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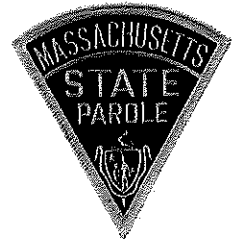
Thomas A. Turco III
Secretary

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security

PAROLE BOARD

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Gloriann Moroney
Chair

Kevin Keefe
Executive Director

DECISION

IN THE MATTER OF

KIM ANDREWS

W60418

TYPE OF HEARING: Review Hearing

DATE OF HEARING: September 26, 2019

DATE OF DECISION: May 19, 2020

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Karen McCarthy, 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, 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 two years from the date of the hearing.

I. STATEMENT OF THE CASE

On April 5, 1996, in Suffolk Superior Court, Kim Andrews was found guilty of first-degree murder in the shooting death of 24-year-old Jimmy Hinson. Mr. Andrews was sentenced to life in prison without the possibility of parole. Mr. Andrews was 17-years-old at the time of the murder. The jury also found Mr. Andrews guilty of unlawful possession of a firearm, for which he was sentenced to 4 - 5 years to run concurrent with his life sentence.

In the afternoon of December 1, 1994, in Roxbury, Kim Andrews shot and killed Jimmy Hinson, who was unarmed. Two privately employed security guards, who were working in the area at the time, came upon Mr. Andrews, who had his gun pointed at Mr. Hinson. Mr. Hinson (unarmed) was backing away from Mr. Andrews, with his hands raised in a defensive manner, when he tripped and fell to the ground. Once on the ground, Mr. Andrews shot Mr. Hinson four times. Mr. Hinson died in a hospital, three days later, from massive internal injuries caused by

gunshot wounds. After an investigation, police obtained a warrant for Mr. Andrews' arrest. After learning of the warrant, Mr. Andrews voluntarily surrendered on January 24, 1995.

II. PAROLE HEARING ON SEPTEMBER 26, 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 *Diatchenko* (and others similarly situated) must be given a parole hearing. Following the *Diatchenko* decision, Mr. Andrews became eligible for parole. He was denied parole after his initial hearing in 2015.

Kim Andrews, now 42-years-old, appeared before the Parole Board for a review hearing on September 26, 2019. He was represented by Attorney Michael Hussey. In his opening statement to the Board, Mr. Andrews apologized to the Hinson family for the pain and suffering he caused. He expressed his deep shame and regret that, at the time he killed Mr. Hinson, he didn't know him. He stated that he has since learned about the life of Mr. Hinson and is remorseful for his actions. Mr. Andrews explained that he was 17-years-old and living the "gang life" at the time of the murder. He was very angry and "hanging on the block" with people that he thought were his friends. He denied being involved with selling drugs, but admitted that he became involved with a gang at age 10. He told the Board that he was asked if he wanted to "be down" with the gang, and he responded "yes." Mr. Andrews admitted that he feared to say no. He held guns and did whatever he was told, such as making sure that no one came into their "territory" during a gang war. Mr. Andrews explained that he dropped out of school and, at one point, lived with his mother in South Carolina, before returning to his old neighborhood in Massachusetts. The Board noted the trauma that existed in Mr. Andrews' childhood. Mr. Andrews denied having a history of drug or alcohol use.

When questioned as to the events leading up to the governing offense, Mr. Andrews stated that he did not know Mr. Hinson. Mr. Hinson was followed when he was in his (Mr. Andrews') neighborhood, and a confrontation ensued. Mr. Andrews acknowledged that when he walked towards him with his gun drawn, Mr. Hinson had his hands up. He stated that he shot Mr. Hinson four times. He then left the state, but later turned himself in to police. Prior to this shooting, he admitted to firing a weapon once. While incarcerated, Mr. Andrews told the Board that he has participated in programming efforts, which include Restorative Justice, Emotional Awareness, and Jericho Circle. He indicated that he is on the wait list for the Toast Master and Able Minds programs and welding school. Mr. Andrews obtained his GED and plans to sign up for computer class. He denies any need for mental health counseling, indicating that his anger stemmed from his childhood. He explained that he is not as angry now and understands the feelings of others. Regarding disciplinary reports, Mr. Andrews indicated that he had seven. The last one occurred in 2012.

Mr. Andrews acknowledged that he has been in custody for 24 years. He has maintained contact with his mother, grandmother, grandfather, and brother. He told the Board that he works as a clerk, but has not been able to obtain any vocational skills. When Board Members asked him what he is interested in doing, Mr. Andrews responded, "I like history." When questioned as to how he could make a living out of that, he responded, "I don't know."

Mr. Andrews agreed that he would need counseling, if paroled, to deal with anger issues from his childhood. It was noted that Mr. Andrews has not addressed his anger issues with anyone, except his mother and grandmother. He agreed with the Board's concern that, during his incarceration, he has worked towards rehabilitation for only 5 or 6 years. Mr. Andrews agreed with the Board that there is more work to do.

The Board considered the psychological evaluation of Mr. Andrews conducted by Dr. Eric Brown in 2015, and referenced in the memorandum in support of parole by his attorney.

The Board considered testimony in opposition to parole from Mr. Hinson's aunt, cousin, and brother. Suffolk County Assistant District Attorney Charles Bartoloni spoke on behalf of Suffolk District Attorney Rachael Rollins and did not oppose parole.

III. DECISION

The Board is of the opinion that Kim Andrews has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. He has been in custody for 24 years for the murder of Mr. Hinson. Mr. Andrews would benefit from participation in vocational training and should further address his anger issues. The Board did consider his age and maturity at the time of the offense.

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 or second-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 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 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 20-24. The Board has also considered whether risk reduction programs could effectively minimize Mr. Andrews' risk of recidivism. After applying this standard to the circumstances of Mr. Andrews' case, the Board is of the opinion that Kim Andrews is not yet rehabilitated, and his release is not compatible with the welfare of society. Mr. Andrews, therefore, does not merit parole at this time.

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

5/19/2020
Date