



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

IN THE MATTER OF

KENNETH PADGETT

W58696

TYPE OF HEARING: Review Hearing

DATE OF HEARING: January 29, 2019

DATE OF DECISION: January 29, 2020

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Gloriann Moroney, Colette Santa, Paul Treseler¹

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 offense, the criminal record, the 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 scheduled in four years from the date of the hearing.

I. STATEMENT OF THE CASE

On May 26, 1995, in Worcester Superior Court, Kenneth Padgett was convicted of the second degree murder of Paxton Police Chief Robert Mortell and was sentenced to life in prison with the possibility of parole. On June 16, 1995, Mr. Padgett received a concurrent sentence of 18 to 25 years² for armed robbery, three concurrent sentences of 4 to 5 years for assault by means of a dangerous weapon, and two concurrent sentences of 9 to 10 years for breaking and entering (daytime). Charges of breaking and entering with intent to commit a misdemeanor and larceny of a motor vehicle were filed. That same day, Mr. Padgett received a consecutive sentence of 4 ½ to 5 years for larceny and a consecutive sentence of an additional 4 ½ to 5 years for larceny. These sentences are currently lodged. On March 18, 1998, in Middlesex

¹ Board Member Treseler was present at the hearing, but was no longer a Board Member at the time of vote.

² This sentence was later vacated upon appeal.

Superior Court, Kenneth Padgett pleaded guilty and received a concurrent sentence of 8 to 12 years for an unrelated armed robbery committed on November 1, 1993.

On February 1, 1994, Kenneth Padgett, age 23, participated in a series of house breaks with Michael Souza and Jamie Richards that culminated in the shooting death of 38-year-old Robert Mortell, Chief of the Paxton Police Department. On the morning of February 1, the three men armed themselves with hand guns, stole a van, and broke into two homes in Holden, stealing various items. When their stolen minivan got stuck in a snowbank, Mr. Souza carjacked a Department of Public Works truck at gunpoint, and the trio drove off. The Department of Public Works truck also got stuck in a snowbank, and the three men fled into the woods. Paxton Police Chief Robert Mortell drove to the area, saw the three men, and chased them into the woods near Route 31 in Holden. At some point during the chase, Mr. Richards and Mr. Padgett split off from Mr. Souza. Mr. Souza and Chief Mortell exchanged gunfire. Mr. Souza shot at Chief Mortell 11 to 13 times, killing him. Police apprehended Mr. Souza shortly after the shooting and apprehended Mr. Padgett and Mr. Richards the following day.

II. PAROLE HEARING ON JANUARY 29, 2019

On January 29, 2019, Kenneth Padgett, now 47-years-old, appeared before the Parole Board for a review hearing. He was represented by Northeastern Law Student Colleen Maney. Mr. Padgett was denied parole after his initial hearing in 2009, and after his review hearing in 2015. In his opening statement to the Board, Mr. Padgett acknowledged that he created the situation leading to Chief Mortell's death. Taking full responsibility, Mr. Padgett apologized to the Mortell family, Chief Mortell's friends and co-workers, and the community. He also apologized for his involvement in a white supremacist group.

When the Board questioned him about his childhood, Mr. Padgett reported that he started using marijuana and alcohol at age 12, progressing to LSD and cocaine. He told Board Members that he dropped out of school after completing eighth grade and got a job pumping gas. He had a son at age 15 and a daughter soon after. Mr. Padgett said that he met his co-defendants when he was about 14-years-old and started breaking into cars and houses to support his drug habit. He admitted to selling drugs occasionally and to robbing a bank with Mr. Souza, just a few months prior to committing the governing offense. When the Board questioned him about the governing offense, Mr. Padgett disclosed that at the time of the crimes, he was on probation for witness intimidation and for receiving stolen property. He agreed that by bringing guns, it was foreseeable that someone could get shot and, possibly, killed. Mr. Padgett recognized that no one would have died, if he and his co-conspirators had surrendered.

Board Members discussed Mr. Padgett's institutional history. Mr. Padgett said that he had been found guilty of 14 disciplinary reports since his incarceration began in 1995. His last report was in 2009, when he enlisted a third party to deliver a birthday card to a prison staff volunteer. Mr. Padgett admitted to belonging to a white supremacist group, but explained that he had disassociated from the group many years ago. He felt embarrassed by his involvement in the group, but Mr. Padgett believes that one-on-one counseling with Sister Anne Marie helped him overcome his racist beliefs. He also credited involvement in Restorative Justice and

Jericho Circle with helping in his rehabilitation. Mr. Padgett cleans tables in the dining hall and is a dog handler in the NEADS dog training program. He also participates in the church choir and a music therapy group.

Four family members of Mr. Padgett, as well as a pastor, testified in support of parole. Both Holden Chief of Police David Armstrong and Paxton Chief of Police Robert Desroisiers (ret.) testified in opposition to parole. Northborough Police Officer Phillip Martin also testified in opposition to parole. Mr. Mortell's daughter, alongside her brother and mother, testified in opposition to parole. Worcester County Assistant District Attorney Michelle King testified and submitted a letter in opposition to parole. The Board considered numerous letters in opposition, as well as, in support of parole.

III. DECISION

Mr. Padgett has an extensive criminal history replete with anti-social behavior. It is the opinion of the Board that he has yet to demonstrate a level of rehabilitation that would be 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 forming this opinion, the Board has taken into consideration Mr. Padgett's institutional behavior, as well as his participation in available work, educational, and treatment 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. Padgett's risk of recidivism. After applying this standard to the circumstances of Mr. Padgett's case, the Board is of the opinion that Kenneth Padgett is not yet rehabilitated and, therefore, does not merit parole at this time.

Parole is denied with a review scheduled in four years from the date of the hearing. During the interim, the Board encourages Mr. Padgett to continue working towards 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.


Pamela Murphy, General Counsel

1/29/2020
Date