



Deval L. Patrick
Governor

Andrea J. Cabral
Secretary

The Commonwealth of Massachusetts
Executive Office of Public Safety

PAROLE BOARD

12 Mercer Road
Natick, Massachusetts 01760

Telephone # (508) 650-4500
Facsimile # (508) 650-4599



Josh Wall
Chairman

DECISION

IN THE MATTER OF

JOHN MCCABE

W85641

TYPE OF HEARING: Review Hearing

DATE OF HEARING: July 24, 2012

DATE OF DECISION: June 17, 2013

PARTICIPATING BOARD MEMBERS: Cesar Archilla, 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 offenses, the views of the public as expressed at the hearing or in written submissions to the Board, the inmate's criminal history, institutional record and program involvement while incarcerated, we conclude that the inmate is not a suitable candidate for parole. Parole is denied with a review in five years. The decision is unanimous.

I. STATEMENT OF THE CASE

This is John McCabe's second appearance before the Massachusetts Parole Board. On July 17, 2007, the Board conducted an Initial Parole Hearing, unanimously denied parole, and set a five-year review date. He seeks parole to a one day to life civil commitment as a sexually dangerous person, and then to sentences for escape and assault with intent to murder that begins after the expiration of the civil commitment.

Over the course of three weeks in July of 1981, 16-year-old John McCabe committed a series of sexual assaults and violent robberies on five female victims ranging in age from 15 to 38. The attacks occurred in both Suffolk and Middlesex counties, which resulted in prosecutions in both counties. Mr. McCabe received the seven life sentences, for which he is seeking parole, for the Suffolk County crimes.

On December 17, 1982, he was convicted in Middlesex Superior Court following a bench trial and sentenced to serve concurrent terms of 20 to 25 years for three counts of aggravated rape and two counts of armed robbery. He was also sentenced to serve concurrent nine to ten year terms for four counts of assault and battery by means of a dangerous weapon, two counts of kidnapping, and one count of larceny of a motor vehicle. These Middlesex sentences concerned victims #1, #2, and #3¹ (discussed below).²

After pleading guilty, the Suffolk Superior Court sentenced Mr. McCabe on December 21, 1982 to serve life in prison for five counts of rape of a child under 16 years of age and two counts of armed robbery. The Suffolk Superior Court also sentenced Mr. McCabe to three to five year sentences for two counts of kidnapping and two counts of assault by means of a dangerous weapon. The three to five year sentences were to be served concurrent with the life sentence. The life sentences, however, were to be served from and after the 20 to 25 year sentences imposed in the Middlesex Superior Court. These Suffolk sentences concerned 15-year-old victims #4 and #5.

On July 7, 1981, 38-year-old victim #1 was lying on the grass in a park in the Fells District, wearing a bikini, when Mr. McCabe asked her for the time. He left and then returned, asking her if she wanted to go for a ride. She said no. Mr. McCabe returned a third time, carrying a piece of wood, and approached her. She pushed the piece of wood away. Mr. McCabe then produced a screwdriver, placed it against her neck, took her into the bushes, raped her, and threatened to kill her. Mr. McCabe, who testified at trial, indicated he had no memory of the incident and denied that it took place.

On July 13, 1981, Mr. McCabe and an associate forcibly entered the car of 19-year-old victim #2, who was parked at an area mall. Mr. McCabe and the associate threatened her with a knife, kidnapped her, and stole money from her. After McCabe and his associate left the vehicle, she managed to drive off and escape.

On July 20, 1981, 23-year-old victim #3 had just returned to her car after shopping at a Medford area mall. Mr. McCabe, armed with a knife, opened her door and forced his way into the vehicle. Mr. McCabe drove off and parked the car at the end of a parking lot. He sexually assaulted the victim, cut her with the knife in several places, and raped her. He then picked up two other males, Robert McDonough and another man, who also robbed and raped this victim. When they were finished, Mr. McCabe ordered her from the car and drove off.

That same day, at approximately 11:30 p.m., two female victims, both 15 years old (victim #4 and victim #5), were walking home in Dorchester when they noticed that they were being followed by a car with three males inside, one of whom was Mr. McCabe, who was driving victim #3's car. Mr. McCabe was with Mr. McDonough and Michael Ryan.³ Two of the males,

¹ The names of all sexual assault victims are withheld. See G.L. c. 265, § 24C.

² The Middlesex sentences have expired. Mr. McCabe is seeking parole from his Suffolk sentences.

³ Mr. McDonough and Mr. Ryan were charged as co-defendants. Mr. McDonough was sentenced to serve nine to 12 years for rape, kidnapping, armed robbery, and larceny of a motor vehicle. Mr. Ryan, who was 14 years old at the time of the offenses, was charged with rape of a child under 16, armed robbery, kidnapping, and assault with a dangerous weapon. The Dorchester Juvenile Court adjudicated Mr. Ryan to be a delinquent child and committed him to the custody of the Department of Youth Services.

who were armed with weapons, exited the vehicle, forced the girls into the car, and then drove to an unknown location where Mr. McCabe raped them several times. Although he admitted committing these crimes at trial, Mr. McCabe testified that his full memory was not there, claiming that he was "on dope."

