



The Commonwealth of Massachusetts
Executive Office of Public Safety

PAROLE BOARD

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DECISION

IN THE MATTER OF

JERMAINE CARTER
W53451

TYPE OF HEARING: **Review Hearing after Revocation**

DATE OF HEARING: **March 27, 2012**

DATE OF DECISION: **April 30, 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 that the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in two years from the date of the hearing, which will be in March 2014. The decision was by a vote of 5 – 2.

I. STATEMENT OF THE CASE

On November 4, 1992, a Suffolk County jury convicted Jermaine Carter of second degree murder. Mr. 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. 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. Using a handgun, Jermaine Carter fired six times into a truck whose occupants he believed were associated with Orchard Park. One of the bullets struck James Goode in the temple. The victim's brother was at the scene and rushed to his aid. James Goode died in the arms of his sixteen-year-old brother.

Upon the jury's verdict, the defendant exploded and had to be forcibly removed from the courtroom.

II. INSTITUTIONAL HISTORY

Mr. Carter awaited trial at the Nashua Street Jail where he was kept on special housing status due to receipt of threatening mail from inmates housed at several Department of Correction facilities. Upon sentencing, Mr. Carter remained under special housing at MCI Cedar Junction due to his potential enemy situations (Orchard Park and Heath Street gangs).

During his incarceration, Mr. Carter had two lateral transfers (January 1994 – Inmate's requests for visits and March 1995 – due to potential enemy problem/gang-related incident involving another inmate). Mr. Carter was returned to MCI-Concord from Bridgewater State Hospital on September 29, 2004, for possessing unauthorized property, excess stamps. He accrued 17 disciplinary reports during the course of his incarceration, the last being in 2004.

Mr. Carter's programming commenced in 2001, and he has achieved certificates in several programs, including Emotional Awareness, Alternatives to Violence (several phases), Anger Management Program, and Correctional Recovery Academy. Although he has participated in Pre-GED, he has yet to achieve his GED. Since his return to custody as a parole violator in August 2011, Mr. Carter has not participated in any programming.

III. PAROLE HISTORY

On September 12, 2006, Mr. Carter appeared before the Massachusetts Parole Board for an Initial Hearing after which he was granted parole on December 15, 2006. The Parole Board noted that Mr. 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.

Mr. Carter's parole was not without incident. Mr. 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. Mr. Carter was issued a warning in July 2007 for being terminated from his employment due to an argument with his supervisor. Mr. Carter got married in 2008.

On July 20, 2010, the Northborough Police Department conducted a records check on Mr. Carter because he was observed at a hotel known for prostitution. A case conference was conducted on August 17, 2010, with Mr. Carter, his Parole Officer, and the Parole Supervisor. Mr. 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 Mr. Carter was identified as a witness and an employee of the establishment. Mr. 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 that is not suitable for a life sentence parole.

On August 1, 2011, a former girlfriend of Mr. Carter's was granted a restraining order against Mr. Carter in Worcester District Court. In her affidavit, the former girlfriend claimed that on July 29, 2011, Mr. 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." Mr.

Carter, who is 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. Mr. Carter denied that 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 Mr. Carter at his residence. Mr. 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, Mr. 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 emails). In one of the emails, Mr. 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 of days.

Later that evening, Mr. 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 it.

On August 5, 2011, the Parole Officer received information that a restraining order had been issued against Mr. Carter and attempted to call him the following morning without success. Later that afternoon, Mr. 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, Mr. Carter was arraigned for Compulsory Insurance Violation and Attaching Wrong Motor Vehicle Plates on March 5, 2007, and Operating after Suspension on March 12, 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.

IV. PAROLE HEARING MARCH 27, 2012

On March 27, 2012, Jermaine Carter appeared before the Massachusetts Parole Board for a Review Hearing, following his return to custody as a parole violator. This was Mr. Carter's second appearance before the Board. Mr. Carter is requesting to be re-paroled to live with his wife and their two children in Worcester and resume employment in the optical field. He indicated that he would benefit from a more structured release to include GPS monitoring. Several family members and friends attended the hearing in support of Mr. Carter's petition for re-parole.

At the hearing, Mr. Carter provided an apologetic opening statement to the Board indicating that he was guilty of the alleged violations and that he failed as a husband and a father. In his presentment, however, Mr. Carter failed to assume responsibility for his behavior while on parole supervision, as he was deceptive and often minimized his missteps. Since his return to custody, Mr. Carter has yet to pursue treatment and programming to address his causal factors.

Suffolk Assistant District Attorney Charles Bartoloni spoke in opposition to parole. In addition, the former girlfriend who obtained the restraining order spoke in opposition to parole.

V. DECISION

Jermaine Carter made a series of poor decisions which undermined his parole and resulted in violation. He ignored his parole officer's instructions on employment and took a job at a night club. Knowing that this employment was not permitted, he hid it from his parole officer. He pursued an extramarital relationship which he also hid from his parole officer. The extramarital relationship resulted in a restraining order for angry and threatening behaviors. As part of his pattern, Mr. Carter hid the restraining order from his parole officer. This reckless and deceitful behavior is not compatible with community supervision.

The standard applied in assessing candidates for parole is set out in 120 CMR 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, we find that the inmate does not merit parole at this time. His next hearing will be in two years from the date of the hearing. In the meantime, Mr. Carter should maintain positive institutional conduct, and resume work and program participation. Board Members Cesar Archilla and Roger Michel voted to parole Mr. Carter.

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

4/30/13
Date