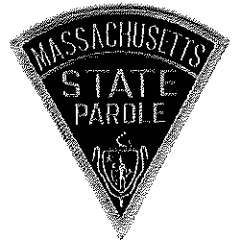


*The Commonwealth of Massachusetts
Executive Office of Public Safety and Security*



PAROLE BOARD

*12 Mercer Road
Natick, Massachusetts 01760*

Charles D. Baker
Governor

Karyn Polito
Lieutenant Governor

Daniel Bennett
Secretary

Telephone # (508) 650-4500

Facsimile # (508) 650-4599

Paul M. Treseler
Chairman

DECISION

IN THE MATTER OF

KEVIN SANDERS

W86874

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: September 28, 2017

DATE OF DECISION: October 3, 2018

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, 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 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 five years from the date of the hearing.

I. STATEMENT OF THE CASE

On January 3, 2006, in Suffolk Superior Court, Kevin Sanders was found guilty of second degree murder by a jury in the death of Alex Smith. He was sentenced to life in prison with the possibility of parole. He was also found guilty of unlawful possession of a firearm and sentenced to serve a 4 to 5 year concurrent sentence.

On September 29, 2002, 22-year-old Kevin Sanders was driving to his mother's house in the Madison Park Village Housing Development in Boston, when he was flagged down by 26-year-old Alex Smith. Mr. Sanders and Mr. Smith engaged in a heated argument in which Mr. Smith allegedly claimed to have shot at Mr. Sanders' mother's house. At some point, Mr. Sanders left Mr. Smith and proceeded to his mother's house. Mr. Sanders checked on his mother and retrieved a "community gun" hidden in the bushes near his mother's house. Mr. Sanders returned

to Mr. Smith's location and, after a brief argument, Mr. Sanders fatally shot Mr. Smith in the head. After Mr. Smith fell to the ground, Mr. Sanders shot him in the leg and back. An individual then took the gun from Mr. Sanders and ran in one direction, while Mr. Sanders ran in the other. Mr. Sanders returned to his home in Revere. When questioned by police, Mr. Sanders originally told them he was at his girlfriend's house in Revere at the time of the shooting. Mr. Sanders then told police that Mr. Smith had shot at Mr. Sanders' house. At trial, multiple witnesses identified Mr. Sanders as the shooter.

II. PAROLE HEARING ON SEPTEMBER 28, 2017

Kevin Sanders, now 37-years-old, appeared before the Parole Board for an initial hearing on September 28, 2017. He was not represented by counsel. In Mr. Sanders' opening statement to the Board, he stated that he was sorry for killing Alex Smith and for the pain it inflicted on his family. Mr. Sanders stated that he has been a good prisoner with only three D-reports in 15 years of incarceration: one report for having a "stinger" to heat up food, one for sending money to another inmate to buy clothes, and one for obtaining a laxative from another inmate. Mr. Sanders told the Board he received his G.E.D and has participated in many programs, including Restorative Justice and Jericho Circle. When Board Members questioned Mr. Sanders about his youth, he said that when he was 12, he held a gun for some older kids in the neighborhood. Then, the older kids treated him with love and respect. Soon, he began selling marijuana and cocaine. As a minor, Mr. Sanders was arrested twice for unlawful gun possession. Prior to the shooting, Mr. Sanders said he only test-fired a gun once, to see if it worked.

