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PAROLE BOARD

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DECISION

IN THE MATTER OF

JEFFREY KELCOURSE

W43823

TYPE OF HEARING: **Revocation Review Hearing**

DATE OF HEARING: **April 1, 2014**

DATE OF DECISION: **September 2, 2014**

PARTICIPATING BOARD MEMBERS: Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, Tina Hurley, Lucy Soto-Abbe, Josh Wall

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, criminal record, institutional record, the views of the public as expressed at the hearing or in writing, and the inmate's testimony at the hearing, 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 from the date of the hearing.

I. STATEMENT OF THE CASE

On July 9, 1987, in Plymouth Superior Court, Jeffrey Kelcourse was found guilty of murder in the second degree following a trial by jury and sentenced to life imprisonment. Kelcourse shot the victim, Terrence Thatcher with a shotgun following a senseless argument. Thatcher was 36 years old and blind.

In the evening of December 11, 1986, Kelcourse, then age 27, and his girlfriend, Cathy Lowell, were drinking at a bar called Court Place where they met the victim, Terry Thatcher and a new acquaintance of his, Debbie McLaughlin, for the first time. The four of them chatted at the bar, had some drinks and went back to Kelcourse's home to continue partying into the early morning hours of December 12.

At some point after arriving at the apartment, the two women went to the bathroom together. The two men were alone in the kitchen. While in the bathroom, the women heard Kelcourse and Thatcher's conversation escalate to a loud argument. In addition, they also heard Kelcourse go upstairs, retrieve a shotgun and return to the kitchen. Shortly after that, as the women were leaving the bathroom, they heard a single shotgun blast.

According to Kelcourse, he and Thatcher had a conversation where Thatcher discussed his experience as a demolitions expert in Vietnam, and claimed that he had C-4 explosives at his home. Kelcourse, who expressed interest in obtaining some of the C-4 "just to play with it," maintained that Thatcher bragged about being the "*baddest thing in the world*," and that with the C-4 he possessed, Thatcher claimed he could blow up a city block in Brockton, including Kelcourse's house.

Kelcourse, not willing to be upstaged, went upstairs and retrieved his 12 gauge shotgun, unloaded it, and placed the shells in his front pocket. He returned to the kitchen to continue discussing with Thatcher who was the "*baddest m-----f----- in the world*." After telling Thatcher that he was not "*the baddest m-----f----- in the world*," he laid the shotgun down on the table, and stated, "*Terry, you're not the baddest m-----f----- in the world. You could be mine now if I wanted.*" Thatcher replied "*Oh, you blew it now. Now I'm gonna get you. I'm going to blow your house up or I'm going to have someone shoot ya.*" Kelcourse, who was fully aware that Thatcher was blind, then picked up the shotgun, loaded it, and shot Thatcher in the head at very close range.

Kelcourse shot Thatcher in the left temple side of his head, just above his left eye. Multiple shotgun pellets were present in the brain, which the autopsy report described as being "extremely macerated and torn." The report also noted that the track of the pellets was downward, as Thatcher was seated when Kelcourse stood and shot him.

After shooting Thatcher, Kelcourse called police to confess what he had done. Debbie McLaughlin, who had just met Thatcher earlier that evening, described the shooting as being committed "in cold blood." McLaughlin fled the home, flagged down two police officers who heard her screaming, "*A man's been shot! A man's been murdered!*," and identified Kelcourse as the shooter.

Kelcourse filed a motion for direct appellate review which was allowed. The Supreme Judicial Court, however, held that the prosecutor's potentially misleading instruction to the grand jury did not warrant dismissal of an otherwise valid indictment and affirmed the judgment. *Commonwealth v. Kelcourse*, 404 Mass. 466 (1989).

II. CRIMINAL, INSTITUTIONAL & PAROLE HISTORY

Before murdering Thatcher, Jeffrey Kelcourse had two juvenile arraignments, one of which was a July 1974 charge of breaking and entering at nighttime for which he was found delinquent. Kelcourse was 15 years old. Kelcourse also had six adult arraignments in Massachusetts, including November 1982 charges for OUI and operating to endanger, resulting, respectively, in a guilty finding with one year of probation and a continued without a finding, or "CWOFF", for one year. Kelcourse was also arraigned in December 1982 for assault and battery

with a dangerous weapon which resulted in a CWOFF for 10 months. Kelcourse was 23 years old when he was arraigned on these charges.

During his incarceration, Kelcourse has received ten disciplinary reports, including refusing to stand for count and possession of contraband, which were the pieces and instruction books associated with a fantasy role playing game, and reports for fighting in 2009 and 2013. Kelcourse received a Bachelor's Degree in Liberal Arts from Boston University in May 1995 and completed the Correctional Recovery Academy in March 2000.

Kelcourse appeared before Board for an initial hearing in 2001, but was denied parole with a review in five years. The Board noted Kelcourse had done no counseling to resolve the underlying factors of his crime and that he posed a serious threat to society when under the influence of drugs and alcohol, and that release was incompatible with the welfare of society given the nature of the offense. He next appeared before the Board in 2007, which granted parole with the expectation that Kelcourse would live in South Carolina. The Board noted his programming, which included his efforts to address his substance abuse issues.

