

*The Commonwealth of Massachusetts
Executive Office of Public Safety and Security*



PAROLE BOARD

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DECISION

IN THE MATTER OF

**JOSEPH DRAYTON
W35183**

TYPE OF HEARING: **Review Hearing**

DATE OF HEARING: **April 23, 2019**

DATE OF DECISION: **February 19, 2020**

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

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 the 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 a suitable candidate for parole. Parole is granted to a Long Term Residential Program after 12 months in lower security, subject to special conditions.

I. STATEMENT OF THE CASE

On October 22, 1975, in Suffolk County Superior Court, a jury convicted Joseph Drayton of first degree murder in the shooting death of Maurice Dean. He was also convicted of three counts of armed robbery and two counts of assault and battery with a dangerous weapon. Mr. Drayton was sentenced to life without the possibility of parole on the murder conviction. On two of the armed robbery convictions, he was sentenced to 5 to 7 years for each, to be served concurrently, from and after the life sentence for first degree murder. In total, his sentence was a life sentence to be followed by two consecutive 5 to 7 year sentences. The remaining charges were placed on file.

On January 5, 1977, in Suffolk County Superior Court, a jury convicted Mr. Drayton of entering a dwelling house while armed, armed robbery, assault with intent to murder, and assault and battery by means of a dangerous weapon. These charges were related to a home invasion

and robbery which occurred on March 12, 1974. Mr. Drayton was given life sentences for the home invasion charge and armed robbery charge, to be served concurrently, and consecutive to his 1975 conviction for armed robbery (which was from and after the 1975 life sentence for first degree murder). He was also sentenced to 18 to 20 years for assault with intent to murder, to be served concurrently with the home invasion life sentence, as well as 8 to 10 years for the assault and battery by means of a dangerous weapon, also to be served concurrently with the home invasion life sentence.

In March 1974, when he was 17-years-old, Joseph Drayton embarked on a two week violent crime spree. On March 1, Mr. Dean and two men were leaving a theater in Roxbury when they were approached by Mr. Drayton and two other men. Mr. Drayton produced a silver-colored handgun and demanded money. After collecting the money, he shot each of them. Mr. Drayton and his accomplices fled, and Mr. Dean died six hours later. After fleeing, Mr. Drayton and one of his accomplices hailed a taxi. Upon reaching their destination in Dorchester, Mr. Drayton robbed the cab driver and his front seat passenger and then fired a shot into the window of the cab.

Shortly after, on March 12, Mr. Drayton committed a home invasion. He rang the doorbell of a residence and demanded money from the occupant at gunpoint. The victim told Mr. Drayton that he didn't have any money. Mr. Drayton ransacked the apartment, told the victim to lie on the bed, and then fired two shots into his back. He survived. Days later, in New York, Mr. Drayton attempted to rob a bus with 30 passengers. During the robbery, Mr. Drayton struck one of the passengers with his gun, but accidentally shot himself while grappling with one of the passengers. After he fled, Mr. Drayton was eventually captured by police in New York. On January 7, 1975, Mr. Drayton was extradited from New York to Massachusetts to face the charges resulting in his current commitment.

II. PAROLE HEARING ON APRIL 23, 2019

On December 24, 2013, the Supreme Judicial Court issued a decision in *Diatchenko v. District Attorney for Suffolk County & Others*, 466 Mass. 655 (2013), in which the Court determined that the statutory provisions mandating life without the possibility of parole are invalid as applied to juveniles convicted of first degree murder. Further, the Court decided that *Diatchenko* (and others similarly situated) must be given a parole hearing. Accordingly, Mr. Drayton went before the Massachusetts Parole Board for his initial hearing in 2016. Parole was denied.

Mr. Drayton, now 62-years-old, appeared before the Parole Board on April 23, 2019, for a review hearing. He was represented by Attorney Elizabeth Caddick. In his opening statement to the Board, Mr. Drayton expressed remorse for his crimes and apologized to the victims and their families. He also apologized to his own family, as well as the community at large. The Board questioned Mr. Drayton about his home life prior to the crime spree. Mr. Drayton explained that both his mother and stepfather were deaf, and they had extreme difficulty in communicating with him and his 8 siblings. Additionally, he grew up in abject poverty with an extremely abusive father.¹ Mr. Drayton suffers from a learning disability and reported that he dropped out of school, and habitually smoked marijuana, at age 12. By age 13, he was living on the streets. By age 14, Mr. Drayton said that he was addicted to heroin and cocaine. He said that "cocaine literally drove me crazy" and that his cocaine addiction played a huge role in his dysfunctional living.

¹ According to Mr. Drayton's autobiography, his arm and leg were broken after a severe beating by his biological father when he was four years old.

