

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



Advisory Board of Pardons

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IN THE MATTER OF

KENNETH DUNN

PETITION FOR PARDON

REPORT AND RECOMMENDATION

YOUR EXCELLENCY:

The Advisory Board of Pardons (hereinafter “the Board”) respectfully submits this report and recommendation concerning the pardon petition of Kenneth Dunn. Mr. Dunn was convicted of Larceny from a Building on October 27, 1971 in Lowell District Court, and sentenced to one year of probation.

On or about February 4, 2014, Mr. Dunn submitted a petition for a pardon. (*Attachment A*).¹ In 2016, Mr. Dunn submitted supplemental materials in support of his petition for a pardon. (*Attachment B*). Mr. Dunn’s spouse, Lorrie Dunn, submitted additional supplemental materials on his behalf in 2021, in advance of Mr. Dunn’s hearing. (*Attachment C*). On December 21, 2021, the Board conducted a public hearing regarding Mr. Dunn’s petition. In his petition and at the public hearing, Mr. Dunn requested a pardon for his conviction for Larceny from a Building so that he may obtain a license to possess a firearm and participate in hunting and other recreational

¹ A hearing was held on Mr. Dunn’s pardon petition in 2014. At that time, the Board voted to recommend favorable consideration of the petition. There is no record of a decision from the Governor on the matter.

activities. After due consideration, the Board voted unanimously to recommend favorable consideration of Mr. Dunn's request for a pardon. The reasons for the Board's recommendations are set forth in the body of this opinion.

PROCEDURAL HISTORY

On August 26, 1971, Mr. Dunn was arrested by the Chelmsford Police Department, and arraigned in Lowell District Court, Docket Number 563057ZZ. He plead guilty to one count of Larceny from a Building on October 27, 1971. He was sentenced to one year of probation. His probation was terminated on September 16, 1972. Mr. Dunn sealed his Massachusetts record on or about December 15, 2003.

STATEMENT OF THE CASE

Mr. Dunn reported that on August 26, 1971, he met friends at a water pump house on Crystal Lake, Chelmsford. He stated that the pump house had been broken into prior to his arrival, and denied involvement in the break. He reported that he took nothing from the pump house. Shortly after his arrival, police arrived and placed him under arrest.

There is no arrest report or incident report regarding this incident on record with the Chelmsford Police Department due to the age of the case. (*Attachment D*).

PRIOR CRIMINAL RECORD

According to the Massachusetts Board of Probation record and the National Crime Information Center (NCIC) record, both dated November 16, 2021, Mr. Dunn has a limited criminal history. (*Attachment E*). The offense for which he seeks a pardon is his only felony conviction. Mr. Dunn was convicted of Disorderly Conduct in Lowell District Court in 1972, and fined. He was also convicted of Disorderly Conduct in Virginia. Mr. Dunn has other entries on his adult record, which he attributes to his twin brother, Donald Dunn, who is now deceased. He reported that his brother struggled with substance use, and frequently used his name and information when arrested. Mr. Dunn included letters from the Hillsborough, New Hampshire,

County Attorney and the New Hampshire State Police confirming Donald Dunn's repeated use of Kenneth Dunn's name and information upon arrest. (*Exhibits C & D to Attachment A*).

PARDON PETITION OF KENNETH DUNN

As previously indicated, Kenneth Dunn submitted a petition for executive clemency, in the form of a pardon, for a 1971 conviction for Larceny from a Building. In his petition, he reported that he met with friends at a water pump house at Crystal Lake, Chelmsford, on August 26, 1971. Mr. Dunn stated that his friends had broken into the building. According to his petition, police arrived shortly after he did, and placed him and several others under arrest. He stated, "I appeared in court without an attorney and agreed to plead guilty with one year probation to get the case resolved." *Attachment A*, page 14.

Mr. Dunn sought a pardon in order to once again obtain a license to carry firearms. Mr. Dunn had maintained an active firearm license for the majority of his adult life, and was forced to relinquish his license by the Nashua, New Hampshire Police Department as a result of his 1971 conviction. *Attachment A*, pages 17-18. Mr. Dunn cooperated fully with the department's request. He included copies of various firearms licenses, hunting permits, and firearms-related certifications he has held throughout his life. *Attachment A*, pages 32-33; *Attachment B*; *Attachment C*, page 2. As a result of losing his firearms license, Mr. Dunn stated, "I have been unable to participate in hunting or enjoy my membership at the Ammonoosuc Gun Club in Lincoln, New Hampshire, where I have been a member for seven (7) years. Previously, I was a member of the Tyngsboro Sportsman's Club (15 years), Stony Brook Sportsman's Club (10 years), and Westford Sportsmen's Club (5 years)." Mr. Dunn included a letter with his petition from Captain Michael Carignan of the Nashua Police Department, which states, "It is my belief that the only issue preventing you from obtaining your pistol permit with the Nashua Police Department is the

sealed, felony conviction that despite having occurred in the 1970's, only recently appeared on your record." *Attachment A*, page 18.²

