



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



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**DECISION
IN THE MATTER OF
JOHN SWIST**

W42841

TYPE OF HEARING: Review Hearing

DATE OF HEARING: July 16, 2020

DATE OF DECISION: March 10, 2021

PARTICIPATING BOARD MEMBERS: Gloriann Moroney, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Karen McCarthy, Colette Santa

DECISION OF 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 not a suitable candidate for parole. Parole is denied with a review scheduled in three years from the date of the hearing.¹

I. STATEMENT OF THE CASE

On October 6, 1986, in Bristol Superior Court, John Swist pleaded guilty to the second-degree murder of John Michael, Jr. He was sentenced to life in prison with the possibility of parole after serving 15 years. He committed this murder while on parole from a (May 24, 1984) conviction for larceny from a person. Mr. Swist had no co-defendants and there were no appeals filed. Mr. Swist is currently serving his sentence at MCI-Norfolk, where he has resided since 1996. He has been incarcerated for 35 years.

On the evening of June 26, 1985, John Swist, age 19, was walking down a main street in Fall River. Mr. Swist had just left a bar (after drinking extensively) and was approached by John Michael, age 33, in his car. Mr. Swist agreed to accompany Mr. Michael back to his apartment in Fall River, where they consumed more alcohol. The conversation, according to what Mr. Swist

¹ Six Board Members voted to deny parole with a review in three years. One Board Member voted to deny parole with a review in four years.

told his girlfriend, turned to homosexual activities. The men ended up in Mr. Michael's bedroom, where Mr. Swist tied up Mr. Michael and then strangled him to death. Mr. Swist then ransacked his apartment, stole money and jewelry, and left the scene with Mr. Michael's car. Days later, when Mr. Michael's landlord went to collect overdue rent from another tenant, he found Mr. Michael's door ajar. The landlord entered the apartment and found the decomposing body of the victim in the bedroom. Mr. Michael was naked and hog-tied. A ligature was found tightly tied around his neck.

In a conversation with his girlfriend, Mr. Swist indicated that he murdered Mr. Michael because he did not want Mr. Michael to be able to identify him [Swist]. He stated that "the last queer that [Swist] rolled was able to do so." Mr. Swist fled the state a few days after the discovery of the body. He was found in Chicago, where he was placed under arrest as he stepped off a bus. Mr. Swist was returned to Massachusetts, where he made statements to police that implicated him in the murder of John Michael.

II. PAROLE HEARING ON JULY 16, 2020

On July 16, 2020 John Swist, now 55-years-old, appeared before the Massachusetts Parole Board for a review hearing. Mr. Swist was denied parole at his initial hearing in 2000, and after his review hearings in 2005, 2008, and 2015.² Mr. Swist, who was not represented by counsel, did not provide an opening statement, but indicated that he was prepared to address questions from the Board. A Board Member expressed concern over Mr. Swist's failure to provide a public apology at this hearing, noting that the opening statement would have been the opportune moment to have done so. Mr. Swist stated that he has provided several public apologies over the years at prior hearings, as well as a public apology ceremony through the prison. He explained that his decision to forego the opening statement was due to the fact that this was his fifth hearing; thus, he did not believe that there was much to add beyond what he had stated previously.

When Board Members inquired about his history of substance abuse, Mr. Swist recalled how he started using drugs and alcohol at 12-years-old. At the time of the offense, despite being released on parole, he was drinking every day and regularly abusing Percocet and Valium – habits that he supported through stealing. His 1988 decision to become sober stemmed from "self-preservation" after seeing violence in the institution involving drugs and alcohol. The Board noted Mr. Swist's history of criminal activity that predated the offense, including petty crimes to support his substance abuse habit. Mr. Swist described how the crimes became more serious over time and how he was "willing to go along with anything." He characterized his crimes as being "spontaneous" and stated that he was at the "mercy" of "impulses" to commit crimes. He admitted that he never thought of the consequences of his actions.

The Board expressed concern about Mr. Swist's history of victimizing homosexual men and inquired about prior statements he made, where he claimed to have robbed homosexual men who would try to "pick him up." Mr. Swist denied "targeting" homosexual men, stating that he never left his house seeking to commit these crimes against them; rather, these were spontaneous occurrences that were fueled by his own self-loathing, shame, and anger. However, Mr. Swist acknowledged robbing approximately 3 homosexual men before the murder. The Board noted his statements to friends on the night of the murder, where Mr. Swist said that he was

² In June 2013, Mr. Swist was due to appear before the Board for a hearing, but he postponed the hearing.

going to "pop a queer" or "do something out of the ordinary" to "make some money." Mr. Swist denied hating homosexual men and explained that his pre-incarceration derogatory statements about homosexuals stemmed from his own denial and hatred about his sexuality.

