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Executive Office of Public Safety

PAROLE BOARD

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Josh Wall
Chairman

DECISION

IN THE MATTER OF

JAMES STOKES

W32648

TYPE OF HEARING: **Revocation Review Hearing**

DATE OF HEARING: **August 7, 2012**

DATE OF DECISION: **March 4, 2013**

PARTICIPATING BOARD MEMBERS: Cesar Archilla, Dr. Charlene Bonner, Sheila Dupre, Ina Howard-Hogan, Roger Michel, Lucy Soto-Abbe, Josh Wall

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, institutional record, the views of the public as expressed at the hearing or in written submissions to the Board, we conclude by a unanimous vote that the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in five years.

I. STATEMENT OF THE CASE

On January 18, 1969, James Stokes, his brother John and Joseph Rego murdered 52-year-old Armand Cerbone, a maintenance worker at the Pollak Corporation in Dorchester. Mr. Cerbone had been beaten to death, suffering numerous gaping lacerations to his head. The right and left sides of his skull had been fractured. Mr. Stokes was convicted of first degree murder on March 12, 1970, and sentenced to life in prison without the possibility of parole. He was also sentenced to serve a concurrent 8 to 15 year prison term for breaking and entering with intent to commit a felony. On November 5, 1971, the Supreme Judicial Court affirmed the convictions but reduced the verdict to second degree murder.

On the night of the murder, a Saturday, James Stokes and his co-defendants plotted to break into Pollack's to commit a robbery. While there, Mr. Cerbone came upon Mr. Stokes while he was performing a security check of the premises. As Mr. Cerbone confronted James Stokes, Joseph Rego struck the victim from behind and continued to beat him. At the time of the

murder John Stokes (James' brother) was breaking into vending machines that were located in another part of the building. The autopsy determined the cause of his death as "multiple blows to the head with fractures of skull and maceration of brain." Raymond J. DeMore, a witness in the case, testified that earlier that day, James Stokes, who was in possession of a sawed off shotgun, had made direct statements that he intended to break into the Pollak Corporation. The witness further testified to having a conversation with the defendants the following day during which James Stokes allegedly told him that a guard had caught them and cornered him. During that confrontation, Mr. Rego came up behind the guard and hit him in the head. James Stokes stated that after the man fell to the floor, Mr. Rego beat the victim "to a pulp." Mr. Stokes denied being present at, or participating in the murder.

II. INSTITUTIONAL ADJUSTMENT

James Stokes has accumulated 25 disciplinary reports throughout his incarceration. He has had six returns to higher custody and one escape from furlough in 1977. Mr. Stokes' brother was murdered in 1976 while serving his life sentence. Mr. Stokes cooperated with the investigation into that murder and required several transfers to other facilities for his own protection. Mr. Stokes also participated in the witness protection program for a period of time while on parole. Mr. Stokes' disciplinary reports over the years have included numerous incidences of drug and alcohol use. He has had no formal disciplinary issues since 1995.

Mr. Stokes has completed numerous rehabilitative programs. He has also had periods of employment and has participated in educational and vocational programs throughout his incarceration. Mr. Stokes has had numerous mental health evaluations during his incarceration. He was diagnosed with antisocial personality disorder in 1969, and treated for depression following his brother's murder, but self-terminated his counseling stating that he did not feel he needed it. In addition, he was evaluated following a stab wound in 1978 that he stated was inflicted by someone who entered his room, however, staff believed that the wound was self-inflicted. Mr. Stokes denied any need for mental health treatment following that incident. In 1984, the Parole Board requested a psychological evaluation on Mr. Stokes. That evaluation advised the Board on which therapeutic conditions could assist Mr. Stokes on parole, should he be released; however, no specific diagnosis was provided.

III. PAROLE HISTORY

At the time of the murder, James Stokes was a juvenile under parole supervision of the Youth Service Board.

Mr. Stokes received a positive parole vote on the life sentence on June 25, 1984 to the Interstate Compact in California, with a condition that he was not permitted to return to Massachusetts without the specific written consent of the Parole Board. On or about November 12, 1985, Massachusetts Parole was notified that Mr. Stokes had pending charges for Receiving Stolen Property, Burglary, and Assault and Battery on a Police Officer. Mr. Stokes absconded for four years until he was located by police. He was returned to custody on September 18, 1989 via a Governor's warrant as Mr. Stokes refused to waive extradition. It was later learned that Mr. Stokes was involved in a relationship while he was whereabouts unknown, and several allegations of abuse were reported to the police by his then-pregnant girlfriend.

Mr. Stokes received a second opportunity on parole in January, 1996, after he completed Parole Board recommendations of rehabilitation. In July 1996, Mr. Stokes was being investigated for three separate motor vehicle accidents. During one of the accidents, Mr. Stokes was driving after midnight with his brother, who was reportedly intoxicated and had an active

warrant for Breaking and Entering, as a passenger. He failed to notify his parole officer in a timely manner of this accident. In addition, Mr. Stokes' license was suspended at the time of his third accident, and he defaulted on fees to reinstate his license.

