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PAROLE BOARD

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Paul M. Treseler
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DECISION

IN THE MATTER OF

JOHN WHITNEY
W68219

TYPE OF HEARING: **Review Hearing**

DATE OF HEARING: **January 12, 2016**

DATE OF DECISION: **May 16, 2016**

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, Tina Hurley, Lucy Soto-Abbe

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 by unanimous vote that the inmate is not a suitable candidate for parole. Parole is denied with a review scheduled in two years from the date of the hearing.

I. STATEMENT OF THE CASE

On June 9, 2000, in Norfolk Superior Court, John Whitney was convicted of the second degree murder of Alberto Manuel Salgado Portal. A sentence of life in prison with the possibility of parole was imposed on Mr. Whitney for the murder of Mr. Portal.

In December 1997, Mr. Whitney was living in Natick. As a result of a previous relationship, Mr. Whitney had a son who was being raised in a separate residence by his son's mother and her husband, Mr. Portal. On an evening in early December 1997, at approximately the time of night that Mr. Portal typically left his home for work, Mr. Whitney asked a close friend to drop him off in an area located 200 to 300 feet away from Mr. Portal's home. He had planned to meet his friend at a nearby bar shortly thereafter. After Mr. Whitney's friend arrived at the bar in a separate car, he then followed Mr. Whitney's car to an Enterprise Rent-a-Car parking lot, where Mr. Whitney left his vehicle. Mr. Whitney was then driven home by his

friend. Unbeknownst to Mr. Whitney's friend, the car that Mr. Whitney was driving that evening had belonged to Mr. Portal. Mr. Portal's dead body was in the trunk.

Mr. Portal and his vehicle were reported missing on December 4, 1997, when he failed to report for work. On March 9, 1998, Mr. Portal's decomposing body was found when his car was located in the Enterprise Rent-a-Car parking lot. A subsequent autopsy indicated the cause of Mr. Portal's death to be blunt force trauma to the head.

II. PAROLE HEARING ON JANUARY 12, 2016

Mr. Whitney, now 53-years-old, appeared before the Parole Board on January 12, 2016 for a review hearing and was represented by Attorney John Rull. Mr. Whitney's initial appearance before the Board, in January 2013, resulted in the denial of parole. In Mr. Whitney's opening statement, he apologized for his actions and expressed his remorse. During the course of the hearing, he spoke about the evening of the murder. Mr. Whitney said that prior to the murder, he had been contacted by Mrs. Portal, the mother of his son, and was told that she needed money due to financial hardship. Mr. Whitney explained to the Board that at this point in his life, he was a functioning alcoholic and had very little contact with his son. Mr. Whitney and Mrs. Portal reached an agreement where he would provide financial support on a weekly basis, and she would allow Mr. Whitney to visit his son. Mr. Whitney was under the impression that Mr. Portal was aware of this arrangement.

On the night of the murder, Mr. Whitney went to the home shared by his son and Mr. and Mrs. Portal. Mr. Whitney intended to drop off money to Mrs. Portal, and was under the impression that Mr. Portal would not be home. When Mr. Whitney arrived at the home, however, Mr. Portal was present and both men were surprised to see each other. The men argued after Mr. Portal did not allow Mrs. Portal to accept the money from Mr. Whitney. According to Mr. Whitney, the argument started after Mrs. Portal suggested that Mr. Portal had been mistreating his son. After exchanging words with Mr. Whitney, Mr. Portal stepped through the doorway to the home as Mr. Whitney backed away from him, stepping down off the porch area. According to Mr. Whitney, Mr. Portal kicked him in the ribs. Mr. Portal was able to catch Mr. Whitney's leg and pull him forward, causing Mr. Portal to strike his head on the porch railing. Mr. Portal and Mr. Whitney then fought with each other, while rolling around on the ground. After Mr. Whitney was able to get back to his feet, he kicked Mr. Portal in the head as hard as he could. Mr. Whitney told the Board he knew immediately that Mr. Portal was dead.

Mr. Whitney then picked up Mr. Portal and placed him on the couch inside the house. Fearful that he would never see his son again, Mr. Whitney decided not to call the police. Mr. Whitney then placed Mr. Portal in the trunk of Mr. Portal's own car and drove to a nearby bar, where he knew a friend was waiting to give him a ride home. Mr. Whitney's friend followed Mr. Whitney in a separate car, as Mr. Whitney drove Mr. Portal's vehicle to a rental car parking lot. Mr. Whitney was not apprehended until three months later, after the discovery of Mr. Portal's body. Mr. Whitney said that he continued to work and drink heavily during the interim period.

Mr. Whitney told the Board that this is the first time he has ever told the entire truth regarding Mr. Portal's murder. He admitted that his past testimony to the Board, and to the authorities, has included falsehoods regarding his own involvement, as well as the involvement of Mrs. Portal, in Mr. Portal's death. Mr. Whitney explained that his participation in

programming, including the Correctional Recovery Academy, and his past appearance before the Board, have helped him get to the point where he could tell the truth regarding what happened to Mr. Portal.

The Board considered testimony from Mr. Whitney's wife, sisters, and niece, all of whom expressed support for his release. The Board also considered testimony from Norfolk County District Attorney Marguerite Grant, who expressed opposition to Mr. Whitney's petition for parole.

III. DECISION

The Board is of the opinion that Mr. Whitney has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board believes that a longer period of positive institutional adjustment and programming would be beneficial to Mr. Whitney's rehabilitation.

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. Whitney'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 whether risk reduction programs could effectively minimize Mr. Whitney's risk of recidivism. After applying this standard to the circumstances of Mr. Whitney's case, the Board is of the unanimous opinion that Mr. Whitney is not yet rehabilitated, and therefore, does not merit parole at this time.

Mr. Whitney's next appearance before the Board will take place in two years from the date of this hearing. During the interim, the Board encourages Mr. Whitney 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.


Gloriann Moroney, General Counsel

5/16/16
Date