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PAROLE BOARD

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Josh Wall
Chairman

DECISION

IN THE MATTER OF

JERMAINE CARTER

W53451

TYPE OF HEARING: **Revocation Review Hearing**

DATE OF HEARING: **March 4, 2014**

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

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, 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 inmate's testimony at the hearing, and the views of the public as expressed at the hearing or in writing, we conclude by unanimous vote that the inmate is a suitable candidate for parole. Re-parole is granted to a long term residential program.

I. STATEMENT OF THE CASE

On November 4, 1992, a Suffolk County jury convicted Jermaine Carter of second degree murder. Carter was also found guilty of unlawful possession of a firearm for which he received a concurrent sentence of 4.5 to 5 years. The victim was James Goode, age 19.

Jermaine Carter was a member of the Academy Boys gang that was connected to the Academy Homes housing project in Roxbury. At a high school football game at White Stadium in Roxbury on October 4, 1991, the Academy Boys exchanged taunts and threats with young men associated with the Orchard Park housing project. Later that evening, using a handgun, Jermaine Carter fired six shots at a vehicle in which James Goode was a passenger. He believed the occupants to be members of the rival gang. Mr. Goode died of a gunshot wound to the temple. Jermaine Carter did not know the victim. Mr. Goode's 16-year-old brother came to his aid but Mr. Goode died in his arms.

II. PAROLE HISTORY

On September 12, 2006, Carter appeared before the Massachusetts Parole Board for an initial hearing after which he was granted parole in a decision from December 2006. The Parole Board noted that Carter had a relatively limited disciplinary history with no returns to higher custody. He was candid and direct about his criminal behavior and acknowledged that he did not begin serious rehabilitation until 1998. His program participation was also recognized.

Carter's parole was not without incident. Carter was paroled on January 8, 2007 to the Dismas House in Worcester where he remained until September 2007 when he moved to his own apartment. Carter was issued a warning in July 2007 for being terminated from his employment due to an argument with his supervisor. Carter got married in 2008.

On July 20, 2010, the Northborough Police Department conducted a records check on Carter because he was observed at a motel known for prostitution. A case conference was conducted with Carter, his Parole Officer, and the Parole Supervisor. Carter was instructed to comply with all parole mandates and not to engage in any behavior at work or in the community that would jeopardize his parole. He assured his Parole Officer that he was employed at Lens Crafters and working as a disc jockey part-time. In addition, he was warned not to engage in any other type of work without his Parole Officer's approval.

On May 8, 2011, a Worcester Police Officer working an off-duty assignment at Club In Style observed three members of the bar security staff struggling with an unruly patron. The patron was later arrested and Carter was identified as a witness and an employee of the establishment. Carter reported that he began working as a host for the VIP section at Club In Style due to a reduction in hours at his job at Lens Crafters in December 2010. He was admonished for hiding employment from his Parole Officer and for working at a job at a strip club that is not suitable for a life sentence parolee.

On August 1, 2011, a former girlfriend of Carter's was granted a restraining order against Carter in Worcester District Court. In her affidavit, the former girlfriend claimed that on July 29, 2011, Carter pulled her out of the club and told her to stop. She also reported that he also told her and a friend that "things were gonna get fucking ugly." Carter, who was married, reported that he met the woman at "Jeff's," a bar in the city of Worcester, in the summer of 2010. He reported that he was romantically involved with her as of March and by the end of April he had terminated the relationship as he preferred to be friends. Carter denied the incident as described took place, as he claimed he was not at the club that night.

During the early evening hours of August 2, 2011, the Parole Officer met with Carter at his residence. Carter reported that he was still working and assured the Parole Officer that he was adhering to the conditions of his parole. Later that evening, Carter was contacted by a co-worker who stated that a Worcester Police Officer was looking for him. He contacted the Worcester Police Department and was informed that a restraining order had been lodged against him. He proceeded to the Police Department with evidence that he believed rebutted the victim's claims (Facebook entries and email). In one of the emails, Carter tells the girlfriend that "shits definitely gonna get ugly...fuck it." He was subsequently informed to report to the Police Department for a hearing on August 15, 2011. Following his meeting with Police, he

claims that he called the Worcester Parole Office but was told that his Parole Officer was not in and would not be in for a couple days.