When the Board questioned him as to the underlying facts of the crime, Mr. Swist recalled that he had been drinking and using drugs all day. When he left a bar to walk to his grandparents' home, the route required crossing an LGBTQ neighborhood, where he had previously been approached by homosexual men. He explained how he had engaged in "one nighter[s]" that would result in "hat[ing]" himself. Mr. Swist stated that Mr. Michael approached him and asked if he had any drugs and whether he would like to return to his home. Mr. Swist believed that Mr. Michael was a homosexual and formed, impulsively in that moment, the intent to rob him. He decided, however, to wait until he was at Mr. Michael's home, where it would be more "convenient." Once there, they continued to drink and "perhaps" use drugs. At some point, Mr. Michael left the room, returned naked, and asked Mr. Swist to tie him up. The Board repeatedly expressed concern about Mr. Swist's position that the victim requested to be tied and called into question Mr. Swist's position that it was a consensual act. Mr. Swist acknowledged this concern and stressed that, although his memory was compromised because of his intoxication level that evening, he would not testify in a manner inconsistent with his memory.

Mr. Swist denied engaging in any sexual activity with Mr. Michael. Mr. Swist stated, however, that he intentionally led Mr. Michael to believe that he would have sex with him in order to gain his trust. After admitting he tied up and robbed Mr. Michael, Board Members questioned Mr. Swist as to why he decided to kill him. Mr. Swist explained that he was a "ticking time bomb," and that he would have moments where he would be "overcome with rage" and even a minor slight would result in a violent response. Mr. Swist stated that Mr. Michael was unfortunately the recipient of the anger and rage that had been building in him since he was a child.

In discussing his institutional adjustment, the Board noted that, although Mr. Swift has remained disciplinary report free in recent years, he nonetheless incurred several disciplinary reports during his incarceration. Board Members focused on a 1990 incident, where Mr. Swist rejected the assignment of a black cellmate. Mr. Swist remembered the incident, but he denied harboring any racist motivations.

The Board commended Mr. Swist on his programming efforts since his last hearing, including Alternatives to Justice, Emotional Awareness, Restorative Justice, Reading Circle and Victim Offender Education Group. However, the Board questioned his refusal to engage in the Sexual Offender Treatment Program (SOTP). Mr. Swist explained that he had been "deeply offended" that he was being labeled a sex offender as soon as he had come to accept his sexuality. He stressed to the Board that he had never committed a sex crime and that, in fact, he was the victim of child sexual abuse. The Board explained that SOTP is not limited to sex offenders, nor is it being discussed because of Mr. Swist's acceptance of his sexual orientation. Rather, the Board expressed how SOTP is beneficial for crimes that are related to sexual conflict, sexual victimization, and crimes that occur during a sexual act. The Board stated that it is difficult to separate Mr. Swist's self-admitted history of internal conflict over his sexual identity from his history of crimes against homosexual men. The Board further expressed its concern that Mr. Swist has not adequately addressed these precipitants to the murder.

The Board considered oral testimony in opposition to parole from Bristol County Assistant District Attorney Jason Mohan.

III. DECISION

The Board is of the opinion that John Swist has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Swist beat and strangled to death John Michael, Jr. in June of 1985. Although he has engaged in some programming, the Board remains of the opinion of previous Boards that he should participate in the Sex Offender Treatment Program (SOTP). He described himself as a "ticking time bomb" and it all "bubbled over" at the time of the offense. He said he was experiencing self-loathing, shame and anger. The Board does not accept his version of the offense. He maintained that the victim requested to be hog-tied. The review in three years will provide Mr. Swist with the opportunity to complete the SOTP. Additional treatment / programming will provide him with the opportunity to gain insight into victim empathy and remorse. Mr. Swist has not demonstrated sufficient insight into his crime, including the sex component. He is encouraged to engage in SOTP to fully explore this area and to be prepared to discuss this at his next hearing.

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 forming this opinion, the Board has taken into consideration Mr. Swist's 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 a risk and needs assessment and whether risk reduction programs could effectively minimize Mr. Swist's risk of recidivism. After applying this standard to the circumstances of Mr. Swist's case, the Board is of the unanimous opinion that John Swist is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Swist's next appearance before the Board will take place in three years from the date of this hearing. During the interim, the Board encourages him to continue working towards his full rehabilitation.

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.


Pamela Murphy, General Counsel


Date