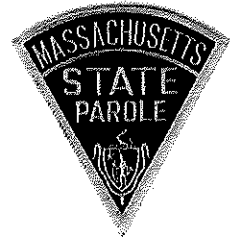




The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

IN THE MATTER OF

JOHN JONES

W40028

TYPE OF HEARING: Review Hearing

DATE OF HEARING: December 18, 2018

DATE OF DECISION: April 29, 2019

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Colette Santa

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, the age of the inmate at the time of 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 that the inmate is a suitable candidate for parole.¹ Parole is granted to a Long Term Residential Program (LTRP), after 12 months in lower security (either minimum security or pre-release) from the date of the hearing, with special conditions.

I. STATEMENT OF THE CASE

On October 19, 1983, in Essex County Superior Court, John Jones was convicted of the first degree murder of Donald Pinkham. Subsequently, he was sentenced to life in prison without the possibility of parole. At the time of Mr. Pinkham's murder, Mr. Jones was 17-years-old.

On December 24, 2013, the Supreme Judicial Court issued a decision in *Diatchenko v. District Attorney for Suffolk District & Others*, 466 Mass. 655 (2013) in which the Court determined that the statutory provisions mandating life without the possibility of parole are invalid as applied to juveniles convicted of first degree murder. Further, the Court decided that *Diatchenko* (and others similarly situated) must be given a parole hearing. Accordingly, Mr. Jones is now before

¹ Two Board Members voted to deny parole with a review in two years.

the Massachusetts Parole Board for a review hearing. Mr. Jones had been denied parole after his initial hearing in 2015.

On the evening prior to Mr. Pinkham's death, which occurred in the early morning hours of October 1, 1982, Mr. Jones and a juvenile co-defendant targeted Mr. Pinkham for the robbery of a check that he had recently received. Mr. Pinkham was then killed in an area known as "Dead Man's Path" in Gloucester. After killing Mr. Pinkham, Mr. Jones and his co-defendant went to the home of Mr. Jones' friend in the Maplewood Park section of Gloucester. After arriving between 2:20 a.m. and 2:30 a.m., Mr. Jones and his co-defendant (both of whom were covered in blood) were admitted to the home. As the group discussed Mr. Pinkham's murder, Mr. Jones both laughed and cried. The following day, on the advice of his friend, Mr. Jones led police to Mr. Pinkham's body. A subsequent investigation indicated that Mr. Pinkham was struck in the head with rocks and set on fire. When Mr. Pinkham was discovered, his body was badly burned and bruised, his head was crushed, and part of his face was missing.

Mr. Jones' co-defendant was also convicted of first degree murder and committed to the Department of Youth Services until his 18th birthday. At the time of Mr. Pinkham's murder, Mr. Jones' co-defendant was 16-years-old.

Mr. Jones appealed his conviction. The Supreme Judicial Court affirmed the conviction on August 4, 1987.²

II. PAROLE HEARING ON DECEMBER 18, 2018

John Jones, now 43-years-old, appeared before the Parole Board on December 18, 2018, for a review hearing. Mr. Jones was represented by Attorney Erica Cushna in the absence of Attorney Richard Goldman. In Mr. Jones' opening statement to the Board, he accepted full responsibility for taking the life of Mr. Pinkham. He apologized to both Mr. Pinkham's family and his own family, as well as the community at large, for the devastation that his "cowardly" actions have caused. He explained to the Board that he is "driven to be a better, healthier, and more caring person."

When questioned by the Board as to the details of the murder, Mr. Jones explained that although his independent memory of the crime is unclear, he knows that he was fully responsible for the violence inflicted upon Mr. Pinkham. He knew Mr. Pinkham from the neighborhood, but, after the crime, learned that he and Mr. Pinkham were second cousins. Mr. Jones stated that on the day leading up to the murder, he had been drinking alcohol and taking pills – behavior which was not uncommon, despite his age of 17. Mr. Jones explained that as a result of a chaotic childhood, where he was often the victim of, and witness to, significant domestic violence, he began abusing substances at the age of nine. Mr. Jones explained that on the night of the murder, he agreed to commit the crimes against Mr. Pinkham with his co-defendant, in part, because he dreaded returning home.