The Board questioned Mr. Sanders extensively about the shooting of Mr. Smith. Mr. Sanders said he was driving from Revere to his mother's house in the Madison Park Village Housing Development in Roxbury, when Mr. Smith flagged him down. Mr. Sanders said that Mr. Smith had long suspected that he (Mr. Sanders) was sleeping with his girlfriend, and as a result, there was bad blood between the two men. Mr. Sanders said that a heated argument ensued, in which Mr. Smith said he "shot up" Mr. Sanders' mother's house a few months prior. Mr. Sanders said that after the argument, he went to check on his mom. He returned with a gun that he knew someone had hidden in some nearby bushes. Mr. Sanders said that the heated argument briefly resumed, and he pointed the gun at Mr. Smith and pulled the trigger a few times. After Mr. Smith fell to the ground, he pulled the trigger a few more times. Mr. Sanders claims that after the shooting, someone with a hoodie grabbed the gun from him and ran in one direction, while he (Mr. Sanders) fled to his house in Revere. The Board asked Mr. Sanders if it made sense to him that, if he had just shot someone, a third unknown person would go up to him and disarm him. Mr. Sanders said that although he later learned the third person was someone he grew up with, he did not know who it was at the time of the shooting. The Board questioned Mr. Sanders about his intention when he armed himself and walked back to engage Mr. Smith. Mr. Sanders said his intention was to find out what was going on.

Although the Board noted that Mr. Sanders did not have an extensive criminal record and that his institutional record is good, they were concerned that Mr. Sanders' version of events did not match the official version of events. A Board Member asked if Mr. Sanders' mother was present during the shooting, as several witnesses had testified that she was. Mr. Sanders claimed that she was not there and was unclear as to why any witness said she was. The Board also noted allegations of witnesses being offered money to change their testimony. Mr. Sanders responded that he did not believe the allegations of witness tampering. When asked by the Board

as to how many times he fired the gun, Mr. Sanders stated that he was in a rage, and since the gun was a semi-automatic, he could not say how many shots he fired.

The Board questioned Mr. Sanders about when he actually took responsibility for the murder and discussed his motion for new trial. Mr. Sanders said that there were elements of murder, but he also said that it was a "heated situation and I got triggered and reacted." Later in the hearing, a Board Member commented that Mr. Sanders shot a man from close range, knowing that he would likely kill him, and that they struggle with how Mr. Sanders could maintain that the shooting was manslaughter and not murder. Mr. Sanders said that he recognized that by leaving the fight and returning with a gun, it could be seen as murder. However, Mr. Sanders noted that people testified that both he and the victim had another heated exchange when he returned from his mother's house. In that way, Mr. Sanders said, it "... may be tricky as far as legal terms." When asked by the Board why he killed Mr. Smith, Mr. Sanders said he was triggered by what Mr. Smith said about shooting his mother's house.

The Board questioned Mr. Sanders' about his participation in the Restorative Justice Program and whether he had shared his story with the group. Mr. Sanders said he had not shared his story with the Restorative Justice group, but that he had shared it with a DYS group. When Board Members noted their concern that his story glamorized street life, Mr. Sanders stated that the Restorative Justice program encourages participants to share their truth. Mr. Sanders claims that the glamorous part of street life was part of his truth. The Board also asked Mr. Sanders about his parole plan. Mr. Sanders said that he applied for housing assistance in 2012 and was on a list. Mr. Sanders also said he had lots of friends and family who would provide emotional support and help find him a job, should he be released.

Mr. Sanders' daughter and 3 cousins spoke in support of parole. Mr. Smith's mother spoke in opposition to parole. Suffolk County Assistant District Attorney Charles Bartoloni spoke in opposition to parole, as well.

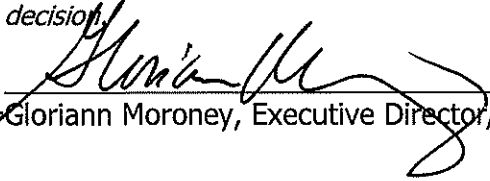
III. DECISION

The Board is of the opinion that Kevin Sanders has not yet demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Sanders' presentment is not indicative of someone who has been rehabilitated. Mr. Sanders has a troubling version of the governing offense and his criminal culpability.

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. Sanders' 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. Sanders' risk of recidivism. After applying this standard to the circumstances of Mr. Sanders' case, the Board is of the opinion that Kevin Sanders is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Sanders' next appearance before the Board will take place in five years from the date of this hearing. During the interim, the Board encourages Mr. Sanders 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.



Gloriann Moroney, Executive Director/General Counsel

10/3/18
Date