

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

IN THE MATTER OF

KENTEL WEAVER

W87567

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: June 18, 2019

DATE OF DECISION: June 1, 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 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 not a suitable candidate for parole. Parole is denied with a review scheduled in three years from the date of the hearing.

I. STATEMENT OF THE CASE

On May 1 2006, a jury convicted Kentel Weaver of murder in the first degree on the theory of deliberate premeditation. He was also convicted of the unlicensed possession of a firearm and sentenced to a year and a day concurrent to his life sentence.

On August 10, 2003, 16-year-old Kentel Weaver shot and killed 15-year-old Germaine Rucker. Mr. Weaver belonged to a security threat group that had been harassing Mr. Rucker due to the belief that Mr. Rucker had involved the police in an earlier dispute between them. Mr. Weaver also believed that Mr. Rucker had stolen a bike that belonged to a member of his security threat group. On the night of the murder, Mr. Weaver, and at least four of his associates, saw Mr. Rucker on a bike in front of a residence with children. Witnesses testified that they saw Mr. Weaver and his associates attack Mr. Rucker. One witness testified that they saw a person,

matching Mr. Weaver's description and wearing a distinctive Detroit Tigers hat, shoot Mr. Rucker once in the back and once in the face. The witness saw this individual lose his hat after fleeing the crime scene. DNA evidence found on the hat matched Mr. Weaver's DNA. Based on witness testimony and the physical evidence found at the crime scene, Mr. Weaver was arrested for the murder of Mr. Rucker.

II. PAROLE HEARING ON JUNE 18 , 2019

On December 24, 2013, the Supreme Judicial Court issued a decision in *Diatchenko v. District Attorney for Suffolk District & 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 such juvenile offenders must be given a parole hearing. Accordingly, Kentel Weaver, now 31-years-old, appeared before the Parole Board on August 1, 2019, for an initial hearing. He was represented by Attorney Rebecca Rose. In his opening statement to the Board, Mr. Weaver apologized for the pain he caused the victim's family. Although Mr. Weaver described his family life as relatively happy, he said that his older brother was involved in selling drugs and participated in "street life." Mr. Weaver said that he was drawn to the easy money of dealing drugs and felt that being accepted by his peers was more important than school work. So, he followed in his brother's footsteps and began selling drugs and associating with a security threat group. Mr. Weaver said that he began smoking marijuana at age 14 and, by the time of the murder, he was smoking daily (less than two weeks after he turned 16).

When Board Members questioned him as to the governing offense, Mr. Weaver said that he knew the victim since the age of 4 or 5. Mr. Weaver would often see him helping out his parents at the local corner store they owned. When he and a friend bullied Mr. Rucker into stealing a pack of cigarettes from his parent's store, Mr. Weaver stated that Mr. Rucker told his parents, who then told police. Mr. Weaver and his friends resented Mr. Rucker for almost getting them in trouble. Ever since that day, he and his friends would chase Mr. Rucker whenever they saw him. Mr. Weaver described a day that Mr. Rucker threatened Mr. Weaver's friends with a pellet gun and took a friend's bicycle. A few days later, Mr. Weaver retrieved a gun hidden nearby when he saw Mr. Rucker in the neighborhood on a bike. He and his friends attacked Mr. Rucker and described how an older friend, who was in his early twenties, threw Mr. Rucker to the ground and hit him. While Mr. Rucker was on the ground, Mr. Weaver shot him in the back and, when Mr. Rucker turned around, Mr. Weaver shot him in the face. Mr. Weaver described the shooting as impulsive and senseless, but admitted that he wanted approval and respect from his peers.

