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PAROLE BOARD

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Josh Wall
Chairman

DECISION

IN THE MATTER OF

LAWRENCE HEARN

W45406

TYPE OF HEARING: **Revocation Review Hearing**

DATE OF HEARING: **March 11, 2014**

DATE OF DECISION: **August 21, 2014**

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Lucy Soto-Abbe, Josh Wall.

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying 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 writing, we conclude by unanimous vote that Mr. Hearn is a suitable candidate for re-parole to an approved home plan on or after September 8, 2014.

I. STATEMENT OF THE CASE

On April 2, 1988, after an altercation at a Revere bar between Lawrence Hearn and some other patrons, he revisited the scene with a gun looking for the two people he had fought with. One of them, the victim, John Maragni, crossed the street towards Hearn's vehicle. Observers heard a loud noise and then saw the victim collapse at the curb. Hearn fled soon after the murder. Hearn was arrested for the murder of Mr. Maragni twelve days later in Denver, Colorado. Hearn has always claimed that he was attacked, and that the attack was racially motivated. He has also insisted that when the victim approached his car, he thought he pulled something out of his back. He admits firing one shot at the victim.

On October 14, 1988, in Suffolk Superior Court, Hearn was found guilty of murder in the second degree. That same day he was convicted of unlawful possession of a firearm for which he received a concurrent sentence of four to five years.

Hearn appealed, claiming error in the exclusion of statements made by him to a Denver police officer following his arrest and in the failure of the jury to reconvene prior to commencing deliberations. In a pro se supplemental brief, Hearn also argued that the judge's jury instructions on malice set up a presumption which relieved the Commonwealth of its burden of proving malice. The convictions were affirmed *Commonwealth vs. Hearn*, 31 Mass. App. Ct. 707, 1991. Further appellate review was also denied, *Commonwealth v. Hearn*, 412 Mass. 1101, 1992.

Following the convictions being affirmed Hearn moved for a new trial, which was denied. Hearn appealed the decision and contended that his attorney rendered ineffective assistance by failing to object to the trial court's erroneous manslaughter instruction and failing to pursue intoxication as the mitigating factor and to request that the judge so instruct the jury. The decision denying motion for new trial was affirmed *Commonwealth v. Hearn*, 58 Mass. App. Ct. 1103, 2003.

II. PAROLE HISTORY

Lawrence Hearn was denied parole after his initial hearing in 2003. The Parole Board concluded that Hearn lacked credibility about his crimes and that his institutional behavior did not merit parole. After his second hearing, he was granted parole in 2006 to a long term residential treatment program. The Parole Board concluded that Hearn had made significant strides in his overall rehabilitation.

Upon release, Hearn graduated from the Gavin House long term residential program and moved in with his son. Hearn moved in with his wife, Claudette Harris, in 2006. Ms. Harris suffered from diabetes and required some assistance with her medical needs. Their relationship was described as generally positive, but there were stressors that Hearn found difficult to deal with in their relationship. Hearn was also working hard to establish his career as a barber. He received his barber's license in 2006 and he was working with Mass Rehab. Hearn was compliant with his parole conditions at that time. In 2006, the Board voted no action when Hearn was summonsed to court for a driving infraction. He again resolved two additional traffic violations in 2008, which resulted in no action by the Parole Board.

On September 5, 2008, Hearn was arrested by Lynn Police and charged with intimidation of a witness and threats to commit a crime. The incident involved one of his sons and his son's wife. A civil restraining order was obtained by his son's wife. The charges and the restraining order resulted in his provisional revocation and Hearn was returned to prison pending further review. On February 17, 2009, the Parole Board voted to not affirm the revocation stating there was no probable cause found and there was no belief that a violation occurred. A graduated sanction was issued to have no further contact with his son and his son's wife without the parole officer's permission. He was released on February 18, 2009 with the same conditions.

In 2012, Hearn was given numerous warning tickets for failure to pay his supervision fees. He was also alerted by his parole officer that his license was suspended and that he needed to resolve that issue immediately. On February 1, 2013, Hearn received a civil citation from Massachusetts State Police at 2:00 a.m. for driving without a license. This resulted in several parole violations. The Parole Board issued a Final Warning and added the condition of a

curfew at the parole officer's discretion. Hearn resolved the issues with his driver's license and his license was re-instated.

On June 6, 2013, Lynn Police were conducting a sting operation using an undercover officer as a decoy prostitute. Hearn was arrested and charged with paying for sexual conduct. At the time of his arrest, he was operating a vehicle owned by an individual known to have a criminal record. He was found in violation based on the new offense, failure to pay his supervision fee, being in violation of his curfew, and association with a person known to have a criminal record. On August 12, 2013, Hearn admitted to sufficient facts of trying to pay for sexual conduct and the case was continued without a finding. The case has since been dismissed. His revocation was affirmed on all counts by the Parole Board on January 23, 2014 and parole was revoked.

III. PAROLE HEARING ON MARCH 11, 2014

Lawrence Hearn was represented by Attorney Mary Teczar. Attorney Teczar provided some clarification concerning legal issues and corroborated parts of Hearn's testimony. Hearn provided the majority of his testimony independently.

