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PAROLE BOARD

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Josh Wall
Chairman

DECISION

IN THE MATTER OF

JOSEPH WEINSTEIN

W45239

TYPE OF HEARING: Review Hearing

DATE OF HEARING: March 26, 2013

DATE OF DECISION: July 17, 2014

PARTICIPATING BOARD MEMBERS: Cesar Archilla, Dr. Charlene Bonner, Sheila Dupre, Ina Howard-Hogan, Lucy Soto-Abbe, Josh Wall

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, the views of the public as expressed at the hearing or in writing, and a mental health evaluation completed in September 2013, we conclude by unanimous vote that the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in two years from the date of the hearing.

I. STATEMENT OF THE CASE

On April 15, 1983 at 6:00 am police were called to an apartment in Easton for an alleged murder. When police arrived they were met by Joseph Weinstein. Weinstein was bleeding from his wrists, and advised officers that he had killed a woman in an upstairs room and that he attempted to commit suicide by slashing his wrist and ingesting 80 Inderal pills (prescribed hypertension).

The female victim, Beatrice Burns, age 39, was found in an upstairs bedroom, lying in bed, with a small pool of blood by her head. She was lifeless with no pulse or respiration. Ms. Burns was discovered in a bedroom, and was observed to be partially dressed and covered by bedding with a small pool of blood by her mouth. There were no signs of a struggle, and all things appeared to be in their place. Police also observed in the bathroom on the sink a twelve inch serrated kitchen knife with traces of blood on the blade. Police also observed a .25 caliber

Raven stainless steel automatic handgun, cocked with the safety on. Next to the gun were a small cleaver and a folding pocketknife with a five inch blade. Both items had red stains on the blades, which were believed to be blood. Also, in this room were numerous amounts of men's clothing, on hangers, piled on top of each other along with men's shoes, suitcases and men's toiletries. The police also discovered a woman's pocketbook with a reservation for tickets to Italy for August 1983. The confirmation was dated April 13, 1983 and addressed to Sal Caiozzo and Ms. Beatrice Burns.

Weinstein was transported to Goddard Hospital and interviewed by police a short time later. Weinstein stated that about one week before the shooting, he and his girlfriend, Ms. Burns, whom he had been living with since August 1982 had a mutual agreement for him to leave the apartment and live somewhere else. Weinstein stated that Ms. Burns had been seeing an old boyfriend named, Sal. He stated that he had many personal problems within the past few weeks, such as losing his job, his car being repossessed and now the breakup of his relationship. On the night of April 14, 1983, he dropped Ms. Burns off at work and then later went to the Fairground Trader and bought a gun. He then picked up Ms. Burns from work and returned to the apartment where he learned that she was going on a trip to Italy with Mr. Caiozzo the following summer. Weinstein stated that they had several discussions about the pending trip, but eventually went to bed. Weinstein stated he later woke up, picked up the gun from under the bed and turned and shot the victim while she slept. Weinstein then went downstairs and slashed his wrists, ingested Inderal and placed the gun and knives on the chair. He then called Brockton Police who called the Easton Police Department.

The autopsy on April 15, 1983 at Morton Hospital determined the cause of death to be a single gunshot wound to the head.

On the day of his arrest, Weinstein was committed to Bridgewater State Hospital where he was diagnosed with depression with psychotic features. On January 8, 1986, Weinstein was found incompetent to stand trial for the crime of murder and he was committed (involuntary) to Bridgewater State Hospital. On July 28, 1987, after engaging in treatment, Judge Black found Mr. Weinstein competent to stand trial and ordered him to Bristol Superior Court for further disposition. After awaiting trial for more than five years, Weinstein pleaded guilty to second-degree murder.

Following sentencing, Weinstein experienced symptoms of a psychotic depression and was returned to Bridgewater State Hospital. On August 31, 1990 he was transferred to NCCI-Gardner based upon his positive response to treatment at Bridgewater State Hospital.

II. PAROLE HEARING ON MARCH 26, 2013

Joseph Weinstein appeared to have some difficulty answering questions in an organized and coherent manner. Weinstein has been incarcerated for 30 years and is currently 74 years old. Weinstein suffered a head injury as a child, which may have contributed to his difficulties in school. He dropped out of school in grade ten and states he received his GED at Bridgewater State Hospital. Weinstein worked as a baker, machinist, cab driver, and other jobs. He was working as a gas station manager just prior to his incarceration. He was married for nine years, and following his divorce in 1976, Mr. Weinstein said that he began to abuse substances. His reported history of the extent, duration and types of substances he has abused has varied. It is

unclear as to the extent of his use at the time of the murder. Mr. Weinstein most recently stated that he was not under the influence of any substances at the time of the murder, but has abused PCP, marijuana and alcohol in the past.

The divorce from his wife precipitated depression, which has varied over the years in intensity and duration. Weinstein has been inconsistent in his compliance with mental health services during his long period of incarceration, but stated he has not experienced suicidal ideation or psychotic symptoms since his discharge from Bridgewater State Hospital in 1990. His general complaint was periods of insomnia. Weinstein had stopped attending counseling at the time of this hearing due to trust issues. He stated he had experienced what he considered to be a breach of his confidentiality with mental health. Weinstein was questioned about his past endorsement of auditory hallucinations, as a contributing factor in the murder, and other symptoms of a psychotic depression following the murder. Weinstein has not been consistent in his responses over the years regarding his state of mind at the time of the murder. It is notable that he was initially deemed incompetent to stand trial (by virtue of his mental illness) and only following his mandated commitment and treatment was Weinstein found competent. Weinstein appeared to minimize the severity of his symptoms but acknowledged that he was very depressed during the years preceding and directly following the murder. He has not presented with any psychotic symptoms since being discharged from Bridgewater State Hospital in 1990. Weinstein was asked whether he would comply if the Parole Board recommended a mental health evaluation and treatment. He was initially ambivalent, but indicated that he would.

