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DECISION

IN THE MATTER OF

JOSE SIME

W49952

TYPE OF HEARING: Review Hearing

DATE OF HEARING: September 16, 2014

DATE OF DECISION: January 20, 2015

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, 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, 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 in three years from the date of the hearing.

I. STATEMENT OF THE CASE

On February 13, 1991, after a jury trial in Bristol County Superior Court, Jose Sime was convicted of second degree murder and sentenced to life.

On March 10, 1990, Fall River Police were dispatched to investigate a complaint of a large fight. Upon arrival, the group had already dispersed. Officers were informed that 20 year old Carlos Raposo had been stabbed with a knife and had been driven to the hospital by family members. Upon investigation, it was revealed that it was an 18 year-old Fall River man, Jose Sime, who stabbed Carlos Raposa.

In 1993, Sime appealed his murder conviction. The Massachusetts Appeals Court affirmed the second degree murder conviction. In 2001, he filed a second motion for a new trial and subsequently appealed the denial. The appeals court again affirmed the conviction.

Sime sought a third motion for a new trial in 2003 and, again, the court denied the motion and confirmed the conviction of murder.

II. CRIMINAL AND INSTITUTIONAL HISTORY

Jose Sime is serving his first incarceration of any kind. He has served 24 years of a life sentence and has no prior criminal history. His overall prison record is poor. He has had three returns to higher custody, a Departmental Disciplinary Unit (DDU) placement, and a Special Management Unit (SMU) placement. He has received 42 disciplinary reports, including many for violent altercations with inmates and for refusing direct orders.

The most serious assault occurred in November 1996, when Sime threw a pot of scalding hot water on an inmate and then struck him on the head with the pot. The inmate suffered a laceration to the head, as well as first and second degree burns. The incident earned him a DDU sentence of 54 months, during which time he assaulted another inmate. The incident also resulted in a referral to the District Attorney's Office and on September 21, 2001, in Plymouth Superior Court, Sime received concurrent 9 year to 9 year and 1 day sentences for assault and battery with a dangerous weapon and mayhem. Additionally, in 2007, Sime struck an inmate with a large steel can opener.

Sime has also been disciplined for attempting to defraud the Internal Revenue Service in 1994, for possessing weapons in 1996 (a razor blade comb and a seven-inch pick), for refusing transfers to Souza-Baranowski Correctional Center in 2003, 2004, 2005, and 2006, and for conspiring to introduce heroin into MCI Cedar Junction in 2009. His last disciplinary incident occurred in August 2013 for circumventing the phone system.

Sime's investment in rehabilitation has improved since his 2009 hearing. He has participated in Alternatives to Violence, Correctional Recovery Academy (CRA), Jericho Circle Project, 12 Steps of AA, and Emotional Awareness. Prior rehabilitative programming includes Anger Management, Key Program, Staying on Track, Bible Study, and Planning for Life. He earned his GED in 1993. He is currently working as a houseman.

III. PAROLE HEARING ON SEPTEMBER 16, 2014

This is Sime's second appearance before the Massachusetts Parole Board. At his initial hearing in September 2009, the Board recognized his program participation, but also expressed concern with his institutional conduct and issues of violence and anger.

Sime gave an opening statement in which he apologized to the victim's family and said "I should have walked away. I didn't mean to do it." In describing his relationship with Mr. Raposa, he said he knew him from "the neighborhood," and he "didn't have any problems with him." Sime added, "it's a mistake I'll regret for the rest of my life." At the hearing, Sime acknowledged that the number and nature of his disciplinary infractions are concerning. Since his last hearing, he said he has put a lot more effort into taking programs that address his anger issues, but admitted that he has more work to do. He explained that at the beginning of his incarceration, he was an "angry and confused" 18 year-old. He said he "didn't want to deal with the reality of what was going on" and blamed his family by saying that "they weren't there

for me." Sime said he was upset with them because they didn't hire an attorney or bail him out following his arrest.