The Parole Board revisited the governing offense which Hearn now states was motivated by drugs. He admits that he was abusing and selling cocaine at the time and had been robbed of his drugs on the night of the offense. He maintains that the victim was involved in the robbery and continues to imply that he was in fear for his safety when he fired the shot killing Mr. Maragni. The Parole Board also reviewed Hearn's criminal history. Hearn did provide in-depth explanations of his record which appeared consistent with his board of probation record. The Parole Board also reviewed his history of rehabilitation both in and out of the institution and areas in his life where he has struggled.

The Parole Board primarily focused on the areas of his life that have presented as obstacles, and have led to his return to custody. Hearn admits that he has struggled financially to support himself and honor his other responsibilities. He stated he was renting a chair in a barber shop and found it difficult to consistently meet all of his financial obligations. Hearn provided a history of his income, financial responsibilities, and how he would be able to meet his obligations in the future.

Hearn also struggled with anxiety issues and was engaged in counseling throughout his parole. He went through various medication changes and was eventually weaned off of medications as he enhanced his coping skills and his symptoms decreased. Hearn stated that his personal relationships were also a source of stress for him. He stated that he did have turmoil in his relationship with one of his son's and his son's wife, but insisted no wrongdoing occurred and that he has severed all contact with them because he knew his relationships with them were not healthy. Hearn provided details of his personal issues with his wife and other relationships as well. He admits that he has struggled to maintain consistency and peace in his personal relationships, but insisted that he had made significant strides in that area as well. Hearn identified periods of his experience on parole where he was overwhelmed and could have made better decisions to stabilize his life. He did however emphasize that he has always invested in his work, has always received positive work evaluations, and he believes his overall conduct showed good citizenship.

Concerning his most recent violations, Hearn reluctantly agreed that he did engage an undercover officer in a discussion over paying for oral sex. Hearn stated that he was in a sense "set up", but ultimately accepted that his actions were in fact in violation of the law. He insisted that he was not looking to find a prostitute that night. He was also asked to consider whether he was, in fact, in a stable place in his life. Hearn stated that he is in a stable relationship with his girlfriend whom he has known for many years. He stated that his girlfriend is a loving partner and a strong positive influence. Hearn stated his recent conduct was not a reflection of their relationship but had more to do with opportunity and impulsive bad decisions he made. He stated they have worked through this issue together and he believes they are in a very good place.

Hearn also provided an explanation regarding his operation of a vehicle by a person known to have a criminal record. Hearn stated that he was unaware of the person's criminal history. Hearn stated this person was willing to help him buy the vehicle by making reasonable monthly payments. After questioning by the Board, Hearn appeared to provide a reasonable set of circumstances that led to his unknown violation of the association rule. The individual in question also provided a letter corroborating the arrangement and relationship they had. Hearn also denied that he had a curfew at the time of his arrest, stating that his parole officer did not exercise his right to enforce the curfew. It was Hearn's understanding that he did not have a curfew at that time.

The Parole Board was most interested in gaining an understanding of Hearn's lifestyle, conduct, motivations, and level of support. Hearn provided documentation that he can return to his employment at the barber shop and will have financial support from his girlfriend's income as well. He stated that he loves his work in the barber shop and intends on rebuilding and adding to his cliental. He can reside with his girlfriend so he does feel that all areas of his life will be stabilized. Hearn provided letters of support from several family members, friends and his employer.

Suffolk Assistant District Attorney Charles Bartoloni provided a letter to opposition of Hearn's re-parole highlighting the numerous violations Hearn has accrued during his time on parole.

IV. DECISION

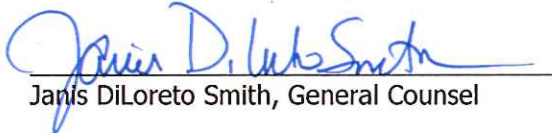
Lawrence Hearn has been re-incarcerated since June 7, 2013. Given the nature of the violations, re-incarceration has served its purpose of holding him accountable and allowing additional rehabilitation. Hearn was initially released on parole in 2006. He has had many achievements that have enabled him to be a positive, contributing member of society. Hearn has also maintained his sobriety after committing to treatment. Hearn is a licensed barber who is able to return to his place of employment, and he appears to have a reasonable financial plan that will enable him to live within his means while complying with all of his financial responsibilities. Hearn has utilized the time while incarcerated to continue to work as a barber and to focus on stabilizing his relationships and gaining their support, which he will need in order to successfully re-integrate into society. The Parole Board has received many letters of support that include a positive release plan that enables Hearn to resume his employment as a barber, he will live with his girlfriend which will alleviate some of the financial strain, and he will

continue to have the support of family and friends. Hearn appears to have addressed the issues that presented as challenges and obstacles during his period on parole. He presents no current risk for violence.

The standard we apply in assessing candidates for parole is set out in 120 C.M.R. 300.04, which provides that, "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." Applying that appropriately high standard here, the Board finds that Hearn is a suitable candidate for parole to an approved home plan.

SPECIAL CONDITIONS: Parole to approved home plan; curfew between 10 p.m. and 6 a.m.; no drug use; no alcohol use; Alcoholics Anonymous at least three times per week; counseling for adjustment and relationship issues; GPS for six months and then at parole officer discretion.

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.


Janis DiLoreto Smith, General Counsel


Date