In January, 1997, Mr. Stokes tested positive for marijuana on two occasions, and failed to keep up with counseling fees. Mr. Stokes denied smoking marijuana, and he eventually terminated his counseling and quit his job, all in violation of his parole conditions. In addition, Mr. Stokes was non-compliant with his parole officer's reporting instructions and became increasingly angry and belligerent toward his parole officer. Mr. Stokes was provided a hearing to address his irresponsible conduct, behavior and violations. As a result of that hearing, Mr. Stokes was provided with increased conditions of supervision and a final warning by Parole to comply. He was permitted to resume supervision in the community.

On April 8, 1997, the Norwood Police Department notified Parole that Mr. Stokes had reportedly been involved in a motor vehicle accident the day before. While at the police department, Mr. Stokes admitted to snorting cocaine with his brother two days prior. His urine test screen was positive for cocaine and he was arrested. Mr. Stokes was again returned to custody as a result of that violation.

On August 14, 1997, Mr. Stokes was again re-paroled to a specialized intensive level of supervision that included mandatory counseling for substance abuse and participation in Alcoholics / Narcotics Anonymous and electronic monitoring. In July, 1998, Mr. Stokes was held in protective custody by the Norwood Police Department due to being highly intoxicated and falling off of a curb. When confronted by his parole officer, Mr. Stokes stated that he was not drinking and that he was suffering from "heat prostration." He later admitted to drinking and cited conflicts with his girlfriend as being the precipitant to his night of drinking. He was given a warning ticket by Parole and instructed to abstain from drugs and alcohol, and resume treatment.

On November 20, 1998, Mr. Stokes' new wife's ex-husband petitioned the court for a 209A protective order, reportedly to prevent Mr. Stokes from having contact with their children. The order was later dropped. During the month of October, 1999, Mr. Stokes began to have marital problems and failed to report to parole as instructed. Mr. Stokes was told to report or a warrant would be issued. He reported on October 25, 1999, and tested positive for cocaine. He was again returned to custody.

On November 15, 2002, Mr. Stokes was again re-paroled. In February 2003, Mr. Stokes' vehicle was stopped by Lakeville Police for erratic driving. The driver of his vehicle was a person known to have a criminal record, and was arrested for operating under the influence. At the time of the stop, Mr. Stokes also failed a field sobriety test. He was again taken into custody for associating with a person known to have criminal record and for failing to remain abstinent from alcohol.

On March 14, 2003, Mr. Stokes was again re-paroled with added conditions. On June 9, 2003, Parole was informed that Mr. Stokes was being investigated for violating two 209A protective orders. The petitioner was his son's mother and her mother. Mr. Stokes insisted that he did not violate any orders and was pursuing custody of his son. Mr. Stokes believed the allegations were in retaliation for his legal pursuit of gaining custody. He addressed the concerns with parole and was advised on how to proceed to avoid any future allegations. The complaint by the plaintiffs was ultimately dismissed by the court magistrate. On December 24, 2003, Mr. Stokes was arrested by Taunton Police for operating under the influence. He was again returned to custody.

Mr. Stokes was denied parole on all following occasions. In 2007, the Board noted that Mr. Stokes blames the criminal justice system for all of his parole failures. Despite his participation in programing, he continues to portray himself as the victim.

IV. DECISION

Mr. Stokes has a lengthy criminal history which includes his first arrest at age 13. He has had lengthy periods of incarceration, and continues to violate the law, resulting in his returns to incarceration. This includes four opportunities on parole. Mr. Stokes first parole consisted of new arrests for receiving stolen property, burglary, and assault and battery on a police officer, and he absconded for over four years before forcefully being returned to Massachusetts. After being released three additional times, Mr. Stokes violated numerous conditions of his parole, yet was continuously provided with increased treatment and supervision opportunities to assist him. Mr. Stokes most recent violation was for a new arrest of operating under the influence, despite having been given increased treatment opportunities. He has repeatedly demonstrated that he is a risk to public safety. Despite an extraordinary effort on the part of parole, Mr. Stokes views his failures as the result of him being victimized by the system at large. In addition, Mr. Stokes has continued to proclaim his innocence for the murder of Armand Cerbone stating, "My version of the offense is the same as I have stated at all my hearings. I did not kill Armand Cerbone nor was I there. I have been wrongfully convicted of a crime I did not commit."

The Parole Board has afforded Mr. Stokes numerous opportunities to transition into society and become a law-abiding, productive member of society. He has clearly demonstrated that he is unable to conform his behavior to the expectations of society and of parole. The premise of Mr. Stokes' responses assigns blame to others for his circumstances, thus providing no measurable insight as to how or if Mr. Stokes is able to conform his behavior to societal and parole expectations.

Mr. Stokes is encouraged to engage in all available treatment with a different perspective and level of self-reflection in hopes that he will gain the necessary insight and commitment to true rehabilitation. Mr. Stokes is likely to re-offend if released and his release is not compatible with the welfare of society. Accordingly, parole is denied. Mr. Stokes has considerable work to do, and therefore the review will be in five years.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing. This signature does not indicate authorship of the decision.


Caitlin E. Casey, Chief of Staff


Date