2014 INTERVIEW OF KENNETH DUNN

At the request of the Advisory Board of Pardons, Mr. Dunn consented to an interview concerning his petition. (*Attachment F*). The interview took place on September 29, 2014. Mr. Dunn stated that he attended school until the tenth grade, at which time he left to work at Fletcher's Quarry, Massachusetts. He enlisted in the Navy in 1969, and received an Honorable Discharge in 1970. Mr. Dunn worked as a truck driver for most of his adult life, and, as of 2014, was on disability leave.

With respect to the governing offense, Mr. Dunn denied entering the pump house or removing anything from the structure. He stated that his friends had entered the building prior to his arrival. During his 2014 interview, he stated he was advised by legal counsel to "plead guilty and get it over with."

During the interview, Mr. Dunn spoke to his compelling need for a pardon. He stated that he is an avid hunter, and that he also enjoys target shooting. Because he was forced to surrender his New Hampshire pistol permit, he has no longer been able to pursue those hobbies.

2021 INTERVIEW OF KENNETH DUNN

At the request of the Advisory Board of Pardons, Mr. Dunn was interviewed again in 2021. (*Attachment G*). Mr. Dunn informed the interviewer that he had recently retired from his truck driving job with the Teamsters Union. He reported that he worked as a driver with Trans Gas, based in Lowell, Massachusetts from 2000-2016. Prior to his employment with Trans Gas, he worked as a driver for Aggregate Industries (also known as Middlesex Materials) from 1993-2000, and for Interstate Container from 1985-1993. Mr. Dunn stated that since retiring, he has worked

² Mr. Dunn has since relocated to Bethlehem, New Hampshire. He did not provide a letter from the Chief of Police in this jurisdiction concerning his suitability for a firearms license, should he receive a pardon.

for United Parcel Service (UPS) on a part-time basis. He and his wife of forty-five years, Lorrie Dunn, recently moved to a new home in Bethlehem, New Hampshire.

With respect to the governing offense. Mr. Dunn provided a similar statement to his 2014 statement, indicating that the building had been broken into prior to his arrival.

PROCEEDINGS BEFORE THE ADVISORY BOARD

On December 21, 2021, the Advisory Board of Pardons held a public hearing on Kenneth Dunn's pardon petition. The hearing was chaired by Gloriann Moroney. Advisory Board of Pardon Members Tonomey Coleman, Sheila Dupre, Tina Hurley, and Colette Santa were present at the hearing. Board Member Charlene Bonner was not present for the hearing, but reviewed the record and participated in deliberations. Mr. Dunn was not represented by counsel. His wife, Lorrie Dunn, appeared alongside him.

THE BOARD'S INQUIRY

SOCIAL HISTORY

Upon inquiry by the Board, Mr. Dunn provided information concerning his social history. Mr. Dunn grew up in Tyngsboro, Massachusetts, and went to high school there for several years. Mr. Dunn and his twin brother, Donald Dunn, enlisted in the Navy after their seventeenth birthday. Kenneth Dunn served in the Navy for approximately eighteen months, and received an Honorable Discharge. He reported that he did not see combat, but travelled extensively during his military service. He earned a National Defense Service Medal for serving in the armed forces during a time of war.

Mr. Dunn's father passed away shortly after his discharge from the Navy, in 1971. Mr. Dunn became involved with the Teamsters Union, and obtained a Commercial Driver's License in 1978. He worked for the majority of his adult life as a truck driver. During the course of his employment, he obtained a special license to haul hazardous materials across interstates. Mr. Dunn retired approximately five to six years ago, and currently works part-time for United Parcel Service (UPS) in New Hampshire.

Mr. Dunn has been married to his wife, Lorrie Dunn, for forty-five years. They have one daughter, who also resides in New Hampshire with her spouse, and one child. Mr. Dunn reported that he and his wife moved from Massachusetts to Nashua, New Hampshire, in 1999, and relocated to Bethlehem, New Hampshire, in August 2021. He enjoys camping in the summer and snowmobiling in the winter.