When he went to prison, Mr. Weaver stated that he "brought the neighborhood with him." He described how he acted the same way he acted in his neighborhood, and that he remained in a security threat group. The Board discussed Mr. Weaver's numerous disciplinary reports related to fighting, as well as his security threat group involvement. When questioned about a 2012 incident in which he stabbed another inmate multiple times in the chest, Mr. Weaver said that he felt hopeless while serving life without the opportunity for parole. After the *Diatchenko* decision, Mr. Weaver described a turning point, where he began to incur fewer disciplinary reports. He said that his last disciplinary report, in 2015, was for testing positive for marijuana. Mr. Weaver said that he began formally disassociating from his security threat group in 2017, and has about 18 more months left in the renunciation process.

When Board Members questioned him as to his programming efforts, Mr. Weaver said that he received his G.E.D. in 2007, and that he has been taking college courses through Tufts University. He is involved in the 32-week Restorative Justice Program, participates in Toast Masters, and attends Alcoholics Anonymous meetings when he has time. Mr. Weaver described how the Restorative Justice program, as well as the loss of his two older brothers to homicide, helped him appreciate the trauma he inflicted on the victim's family and the children who witnessed the horrific murder, as well as the ripple effects his crime had on his community. Through his participation in the Nonviolence program, Mr. Weaver said he learned that violence was the only tool he had been using to deal with his problems. As he matured, Mr. Weaver learned to use other, nonviolent, tools in his life.

Mr. Weaver recognized that his early prison years were "not good," and that he had work to do before release. Mr. Weaver hopes to finish his studies and pursue a Bachelor's degree, if released. The Board considered testimony from forensic psychologist Frank DiCataldo, Ph.D., along with a psychological evaluation and risk assessment of Mr. Weaver. Dr. DiCataldo discussed the factors for juvenile offenders, as outlined in *Miller v. Alabama*, 567 U.S. 460 (2012), that make juveniles more likely to offend. He noted that Mr. Weaver had just turned 16 at the time of the offense, and that he was influenced by his peers in the group attack on Mr. Rucker. Dr. DiCataldo rated Mr. Weaver as a medium level of risk to reoffend.

Mr. Weaver's sister and mother testified in support of parole. An uncle of the victim testified that he would not be opposed to Mr. Weaver's parole. A family friend sent a letter in support of parole. Suffolk County Assistant District Attorney Charles Bartoloni testified and submitted a letter in opposition to parole. Boston Police Commissioner William Gross also submitted a letter in opposition to parole.

III. DECISION

It is the opinion of the Board that Kentel Weaver has yet to demonstrate a level of rehabilitation that would be compatible with the welfare of society. In 2003, Mr. Weaver shot and killed Germaine Rucker. Mr. Weaver should continue to invest in his rehabilitation and maintain a positive adjustment. In addition he should continue to pursue disassociation from his [named] Security Threat Group.

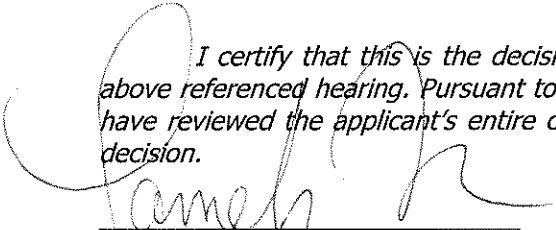
The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the 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-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 the murder, has "a real chance to demonstrate maturity and rehabilitation." *Diatchenko v. District Attorney for the Suffolk District*, 471 Mass. 12, 30 (2015); See also *Commonwealth v. Okoro*, 471 Mass. 51 (2015).

The factors considered by the Board in Mr. Weaver's case 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 the petitioner's right to be represented by counsel during his appearance before the Board. *Id.* at 20-40. The Board has also considered Dr. DiCataldo's psychological evaluation and risk assessment, as well as the Board's own risk and needs assessment, and whether risk reduction programs could effectively minimize Mr. Weaver's risk of recidivism. After applying this standard to the circumstances of Mr. Weaver's case, the Board is of the unanimous opinion that Kentel Weaver is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Weaver's next appearance before the Board will take place in three years from the date of this hearing. During the interim, the Board encourages him 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

6/11/2020

Date