Concerning his understanding of why he has been denied parole by the Board, Weinstein was not entirely clear. The Board discussed his varying versions of the murder, as well as his inconsistent investment in rehabilitation as primary reasons for his denials. Weinstein acknowledged that he has not always been entirely truthful as to the precipitants and motivation for killing Ms. Burns, but insists that he has never denied committing the offense. Mr. Weinstein still contends that he initially intended on committing suicide, and remains somewhat inconsistent in his recall of whether he was acting out of jealousy and rage and what motivated him on that evening to kill Ms. Burns. He did not appear to be capable of engaging in an in-depth discussion regarding more relevant and abstract questions regarding his true motivation, intentions and precipitating factors that led to his murdering Ms. Burns. Weinstein tended to place more emphasis on the stressors of losing his job and car as being contributing factors to his depressed state of mind. Upon continued direct questioning, he acknowledged that he was unwilling to tolerate that his relationship was over, and that he did know that Ms. Burns had planned to leave on a trip with another man.

Weinstein reported that he has participated in programming, but finds that working at the optical shop and other activities are a better source of rehabilitation at this point in his incarceration. Weinstein has accrued only two disciplinary reports during his incarceration. He described his daily routine as being regimented and lacking in significant personal relationships; however, he did not feel that such a lack of contact affected his quality of life or predicted an inability to establish meaningful relationships in the community. While Weinstein would like to re-enter the community and resume a relationship with his siblings, he did not offer a specific or meaningful parole plan. Weinstein stated in general terms that he would like to transition through lower security then to a half-way house in the community. He stated he would plan to

collect social security as a means to support himself and eventually transition to his own apartment.

Speaking in support of Weinstein's parole release was his sister. Ms. Weinstein provided some information that supported Weinstein's known history of depression, academic struggles and his unmet need for treatment during his childhood and adult years. Ms. Weinstein reported that she and her brothers remain supportive of his parole and will assist him with his re-entry in any way that they can. Ms. Weinstein stated that they all remain in contact, but he has insisted that his siblings do not visit him in the institution. Ms. Weinstein stated that she views Weinstein as mild mannered now and insists that he is not a threat to anyone.

There were several members of Ms. Burns' family in attendance. Ms. Burns' son and daughter both spoke in opposition to parole. They each highlighted the loss their family endured as a result of their mother's murder, and expressed their concern for their own personal safety if Weinstein were to be released. The Assistant District Attorney spoke in opposition to Weinstein's parole emphasizing his history of mental health issues, lack of parole plan and the nature of the offense.

III. DECISION

Due to the concern regarding Joseph Weinstein's overall presentation, specifically with what appeared to be his difficulty in responding to questions, the Parole Board asked Dr. Robert Kinscherff, forensic psychologist, to conduct an evaluation and provide a consultation to the Parole Board. The evaluation was conducted on August 15, 2013. The Parole Board considered the consultation when deliberating Mr. Weinstein's request for parole.

Dr. Kinscherff's assessment provided the Parole Board with information gained from an actuarial tool specifically used with offenders who have a mental disorder, his clinical opinion regarding Mr. Weinstein's potential needs in the community, and additional insights from Mr. Weinstein's mental health counselor and Department of Correction's staff.

At the encouragement of the Parole Board, Weinstein did re-engage in mental health treatment following his hearing and he is viewed as being cooperative and compliant. Weinstein is currently being treated for a mood disorder and has responded well to medication and clinical contacts. He is reportedly not exhibiting any psychotic symptoms and he does not have a diagnosis of a personality disorder or anti-social traits. In addition, according to his current mental health provider, there is no evidence that Weinstein's difficulty with responding to questions at the hearing is representative of the onset of dementia or significant neurocognitive issues. However, as indicated by Dr. Kinscherff, such onset can be slow and progressive.

Weinstein is viewed by the corrections staff as being compliant and committed to his institutional job in the optical shop. While he is not viewed as a behavior problem, the consensus is that Mr. Weinstein has settled into a structured pattern and routine often seen in those who have been institutionalized. He does not receive personal visits and lacks personal relationships within the institution. Weinstein's expectations and overall release plan does not incorporate a realistic understanding of what he would need to successfully reintegrate into the community.

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, the Parole Board concludes by a unanimous vote that Joseph Weinstein is not a suitable candidate for parole at this time because he needs to make additional gains in rehabilitation in order to live in the community. The review will be in two years.

The Parole Board encourages Mr. Weinstein to continue to comply with mental health treatment, and to think about what supports and treatment needs would be helpful or essential for his success in the community. Given his age and years spent in prison, Mr. Weinstein is limited in his resources; however, his institutionalization, lack of insight into his treatment needs, and lack of a realistic release plan are significant concerns when assessing suitability for parole supervision. He is encouraged to utilize his supports and gain assistance with developing a comprehensive release before he would be considered for parole.

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.


Caitlin E. Casey, Chief of Staff

7/17/14
Date