GOVERNING OFFENSE

The Board inquired about the offense for which Mr. Dunn seeks a pardon. Mr. Dunn stated that he was twenty-years old at the time of his conviction. He had recently been discharged from the Navy, and was employed as a school bus driver. Mr. Dunn reported that he met a group of friends at a local water pump house on Crystal Lake in North Chelmsford, which was a popular place for his friends to congregate at the time. He stated that several people had broken into the pump house prior to his arrival, breaking a lock. He denied being part of the break-in or entering the pump house. Mr. Dunn stated that several people had removed football helmets and pads from the pump house, and were using them to play football nearby. The police arrived shortly after Mr. Dunn did, and arrested Kenneth Dunn, his brother, Donald Dunn, and at least one other person. Mr. Dunn did not believe that any items were actually stolen from the pump house.

Mr. Dunn was transported to a local jail, and was informed that if he plead guilty, he would be released from court the same day. He entered a guilty plea in Lowell District Court on October 27, 1971, and was sentenced to one year of probation. Mr. Dunn informed the Board that he was not represented by counsel during any point of the proceedings. He completed his probation without incident.

VICTIM IMPACT

No victim impact statements were provided to the Board.

PRIOR CRIMINAL HISTORY

Board Members inquired about several other entries on Kenneth Dunn's criminal history. Mr. Dunn stated that he was convicted of Disorderly Conduct in Lowell District Court in 1972,

and fined. He also acknowledged a Disorderly Conduct conviction from Virginia in 1970. With respect to that incident, he stated he was in the Navy at the time, and was leaving a bar with several friends. He reported that one of his friends was arrested outside the bar, and that he tried to ask the arresting officer why his friend was being arrested. Mr. Dunn was told to go about his business, or he would be arrested. Mr. Dunn again asked why his friend was being arrested, and was then himself arrested. Apart from these incidents, he has no other adult involvement with the criminal justice system.

Mr. Dunn reported that his twin brother, Donald Dunn, struggled with a substance-use disorder, and had multiple interactions with law enforcement. He stated that Donald Dunn frequently identified himself as Kenneth Dunn when he was arrested. Upon inquiry from the Chair, Kenneth Dunn denied being arrested for Operating under the Influence of Alcohol, Fugitive from Justice, and Property Destruction. He attributes each of those arrests to his brother, Donald Dunn, who is deceased.

COMPELLING NEED FOR A PARDON

The Board made inquiries concerning Mr. Dunn's compelling need for a pardon. Mr. Dunn stated that he had held a firearm license for most of his adult life, and would like to hunt again after his permit was revoked as a result of his 1971 conviction. In 2013, police in Nashua, New Hampshire informed Mr. Dunn that he would have to surrender his firearm permit due to the 1971 Massachusetts conviction, which he did voluntarily. Mr. Dunn first obtained a firearm license in Massachusetts nearly forty years ago, and then obtained a firearm license when he relocated to New Hampshire twenty years ago. His criminal history was disclosed at the time of his application, and he was issued a permit. He reported a life-long love of hunting and other sportsmanship activities, including target shooting. Mr. Dunn belonged to several different sportsmanship clubs, and made friends at these establishments. His wife, Lorrie Dunn, holds a firearm permit, and the couple expressed a wish to go target shooting together. Mr. Dunn is now retired, and wishes to enjoy his former hobbies in his retirement. Mr. Dunn stated that although the Nashua Police

Department cited the 1971 conviction as his only barrier to obtaining a firearm permit, that he has not specifically inquired with the Bethlehem, New Hampshire, Police Department.

SUPPORT

TESTIMONY

Lorrie Dunn

Lorrie Dunn testified before the Board, expressing her support for Mr. Dunn's pardon petition. Ms. Dunn stated that her husband has worked extremely hard for his entire adult life, over multiple jobs. She informed the Board that he frequently responded to requests to report for work early, and was a dedicated employee. Ms. Dunn stated that Mr. Dunn has dreamed of moving to New Hampshire's north country, and now wishes to hunt and enjoy his retirement. She stated that she would like to see him enjoy his retirement years doing activities he loves.

LETTERS

The Board did not receive any letters expressing support for Mr. Dunn's petition for the hearing, but reviewed four letters of recommendation submitted in support of his pardon petition. Mr. Dunn's pardon petition included letters of recommendation from the following four individuals: (*Attachment A*, pages 19-22):

Patrick Renaud Patrick Renaud, the owner of K&M Materials, LLC, a friend and colleague of Mr. Dunn, submitted a letter dated December 26, 2013, in support of Mr. Dunn's petition for a pardon. Mr. Renaud stated that he has known Mr. Dunn for fifteen years, that "this incident is not indicative of the man Kenny Dunn has become in the interceding decades." Mr. Renaud described Mr. Dunn as a "gregarious personality," and "an honorable family man."