II. INSTITUTIONAL CONDUCT

John McCabe has been continuously incarcerated since December 1982. In 1985, he was deemed a sexually dangerous person. On February 10, 1986, he was civilly committed for a period of one day to life and was transferred to the Massachusetts Treatment Center in Bridgewater.

During his civil commitment, Mr. McCabe assaulted a number of corrections officers. Consequently, on January 24, 1986, Mr. McCabe was sentenced to serve one year for one count of assault and battery on a corrections officer and a concurrent term of six months for two counts of assault and battery on a corrections officer. These were to be served from and after the Middlesex sentences and have since expired. On March 31, 1989, Mr. McCabe was transferred to MCI Cedar Junction after he had stabbed an inmate, but returned to the treatment facility on June 26, 1989, by court order. Mr. McCabe received a six to nine year sentence for assault to kill for the stabbing. That sentence is from and after the civil commitment.

On October 1, 1989, Mr. McCabe and two other inmates escaped from the treatment center by using a hacksaw to saw through window bars and a fence after they had used a sheet to slide down the side of the building. A fourth inmate who was attempting to escape with Mr. McCabe fell from the window and died from his injuries. Mr. McCabe was caught by authorities a few days after his escape and returned to the institution. Once again, Mr. McCabe was returned to the treatment center by court order. McCabe received a three to five year prison sentence for escape from the treatment center. This sentence also runs consecutive to the civil commitment.

During this third stay at the treatment center, Mr. McCabe assaulted an officer, inflicting serious injury. After that incident, the court allowed a petition brought by the Commissioners of the Department of Correction and the Department of Mental Health to have Mr. McCabe transferred back to a correctional facility.

Mr. McCabe has received 80 disciplinary reports, including possession of weapons, possession of escape tools, assaults on staff, assaults on inmates, throwing feces at officers, throwing urine at officers, and spitting at officers. He received several placements in the disciplinary segregation unit and disciplinary detention unit, the last one in 2003 for assaulting another inmate.

Mr. McCabe also had violent behavior when he was held as a jail prisoner awaiting trial. According to a Department of Correction's report, Mr. McCabe "stabbed three officers, injured one inmate with a cane, was involved in a fight with another inmate where he got stabbed, and killed a guard dog."

From the date of his initial parole hearing in 2007 to his current review hearing, Mr. McCabe has received no disciplinary reports. In December 2008, Mr. McCabe was transferred

to MCI Norfolk where he enrolled in a Sex Offender Training Program ("SOTP"). In his most recent Classification Report, it has been recommended that Mr. McCabe be transferred to the Massachusetts Treatment Center to continue the SOTP.

III. PAROLE HEARING ON JULY 24, 2012

John McCabe appeared for his second parole hearing on seven concurrent life sentences. He seeks parole to his civil commitment as a sexually dangerous person. Mr. McCabe described his much improved behavior over the last five years and asks the Board to conclude that he is rehabilitated. He said that after his escape in 1989, he decided to reform his behavior and improve his conduct. He said he has been sober since 1989, but previously used marijuana and cocaine in prison. He was confident that he "will never use drugs again."

A Board Member noted that Mr. McCabe's serious and violent misconduct continued well after 1989. In 1996, he called a female officer "a fat pregnant whore" and told her to "watch yourself if I ever get out of here." In 1997, he stabbed an inmate in the chest. In 1999, he assaulted another inmate with feces. In 2000, he and another inmate choked and kicked an inmate. In 2001, he fought several times with a black inmate and the altercations "created racial tensions within the unit." In 2003, he and another inmate beat an inmate.

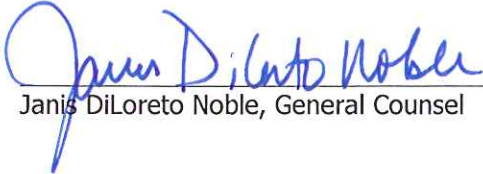
Board Members pointed out some other concerning disciplinary reports, including numerous attacks on corrections officers, numerous incidents of throwing feces, urine or spitting on officers, sexually motivated misconduct, many obscene threats to do violence to officers, numerous possession of sharp weapons, and incidents of major vandalism to his cell. In one attack, he caused multiple facial fractures to an officer. A Board Member told Mr. McCabe that "your disciplinary reports are not just disciplinary incidents, it is very severe deviant behavior that connects to the deviant behavior of your governing offenses."

Suffolk Assistant District Attorney Charles Bartoloni spoke in opposition to parole. There were no supporters of parole at the hearing.

IV. DECISION

John McCabe was 16 years old when he committed five serious assaults against females during a three-week period. Mr. McCabe came to prison as a young man with at least 25 years of incarceration ahead of him. Rather than commit to rehabilitation, he chose a path of violence and destructive behavior. For 25 years, he actively resisted rehabilitation. Mr. McCabe has improved his conduct considerably in the past five years, but due to his extraordinary record of violence, he has a long road ahead. He has established, through his crimes and prison conduct, that he is a very dangerous person who would pose tremendous risk to the community. He needs to complete sex offender treatment, and address serious problems of anger, violence, and substance abuse. John McCabe would be likely to re-offend if released and his release is not compatible with the welfare of society. Accordingly, parole is denied. 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. 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

6/17/13
Date