



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

12 Mercer Road

Natick, Massachusetts 01760

Charles D. Baker
Governor

Karyn Polito
Lieutenant Governor

Thomas A. Turco III
Secretary

Telephone # (508) 650-4500

Facsimile # (508) 650-4599

Paul M. Treseler
Chairman

Gloriann Moroney
Executive Director
General Counsel

DECISION

IN THE MATTER OF

JOHN ZWICKER

W49269

TYPE OF HEARING: Review Hearing

DATE OF HEARING: April 24, 2018

DATE OF DECISION: January 17, 2019

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Colette Santa, 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 five years from the date of the hearing.

I. STATEMENT OF THE CASE

On October 25, 1990, John Zwicker was found guilty in Plymouth Superior Court of armed assault in a dwelling (two counts), for which he received two concurrent life sentences with the possibility of parole. He completed concurrent sentences of 30 to 40 years on two counts of armed with the intent to murder a person 65 or older, two counts of armed burglary, and two additional counts of armed home invasion. Additionally, he received 9 to 10 years for two counts of kidnapping.

On three separate occasions in August 1989, John Zwicker broke into the home of an elderly couple in Brockton. On two of those occasions, he tortured and violently assaulted 79-year-old Samuel Green and his wife, 82-year-old Freda Green, both of whom were in poor health. Mr. Zwicker first broke into the couple's home on August 11, 1989, entering the house through a window in the kitchen and stealing a revolver and ammunition. Six days later, on August 17, Mr. Zwicker appeared in the couple's bedroom carrying Mr. Green's gun. He held

the gun to Mr. Green's face and demanded money and valuables. Mr. Zwicker also tormented the couple by engaging in a version of Russian roulette. He removed three bullets from Mr. Green's gun and place the two remaining bullets in alternate chambers. He pointed the gun back and forth at the couple, asking "which one of you wants to die first?" When neither responded, he pointed the gun at Mr. Green and pulled the trigger not once, but twice. Mr. Zwicker raised the gun a third time and said to Mr. Green, "guess what's coming next." Mr. Green turned to his wife and said, "Goodbye." Mr. Zwicker never pulled the trigger. Instead, he warned Mr. Green not to call police and then left with items he had stolen from the couple. Mr. Green ignored Mr. Zwicker's warning and called police. He wrote down what happened and kept his notes on the kitchen table.

Ten days later, on August 27, Mr. Zwicker returned to the Green's home and appeared in their bedroom at around 5:00 a.m. He held a knife in one hand and Mr. Green's notes about the prior incidents in the other. He ordered Mr. Green from the bed and into a chair, secured him with a belt and, using electrical wire and tubing from Mrs. Green's oxygen tank, bound his hands behind his back. He did the same to Mrs. Green. When she tried to scream, he brandished a riding crop and beat her with it. Mr. Zwicker then turned his attention to Mr. Green, jabbing him in the back, side, and stomach with the knife. He then beat Mr. Green with the broken riding crop and a whip. Mr. Zwicker's sadistic torment continued. After stabbing Mrs. Green in the leg, Mr. Zwicker threatened to kill the couple if they reported the incident. He then left with a number of stolen items, but was apprehended a short time later.

Mr. Zwicker appealed his case in 1991 (Commonwealth v. Zwicker, 33 Mass. Appellate Court 1119, 1992). The judgments were affirmed. A further appellate review was denied (Commonwealth v. Zwicker, 414 Mass. 1103, 1993). Mr. Zwicker entered a motion for a new trial in 2010, this motion is still pending.

II. PAROLE HEARING ON APRIL 24, 2018

John Zwicker, now 47-years-old, appeared before the Parole Board for his review hearing on April 24, 2018. He was not represented by counsel. Mr. Zwicker was denied parole after his initial hearing in 2008, as well as after his review hearing in 2013. Mr. Zwicker waived his right to make an opening statement.

Mr. Zwicker maintains that he has a limited memory of events surrounding the brutal victimization of the Green's on three separate occasions in their home. The Board questioned Mr. Zwicker about his social history, as well as the causative factors that led him to prison. He attributes his behavior to pent-up anger, feeling lost, and an inability to understand himself. He denies any alcohol and/or drug abuse. Mr. Zwicker described a history of what appears to be a fugue state that he experienced as a youth and during this incarceration. He informed the Board, however, that he has become proficient in mediation and uses it to combat anger and to control his propensity for outbursts. Mr. Zwicker is not considered an open mental health case within the Department of Correction; therefore, he is not receiving treatment to address his self-reported anti-social disorder. It should be noted that Mr. Zwicker was committed to the Department of Youth Services custody and has prior placements at Taunton State and Arbor Hospital, where he has received varying diagnoses.

The Board questioned Mr. Zwicker as to his progress in rehabilitation since his commitment, as well as his level of insight and candor, in order to evaluate his parole suitability. The Board acknowledged the programming that Mr. Zwicker engaged in several years ago. Mr. Zwicker is currently incarcerated at MCI-Shirley, where he works in the sewing shop and participates in Wiccan services. Since his last parole hearing, he incurred one disciplinary infraction in 2014. Mr. Zwicker reported that the Department of Correction has denied him access to programming for several years. According to Mr. Zwicker, he was informed that he does not meet the criteria for programming and, thus, has been denied. Mr. Zwicker expressed his interest in taking computer courses and additional educational courses.

The Board considered testimony in opposition to parole from Norfolk County Assistant District Attorney Stacey Gauthier.

III. DECISION

The Board is of the opinion that John Zwicker has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Zwicker committed a series of horrifying and sadistic crimes on an elderly couple. He continues to maintain that he has no memory of the events, and he offered no explanation for them at his hearing. The Board maintains the opinion that he is not rehabilitated.

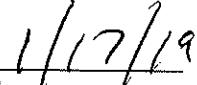
The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the 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. Zwicker'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. Zwicker's risk of recidivism. After applying this standard to the circumstances of Mr. Zwicker's case, the Board is of the unanimous opinion that John Zwicker is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Zwicker's next appearance before the Parole Board will take place in five years from the date of this hearing. During the interim, the Board encourages Mr. Zwicker to continue to work 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/Executive Director



Date