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

**PAROLE BOARD**

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Paul M. Treseler  
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Executive Director

**DECISION**

**IN THE MATTER OF**

**JOSEPH DRAYTON**  
**W35183**

**TYPE OF HEARING:** Initial Hearing

**DATE OF HEARING:** April 28, 2016

**DATE OF DECISION:** October 4, 2016

**PARTICIPATING BOARD MEMBERS:** Paul M. Treseler, 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 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 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.<sup>1</sup>

**I. STATEMENT OF THE CASE**

On October 22, 1975, in Suffolk County Superior Court, a jury convicted Joseph Drayton of first degree murder for 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, therefore, 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

<sup>1</sup> Six of the seven Members of the Parole Board voted to schedule a review hearing on Mr. Drayton's petition for parole in three years. One Board Member voted to reserve with an 18 month transition through lower security.

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 other men, Thomas Valengavich and Robert Applegate, 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 and got in. 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 Larry Kaiser and demanded money at gunpoint. Mr. Kaiser told Mr. Drayton that he didn't have any money. Mr. Drayton ransacked the apartment, told Mr. Kaiser to lie on the bed, and then fired two shots into his back. He survived. Then, 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. Mr. Drayton fled and 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 28, 2016**

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 is now before the Massachusetts Parole Board.

Mr. Drayton, now 59-years-old, appeared before the Parole Board on April 28, 2016, for his initial hearing and was represented by Attorney Elizabeth Caddick. In his opening statement, 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 larger community. The Board asked Mr. Drayton about his childhood and adolescence. Mr. Drayton described a chaotic upbringing, marked by a crowded home that lacked both an adequate amount of food and clean clothes. Because of that, Mr. Drayton felt embarrassed to go to school, and eventually turned to the streets.

Although he had jobs working for the Boston Globe and on a produce truck, Mr. Drayton stated that he would steal from the produce customers during deliveries. Mr. Drayton spoke about his drug abuse, which started with marijuana when he was 12-years-old, and which



eventually led to his serious abuse of heroin and cocaine. Mr. Drayton stated that he quit school when he was 13 or 14, and then committed a series of larcenies and breaking and entering's when he was 14 to 15. Mr. Drayton also described an incident in which he was robbed by three men and then obtained a gun so that he could confront them. Mr. Drayton said that this was a "turning point" for him because "seeking retribution for that robbery put that gun in my hand." Mr. Drayton said that when he confronted the robbers, he saw "the way they responded to me with that gun" and how they gave him his money back. Mr. Drayton said, "Seeing their reaction somehow heightened or gave me reason to want to use that gun to rob others." From that point forward, Mr. Drayton felt a "certain power" with the gun.

Mr. Drayton described his March 1974 crime spree, including the murder of Mr. Dean, the shooting of Mr. Valengavich and Mr. Applegate, the home invasion, and the shooting of Mr. Kaiser. It was consistent with the official versions. He stated that he had been using drugs and drinking on the night of March 1, when he saw Mr. Dean, Mr. Valengavich, and Mr. Applegate. He decided that, "Since we had the gun, and I was the one who had the gun, we should rob these guys." Mr. Drayton stated that he confronted the victims, telling them that it was a robbery. The victims turned over their money, but "it was just pennies." So, Mr. Drayton "inexplicably" stated, "Don't come back into the neighborhood," and he shot each one of them. Mr. Drayton and his friends then ran. After the shooting, Mr. Drayton stated that he called a taxi and robbed the driver, and "again, I fired a shot, senselessly, through the window of the cab." Although Mr. Drayton drew a correlation between this shooting and his anger issues, he admitted that he does not have a legitimate answer for why he fired that shot. In the days after the shootings, Mr. Drayton stated that he and his friends committed three or four more robberies using the gun.

A Board Member pointed out that Mr. Drayton had told Dr. DiCataldo that, on March 7, he had robbed two men and two women after breaking into their apartment. Mr. Drayton said that he did not remember making those statements to Dr. DiCataldo. Mr. Drayton then described the robbery and shooting of Mr. Kaiser. He stated that he "just randomly rang a doorbell" and said that "this is a robbery." He went through Mr. Kaiser's apartment to take his property, "senselessly" laid Mr. Kaiser down, and then shot him. Mr. Drayton said there was no reason for him to shoot Mr. Kaiser.

Mr. Drayton also described his crimes in New York. He had gone to New York for "no reason," but was unable to say why he brought the gun. A few days later, Mr. Drayton decided to return to Massachusetts. He got on a bus and "inexplicably, while I'm sitting on the bus, I wanna rob this guy." Mr. Drayton could not explain to the Board why he chose to board a bus heading to Boston to see his girlfriend but he ended up in New York and robbed a passenger of the bus. However, Mr. Drayton said that the passenger on the bus resisted by "snatching my hand." Mr. Drayton said the gun went off suddenly, the passenger screamed, and Mr. Drayton panicked. He ran towards the bus driver. At first, Mr. Drayton thought he had shot the passenger, but then he felt a trickling on his arm, and he realized, "I shot myself." Mr. Drayton then "robbed as many people as I could," and got off the bus in the middle of the highway. He was quickly apprehended. Throughout the hearing, Mr. Drayton repeatedly described his actions as "senseless" and "inexplicable," and stated that he could not account for why he shot his victims, as there was no need to do so. One Board Member noted that because Mr. Drayton



had pursued appeals of his convictions until just recently, this was the first time in his 42 year incarceration that he has ever candidly admitted to his crimes.<sup>2</sup>

Mr. Drayton's early institutional adjustment included 35 disciplinary reports during his first 23 years of incarceration for infractions such as gambling, possession of marijuana, possession of contraband, and various other rule violations. Since 1999, however, Mr. Drayton has not obtained any disciplinary reports. Mr. Drayton has engaged in some rehabilitative programming. He received his GED in 1982, and he has consistently attended AA/NA. He has taken educational classes, computer courses, and anger management, and he has completed the Alternatives to Violence courses in conflict resolution. Mr. Drayton reports that he is on the wait list for both the Restorative Justice Program and an emotional awareness class.

The Board considered letters of support from Mr. Drayton's parents, brother, sister, sister-in-law, and nephew. Mr. Drayton's sister appeared and offered testimony in support of parole. The Board also considered a report from Forensic Psychologist, Dr. Frank DiCataldo. In addition, the Board considered letters in opposition to parole from Boston Police Commissioner William B. Evans and Suffolk County Assistant District Attorney Paul B. Linn, who also provided testimony. The Board considered testimony from two brothers of Maurice Dean who opposed Mr. Drayton's parole and a letter of opposition from Mr. Valengavich.

### **III. DECISION**

Although some progress has been made, the Board is of the opinion that Mr. Drayton has not yet 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, including the Restorative Justice program, would be beneficial to Mr. Drayton'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 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

<sup>2</sup> Mr. Drayton's motion for a new trial was finally denied by the Appeals Court on April 7, 2016. See *Commonwealth v. Drayton*, 89 Mass.App.Ct. 1117 (2016) (1:28 Decision).

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 a risk and needs assessment, and whether risk reduction programs could effectively minimize Mr. Drayton's risk of recidivism. After applying this standard to the circumstances of Mr. Drayton's case, the Board is of the opinion that Mr. Drayton is not yet rehabilitated, and his release is not compatible with the welfare of society. Mr. Drayton, therefore, does not merit parole at this time.

Mr. Drayton's next appearance before the Board will take place three years from the date of this hearing. During the interim, the Board encourages Mr. Drayton to continue working toward 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.*

  
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Gloriann Moroney, General Counsel

10/4/16  
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Date