Carrie Hyde Carrie Hyde, a former neighbor of the Dunn family, submitted an undated letter in support of Mr. Dunn. She stated that he frequently helped her with home repairs and maintenance, and described him as "organized, efficient, kind, caring, competent, and extremely helpful."

Diane Nolet

Diane Nolet, a friend of Kenneth Dunn, submitted a letter dated January 28, 2014, in support of Mr. Dunn. She stated that she has been a friend of Mr. Dunn for thirty-eight years, and described him as a “devoted family man,” “a well-liked and respected member of his community,” and “a loyal and dependable friend.”

Eric Dionne

Eric Dionne, a friend of Kenneth Dunn, submitted a letter dated January 28, 2014, in support of Mr. Dunn. He described Mr. Dunn as “kind and generous,” and a “hard worker.”

OPPOSITION

TESTIMONY

No individuals testified in opposition to Mr. Dunn’s petition.

LETTERS

No letters were submitted in opposition to Mr. Dunn’s petition.

OPINION OF THE ADVISORY BOARD

FAVORABLE RECOMMENDATION

After careful review and consideration, it is the opinion of 6 of the 6 voting members of the Advisory Board of Pardons that a favorable recommendation for a pardon be sent to the Governor on behalf of Kenneth Dunn.

Governor Charles D. Baker's Executive Clemency Guidelines, issued on February 21, 2020 ("Guidelines"), establish the grounds upon which a pardon may be granted and provide assistance to the Advisory Board of Pardons in making recommendations to the Governor on clemency petitions. The Guidelines state that a pardon is "an extraordinary remedy which has the effect of treating the petitioner as if the offense had never been committed." The Guidelines further provide that "[pardons are] intended to remove the barriers that are sometimes associated with a criminal record, thereby facilitating the reintegration of the petitioner into his or her community." The Guidelines state that the nature and circumstances of the offense and the character and behavior of the petitioner are the two "paramount considerations in deciding whether to grant clemency."

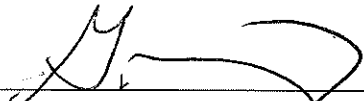
Under the Governor's Guidelines, a person who petitions for a pardon bears the responsibility of demonstrating, by clear and convincing evidence, that:

- (a) The petitioner has clearly demonstrated an acceptance of responsibility for the offense for which the petitioner is seeking clemency;
- (b) the petitioner does not have any pending appeals or challenges to a conviction or sentence;
- (c) the petitioner has made full restitution to his or her victims, in the event of economic injury;
- (d) the petitioner has made exceptional strides in self-development and self-improvement and would be a law-abiding citizen;

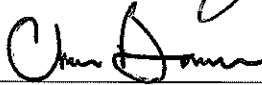
- (e) the petitioner has provided substantial assistance to law enforcement in the investigation or prosecution of other more culpable offenders;
- (f) the petitioner has contributed to society through the military or public service, or through charitable work;
- (g) the petitioner has demonstrated a period of good citizenship by “leading a responsible and productive life and contributing to [his or her] community in a positive manner” for more than ten years following a felony conviction, “without the structure provided by government supervision,” such as probation or parole;
- (h) there is no alternative remedy available to the petitioner.

The petitioner is seeking a pardon for a conviction of larceny from a building in October of 1971, and was placed on probation for one year, which was successfully terminated. Mr. Dunn explained the facts, which were non-violent, and took place among peers when he was twenty-years old. Mr. Dunn and peers broke into a water pump house where football equipment was stored. Although he takes responsibility for the crime, the facts and circumstances of the offense appear to be minor. Mr. Dunn indicates there is a compelling need for a pardon and it is a quality of life issue for him, as he is unable to participate in activities within the community. Mr. Dunn previously held a license to carry in Massachusetts for many years, and in New Hampshire until approximately 2010 when he was notified that he had to relinquish his license to carry due to the 1971 conviction. He held these licenses without incident. Therefore, the Board recommends that a pardon be granted.

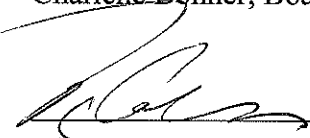
For the six members of the Advisory Board of Pardons respectfully recommending favorable consideration, signed on this the 8th of April, 2022:



Gloriann Moroney, Chair



Charlene Bonner, Board Member




Tonomey Coleman, Board Member



Sheila Dupre, Board Member



Tina Hurley, Board Member



Colette Santa, Board Member