of substance abuse and mental illness and has earned a Bachelor's degree. Riva reported that he has gained the insight necessary to manage his mental illness and is committed to treatment compliance.

Riva has been denied parole on two occasions with the maximum years allotted. In 2009, the Parole Board expressed concerns regarding Riva's continued written submissions to family members, primarily his mother. Riva directed his hostility and blame toward her for his many issues and his writings have included both bizarre and threatening content. Riva continued to write these letters after he had reportedly been stable and symptom free for many years. Riva insists that he has now gained a different perspective regarding his relationship with his mother and realizes that his anger was misguided. Members of the Riva family, however, testified that he continues to post threatening messages directed at his mother on a website that includes inmate submissions. The Parole Board found the writings directed toward Riva's mother to be of significant concern, especially in light of his insistence that he was the victim of horrific abuse at the hands of his mother.

The standard we apply in assessing candidates for parole is set out in 120 C.M.R. 300.04, which provides that, "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." Applying that appropriately high standard here, it is the unanimous opinion of the Parole Board that Riva is not a suitable candidate for parole. While Riva appears to have been compliant with his medications for many years and contends that he is no longer symptomatic, Riva also has a long history of non-compliance and decompensation followed by violent acts. The Parole Board shares the concerns of family members, the District Attorney, and the Chief of Police regarding Riva's continued risk to public safety. He will have a review hearing in five years.

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.


Janis DiLoreto Smith, Executive Director


Date