Mr. Jones spoke of the injuries suffered by Mr. Pinkham during the beating death committed by him and his co-defendant. Mr. Jones explained that he has spent much of his 36 years of incarceration attempting to understand what could have driven him to commit such acts of violence. He told the Board that he was a rage-filled young man who did not care about anyone, including himself. He credited programs, such as Restorative Justice, Correctional

² Commonwealth v. John Jones, 400 Mass. 544 (1987).

Recovery Academy, and Jericho Circle as being instrumental in understanding his criminal behavior. When the Board noted that his initial institutional adjustment was poor, Mr. Jones acknowledged his poor behavior, but attributed it to his youth, ongoing substance issues, and the reality that he would likely die in prison. The death of Mr. Jones' brother, however, inspired him to obtain his sobriety in 1993. This positive step helped him to remain disciplinary report-free since 1994. Mr. Jones credited his success in prison to program involvement and employment on the paint crew, where he developed a solid work ethic.

Mr. Jones' parole plan includes a support system of family, programming, and Alcoholics Anonymous. He prefers to enter pre-release, so that he could begin employment and develop some financial stability before independent living. The Board noted that Mr. Jones has been accepted to the Answer House, a long-term residential program, and has received an employment offer from a construction company, if granted parole. When asked by the Board what difficulties he foresaw, if released, Mr. Jones answered that "the world did not stop in 1982." He understands that he would have to work hard, and ask for assistance from his supporters, in order to live successfully in today's society. He expressed confidence in his ability to develop a routine that would enable him to succeed on parole.

The Board considered the testimony and written submissions of Mr. Jones' uncle, friend, and a program leader in support of parole. The Board also considered the testimony of Committee for Public Counsel Services Social Services Advocate Kelsey Haggett in support of parole. Dr. Robert Kinscherff presented the key findings from the Forensic Mental Health Evaluation Report. The Board considered the testimony of Essex County Assistant District Attorney David O' Sullivan, who also provided a written submission, in opposition to parole.

III. DECISION

The Board is of the opinion that Mr. Jones has demonstrated a level of rehabilitation that would make his release compatible with the welfare of society. He has been in lower security for approximately 12 months. He has been incarcerated for 36 years. He has availed himself of relevant treatment and programming to address his causative factors.

The applicable standard used by the Board to assess a candidate for parole is: "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." 120 C.M.R. 300.04. In the context of an offender convicted of first or second degree murder, who was a juvenile at the time the offense was committed, the Board takes into consideration the attributes of youth that distinguish juvenile homicide offenders from similarly situated adult offenders. Consideration of these factors ensures that the parole candidate, who was a juvenile at the time they committed murder, has "a real chance to demonstrate maturity and rehabilitation." *Diatchenko v. District Attorney for the Suffolk District*, 471 Mass. 12, 30 (2015); See also *Commonwealth v. Okoro*, 471 Mass. 51 (2015).


The factors considered by the Board in Mr. Jones' case include the offender's "lack of maturity and an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking; vulnerability to negative influences and outside pressures, including from their family and peers; limited control over their own environment; lack of the ability to extricate

themselves from horrific, crime-producing settings; and unique capacity to change as they grow older." *Id.* The Board also recognizes the petitioner's right to be represented by counsel during his appearance before the Board. *Id.* at 20-24.

In forming this opinion, the Board has taken into consideration Mr. Jones' institutional behavior, as well as his participation in available work, educational, and treatment programs during the period of his incarceration. The Board has also considered Dr. Robert Kinscherff's evaluation, a risk and needs assessment, and whether risk reduction programs could effectively minimize Mr. Jones' risk of recidivism. After applying this appropriately high standard to the circumstances of Mr. Jones' case, the Board is of the opinion that John Jones merits parole at this time. Parole is granted to a Long Term Residential Program (LTRP), after an additional 12 months in lower security (either minimum security or pre-release) from the date of the hearing, with special conditions.

SPECIAL CONDITIONS: Waive work for LTRP; Must be at home between 10 pm and 6 am or at PO's discretion; GPS at PO's discretion; Supervise for drugs, testing in accordance with agency policy; Supervise for liquor abstinence, testing in accordance with agency policy; Report to assigned MA Parole Office on day of release; No contact with victim's family; Must have substance abuse evaluation and adhere to plan; Must have mental health counseling for adjustment/transition; Long Term Residential Treatment program for no less than 90 days.

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.



Shara Benedetti, Acting General Counsel

4/29/19

Date