Kelcourse initially lived with his sister in South Carolina and worked at her pet grooming business. He eventually moved out, got his own apartment and found a job as a cabinet maker. Kelcourse attended AA meetings at least three times a week, anger management classes, and counseling through the Veterans Association.¹

On August 21, 2008, Mr. Kelcourse was arrested on a charge of shoplifting from Wal-Mart in Myrtle Beach, South Carolina. Kelcourse and his girlfriend, "Jane",² were observed shopping together. Jane concealed several items on her person. Both individuals then proceeded through the self-checkout line and only paid for some items. Security did not confiscate any items from Kelcourse's person. He later pleaded guilty to shoplifting and received a \$315 fine.

On September 26, 2008, Kelcourse was arrested on a charge of unlawful use of a telephone. Jane made a complaint to the police that Kelcourse made several phone calls to her phone after she requested him not to do so. The phone calls were not threatening or obscene in nature. He later pleaded *nolo contendere* and was sentenced to 30 days.

On October 11, 2008, Kelcourse was arrested on a charge of criminal domestic violence when he "aggressively tried to gain control of the cell phone by choking Jane". He later pleaded *nolo contendere* and was sentenced to a consecutive thirty day sentence.

After the Parole Board was made aware of these charges in early 2009, Kelcourse was brought back to Massachusetts to address his parole violations. Kelcourse had his parole revoked.

¹ Kelcourse was honorably discharged from the Army in September 1982. However, his discharge paperwork states that he was an "Expeditionary Discharge" for failure to maintain acceptable standards for retention.

² A pseudonym is used as the person is the victim of domestic violence.

On July 28, 2009, Kelcourse appeared before the Board for a review hearing following his parole revocation. The Board voted to deny his petition for parole with a review in five years. The Board stated that Kelcourse did not appear motivated toward rehabilitation and could not tell the Board why he should be given another opportunity on parole stating that he did not think he deserved the first one.

Since his last appearance before the Board in July 2009, Kelcourse has incurred two disciplinary reports, one of which was in July 2013 for fighting. Kelcourse and another inmate exchanged punches.

Since his return to custody, Kelcourse has completed the Beacon program and three phases of Alternatives to Violence. Additionally, Kelcourse attends Alcoholics Anonymous weekly and participates in individual counseling sessions to address stress and anger management.

While Kelcourse maintained employment throughout most of his incarceration, and even received positive work and housing evaluations, he lost his job in the kitchen due to his receipt of the disciplinary report for fighting with another inmate in July 2013.

III. PAROLE HEARING ON APRIL 1, 2014

Jeffrey Kelcourse appeared for a review hearing after revocation on the second degree life sentence he is currently serving at MCI Concord. This is Kelcourse's fourth appearance before the Board.

Kelcourse seeks a re-parole to reside in South Carolina with his sister. He anticipates obtaining employment in the food services industry. He would utilize the services afforded through the Veteran's Association to address his substance abuse and mental health issues involving anger and stress. He also wants to attend Quaker meetings and locate identified "Wiccan folk."

Kelcourse informed the Board he had met "Jane" at an Alcoholics Anonymous meeting. She had been recently released from jail and continued to engage in criminal conduct. The two soon moved in together and the relationship became volatile almost immediately. Kelcourse enabled her to purchase drugs and alcohol throughout their relationship, which ultimately ended when he was returned to custody and she was subsequently arrested in South Carolina. Kelcourse said, "I enabled her. I drove her around so she could partake. I did supply her but I decided to stop. I brought Jane to buy drugs and I gave her money for it." A Board Member commented that "your daily activities living with Jane involved criminal thinking and aiding criminal conduct. That shows lack of rehabilitation."

Kelcourse was terminated from his institutional employment in July 2013 due to a physical altercation with another inmate. He stated to the Board that he could be re-instated but he doesn't want to work so hard for so little, leaving the Board to infer he is not motivated to engage in pro-social activities. This was his second fight since his return. He said, "I didn't use what I have learned in that second fight." A Board Member asked Kelcourse about the anger that continues to be an issue. He said, "My anger now is from dealing with being all jammed up in an overcrowded place."

Plymouth Assistant District Attorney Matthew Libby opposed parole on the grounds he committed a horrific crime, characterizing it as a callous and depraved act with extreme violence and that Kelcourse has demonstrated that he is unfit for parole. Two of Terrence Thatcher's nieces spoke in opposition to Kelcourse's petition for parole.

IV. DECISION

Jeffery Kelcourse fired a shot gun into the face of a blind man without provocation and received parole after serving 20 years of a life sentence. During his parole, he established that he is not rehabilitated as he displayed criminal thinking and dishonesty, supported his girlfriend's criminal conduct, and committed a criminal act of domestic violence. Since returning to custody, he has displayed anger and anti-social tendencies. Kelcourse has not made noticeable improvements since his parole failure and return.

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 Board that Mr. Kelcourse is not a suitable candidate for parole because he is not rehabilitated. The period of review will be in five years, during which time Mr. Kelcourse should improve his institutional behavior, maintain employment, and make an active commitment to his rehabilitation to address issues of criminal thinking, anger, domestic violence, and lack of candor on parole.

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, General Counsel

9/2/14
Date