Regarding the stabbing of Carlos Raposa, Sime said he was "young and unaware of the choices he was making." When the fight broke out, Sime said he initially returned to the car. As the altercation escalated, he stepped out of the car and approached the group. He said Mr. Raposa punched him, so he "reflexably" pulled out his pocket knife to fend him off and then stabbed him in the chest. Sime acknowledged that he could have prevented the stabbing, but failed to do so.

When asked about appealing the case, Sime said he appealed on three separate occasions on the basis of self-defense. He said all of Mr. Raposa's friends had weapons, including a hockey stick. When Board Members questioned Sime about why the Department of Correction labeled him a gang member, he explained that at the start of his life term, everyone was hanging out with their "own people," and that "you didn't go outside your own kind." He suggested that he's "guilty by association." He denies being gang involved and is attempting to get the label of "gang member" changed.

Regarding the 1996 assault and battery and mayhem incident, Sime said an inmate asked him for hot water. When the water was ready, he went to the inmate's cell. As he began to exit the inmate's cell, the inmate attempted to grab the hot pot, so he "intentionally threw the hot water in his face" and "hit him with the container a couple of times." Sime said that at that time, he felt he was "defending his property." He explained that "if he allowed the inmate to take his property, later on he would have tried to do the same thing." A Board Member asked Sime about the 2009 incident for conspiring to introduce heroin into Cedar Junction. Sime responded, "Although my friend was responsible for bringing the controlled substance into the facility, I knew about the drugs when they were brought to my cell." He said he was hoping his friend would "do the right thing" and "tell the truth," but he didn't. Sime said that he "wasn't looking at the big picture" and he "should have walked away." He said he regrets putting himself in that situation.

Another Board Member asked Sime to discuss his participation in rehabilitative programs. Sime said that the most valuable programs have been "every single program" he has completed, but mainly Alternatives to Violence, Jericho's Circle, and the Correctional Recovery Academy (CRA). He said "he has learned something in these programs to help him open up." Although Sime denies having substance abuse issues, he said he attends the programs because he started drinking alcohol at age 16 and has had some alcohol related incidents while incarcerated. He acknowledged that he attends because if he decides to drink alcohol, he knows "he will have problems." He said that "it only takes one day to jeopardize everything."

Sime has received 5 disciplinary reports since his last hearing and include possession of a 2 pound bag of sugar in July 2011, refusing a direct order, forwarding his wedding ring to a civilian associate of another inmate, and being out of place in 2012. His last disciplinary report was in August 2013 for circumventing the phone system. A Board Member expressed skepticism about randomly sending his wedding ring without the expectation of anything in return. Sime defended his actions by saying he was "trying to help someone."

Sime provided a parole plan that would allow him to transition back to the community through a structured and controlled step down process through a minimum or halfway program or a treatment program. Sime said he would get a job and help support his family.

Five family members and friends spoke in support of his parole, including Steve Raily of the Lighthouse Program. Bristol County Assistant District Attorney Dennis Collins spoke in opposition. The victim's sister and brother-in-law also testified in opposition to parole.

IV. DECISION

Although Sime has taken a more proactive approach to addressing his most pressing needs, he still minimizes his actions and blames nearly every wrong act that he has done on someone else. With respect to the murder, he appears to blame the victim or imply that the stabbing was an accident. The victim was unarmed.

Although Sime has made progress in his rehabilitation, his antisocial behavior during his incarceration has shown that he is not ready to be a contributing member to society. He continues to receive disciplinary reports despite involvement in rehabilitative programming and continues to provide a string of excuses for his behavior. Sime needs to address the underlying and unresolved concerns of his violence, anger, and substance abuse and remain disciplinary report free.

The standard we apply in assessing candidates for parole is set out in 120 C.M.R. 300.04, which provides that, "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." Applying that appropriately high standard here, it is the unanimous opinion of the Board that Jose Sime does not merit parole at this time because he is not rehabilitated. The review will be in three years, during which time Sime should commit to a more comprehensive rehabilitation that addresses his anger, violence, candor, and criminal thinking.

I certify that this is the decision and reason/s 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 Smith, Executive Director

1/20/15
Date