Later that evening, Carter and his family traveled to the Berkshires where he remained until Friday when they traveled to Boston for his cousin's wedding. He indicated that he spent the remainder of the weekend at the Westin Copley in Boston. His reasoning for not reporting the restraining order and police contact to parole was in part that he was in his cousin's wedding and did not want to jeopardize his participation in the event.

On August 5, 2011, the Parole Officer received information that a restraining order had been issued against Carter and attempted to call him the following morning without success. Later that afternoon, Carter contacted his Parole Officer at which time he was questioned concerning his whereabouts. He falsely claimed that he was with family in western Massachusetts. In addition, he reported that he was aware of the restraining order against him but denied any wrongdoing. On August 8, 2011, he was taken into custody at home without incident.

While under parole supervision, Carter was arraigned for compulsory insurance violation and attaching wrong motor vehicle plates in March 2007 and operating after suspension in March 2009. The charges were ultimately dismissed and court costs were paid in full. In addition, he was issued a graduated sanction for failure to pay supervision fees.

Several polygraphs were conducted while under parole supervision between July 2007 and January 2011, and results indicated no deception or were inconclusive.

Carter was denied parole at his last hearing in March 2012, primarily for the concerns regarding the repeated poor decisions and appearance of deceitful behavior and non-compliance with parole conditions. He was encouraged to evaluate his priorities, his commitment to parole, and to resume an investment in rehabilitation and work. Two Board Members voted to parole Carter.

III. PAROLE HEARING ON MARCH 4, 2014

The Parole Board focused on Jermaine Carter's parole history, including his work history, social history and personal relationships. Carter answered questions directly about his conduct and his appearing defiant on parole. Carter identified areas that led to his employment and relationship failures, and the series of poor decisions that followed. It became evident throughout the hearing that Carter was making decisions in direct conflict with his Parole Officer's recommendations and mandates, which all led to his return to custody. He provided details of his personal conduct and what led to his seeking other relationships outside his marriage, and his decisions to seek employment that was in conflict with the expectations of a parolee. He also had the opportunity to highlight all of the good work he was doing, such as building a career in the optical field until he suffered a medical issue requiring a corneal transplant in 2009. This impeded his ability to maintain his employment and he was laid off. Carter stated he was also speaking at programs to deter youth from the same lifestyle of crime that he was involved with. Carter stated that he intends to return to the stable lifestyle that once brought him success. He is seeking parole to the Dismas House and will immediately begin seeking employment in the optical field with the hope of one day also owning a painting

business. Carter stated that while he feels the time he has spent back in prison due to his parole violations was excessive, he does not minimize the concerns of the parole organization and the decision to return him. Carter stated that he has utilized the time to re-invest in programming that would further assist him with his rehabilitation.

Carter has since divorced, but his ex-wife, who was present at the hearing, remains supportive of him. She spoke and validated much of Carter's success and failures and stated that she will continue to assist him with his re-entry efforts. Also speaking in support of Carter's parole was his cousin Michael Haygood, who further reported that Carter has other family members who will also assist with his re-entry.

The Suffolk District Attorney's Office submitted a letter of opposition to Carter's parole highlighting his dishonest behavior that led to his parole failure. The District Attorney's Office also does not feel that Carter has taken responsibility for the incidents that led to his return to custody.

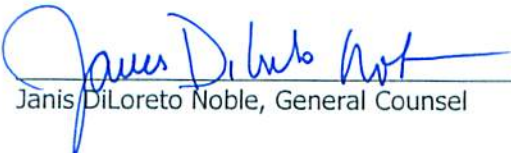
IV. DECISION

Jermaine Carter was returned to custody in August 2011. Since his return to custody, Carter has re-evaluated his personal failures and achievements and reconsidered what is most important to him. He remains committed to rehabilitation and discussed his failures directly with those who mattered most to him. He has focused on his areas of need. Carter's violations consisted of a series of poor decisions that required a return to custody in order to interrupt his downward spiral. The Parole Board discussed in depth the violations and poor decisions that were inconsistent with the expectations for a productive and successful parolee. Carter addressed the precipitants to his failures and has benefitted from further incarceration and rehabilitation.

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, the Board finds that Mr. Carter is a suitable candidate for parole. He will be re-paroled to an approved home plan with additional conditions of supervision.

SPECIAL CONDITIONS: Re-parole to a long term residential program; no drug use; no alcohol use; GPS for one year and thereafter at discretion of parole officer; no contact with restraining order plaintiff.

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 Noble, General Counsel

7/2/14
Date