When Board Members questioned him about his March 1974 crime spree, including the murder of Mr. Dean, Mr. Drayton attributed his actions to immaturity, lack of adult supervision, an inability to identify and manage emotions, and cocaine use. He also discussed the eligibility difficulties he faced in prison, when he tried to enroll in rehabilitative programming as an inmate without the possibility of parole. Mr. Drayton said that he engaged in programs where he could (and completed his GED), but stated that the Diatchenko decision allowed him to engage in significantly more rehabilitative programming. Mr. Drayton explained how Emotional Awareness helped him identify the reasons he committed his crimes and remarked as to how he wished he had learned emotional skills as an adolescent. He also completed Correctional Recovery Academy, Restorative Justice, and Computer Skills and is currently enrolled in the Culinary Program. He attends Alcoholics Anonymous and Narcotics Anonymous regularly and has been sober for 41 years. Mr. Drayton has worked in culinary arts and as a janitor.

At the time of this hearing, Mr. Drayton had been cleared for a step down to a minimum security facility. If paroled, he hopes to be released to a Long Term Treatment Program. He also has strong family support, who could provide him with housing and employment, if released. Mr. Drayton plans to continue with Alcoholics Anonymous and Narcotics Anonymous and to seek individual counseling. Mr. Drayton submitted a psychological evaluation prepared by forensic psychologist, Dr. DiCataldo Ph.D. The evaluation noted that Mr. Drayton has not had a violent disciplinary report during his 45 years in prison, nor has he had any disciplinary report in the past 20 years. It also indicated that Mr. Drayton's crime spree was a product of poverty, peer pressure, youth, illiteracy, and cocaine abuse. The report noted that he is now mature and educated and is a low risk for recidivism.

The Board considered letters of support from Mr. Drayton's family members. Mr. Drayton's brother and cousin appeared and offered testimony in support of parole. Leonard Levy, Program Manager of Metro Boston Alive, submitted a letter of support. In addition, the Board considered letters in opposition to parole from Boston Police Commissioner William Gross and others. The Board considered testimony in opposition to parole from the brother of Maurice Dean. A Victim Service Coordinator read a letter of opposition.

III. DECISION

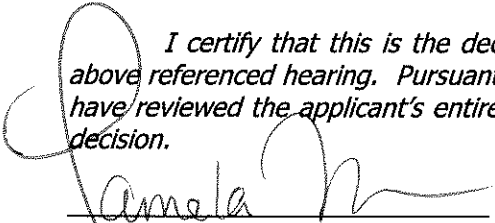
Joseph Drayton has been incarcerated for 45 years. He has made strides in his rehabilitative progress that makes his release compatible with the welfare of society.

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 the context of an offender convicted of first or second degree murder, who was a juvenile at the time the offense was committed, the Board takes into consideration the attributes of youth that distinguish juvenile homicide offenders from similarly situated adult offenders. Consideration of these factors ensures that the parole candidate, who was a juvenile at the time they committed murder, has "a real chance to demonstrate maturity and rehabilitation." *Diatchenko v. District Attorney for Suffolk County & Others*, 466 Mass. 655 (2013); see also *Commonwealth v. Okoro*, 471 Mass. 51 (2015).

The factors considered by the Board include the offender's "lack of maturity and an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking; vulnerability to negative influences and outside pressures, including from their family and peers; limited control over their own environment; lack of the ability to extricate themselves from horrific, crime-producing settings; and unique capacity to change as they grow older." *Id.* The Board also recognizes a juvenile homicide offender's right to be represented by counsel during his initial appearance before the Board. *Id.* at 20-24. The Board has taken into consideration Mr. Drayton's institutional behavior, as well as his participation in available work, educational, and rehabilitative programs during the period of his incarceration. The Board has also considered the psychological evaluation submitted by Dr. DiCataldo as well as a risk and needs assessment, and whether risk reduction programs could effectively minimize Mr. Drayton's risk of recidivism. After applying this appropriately high standard to the circumstances of Mr. Drayton's case, the Board is of the opinion that Joseph Drayton is rehabilitated, and his release is compatible with the welfare of society. Mr. Drayton merits parole at this time. Parole is granted to a Long Term Residential Program after 12 months in lower security, subject to special conditions.

SPECIAL CONDITIONS: Waive work for long term residential program; Must be home between 10PM and 6AM or at Parole Officer's discretion; Electronic Monitoring at Parole Officer's discretion; Supervise for drugs, testing in accordance with agency policy; Supervise for alcohol abstinence, testing in accordance with agency policy; Report to assigned MA Parole Office on day of release; No contact with victim's family; Must have mental health counselor for adjustment/transition; Long term residential treatment; AA/NA at least three times/week.

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

2/19/2020
Date