



**Charles D. Baker**  
Governor

**Karyn Polito**  
Lieutenant Governor

**Daniel Bennett**  
Secretary

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

**PAROLE BOARD**

*12 Mercer Road*  
*Natick, Massachusetts 01760*

*Telephone # (508) 650-4500*

*Facsimile # (508) 650-4599*



**Charlene Bonner**  
Chairperson

**Janis DiLoreto Smith**  
Executive Director

**DECISION**

**IN THE MATTER OF**

**LEE UNDERWOOD**

**W-45135**

**TYPE OF HEARING:** Review Hearing

**DATE OF HEARING:** February 3, 2015

**DATE OF DECISION:** March 23, 2015

**PARTICIPATING BOARD MEMBERS:** Dr. Charlene Bonner, Sheila Dupre, Lee Gartenburg, Ina Howard-Hogan.

**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 written submissions to the Board, we conclude by unanimous vote that the inmate is a suitable candidate for parole. Parole is granted to a long term residential program upon successful completion of six months in lower security.

**I. STATEMENT OF THE CASE**

On July 22, 1988, after a jury trial in Middlesex County Superior Court, Underwood was found guilty of second degree murder and sentenced to life in prison.

On January 27, 1985, in Watertown, Massachusetts, Lee Underwood beat Donald Crescitelli in the head with a lead pipe, killing him. The Massachusetts Appeals Court affirmed the conviction in 1994. *Commonwealth v. Underwood*, 36 Mass. App. Ct. 906 (1994). The following facts are culled, in part, from the Appeal's Court decision.

On the night of the murder, Underwood and his girlfriend, Donna Carter, were at a bar in Watertown. Underwood stopped to speak with the victim, who was an acquaintance. At some point during the evening, the victim touched Ms. Carter's buttocks, which angered Underwood. Carter and Underwood began to argue, decided to leave, and returned to her car. They continued to argue and then Underwood left the car, claiming he wanted to go back inside

the bar to use the restroom. Underwood saw the victim again, followed him into the restroom, and demanded an apology. When the victim refused to apologize, Underwood went back to Ms. Carter's car and retrieved a lead pipe that she kept for protection. He approached the victim in the parking lot and smashed him in the back of the head with the pipe, at least three times. He struck (at least) one of the blows while the victim was lying on the ground, motionless.

After beating the victim, Underwood went back to Ms. Carter's car and the two left. Underwood later told Ms. Carter that he hit the victim because he was angry at him for touching her buttocks. Underwood was initially questioned about his involvement in the murder, but denied any knowledge of the assault on the victim. Three years later, however, he admitted his involvement to the police. He told them that he beat the victim because he was insulted.

## **II. PAROLE HEARING ON FEBRUARY 3, 2015**

Lee Underwood, now 60 years-old, appeared for his third parole hearing since his return to custody nearly six years ago. Student Attorney Courtney Thomas, from Northeastern School of Law, represented Underwood at the hearing. Underwood provided an opening statement in which he expressed his remorse for the pain he has caused to the victim's family. He said that he wished nothing more than to take back his actions that resulted in the victim's death. Student Attorney Thomas also provided an opening statement that cited, in part, that "Underwood realizes that his battle with substance abuse was a major factor in both the underlying crime and his parole violations. Since his re-incarceration in 2009, Underwood has taken the opportunity to closely evaluate and address his difficulty controlling his addictions through self-reflection and active participation in programming such as Alcoholics Anonymous (AA), Big Book and Smart recovery and individual counseling. Through this programming Underwood has developed various skills and techniques to treat his addiction and has implemented all that he has learned into his everyday life. He is committed to a lifetime of care, therapy, and dedication to control his addiction."

The Parole Board questioned Underwood, at length, regarding his criminal history and issues on parole. Underwood provided a detailed and comprehensive version of the offenses for which he has been convicted that is consistent with all known facts. He described in detail his feelings of anger (fueled by the consumption of drugs and alcohol) and the lifestyle that he experienced during this period of time. The Parole Board was most interested in learning whether Underwood understands the factors that caused him to commit such a heinous crime, as well as the factors that contributed to his parole failures. Finally, the Parole Board focused on whether he now possesses the insight and skill set to be a productive member of society.

As noted, Underwood has been re-incarcerated since 2009. He has had many issues while on parole, and each concern was addressed in the hearing. Underwood was asked specific questions related to the precipitants to the violations, how he addressed each violation, and where he thinks he failed in meeting parole's expectations. Underwood spoke to each violation, and included his mindset at that time, versus how he views his decision making and responsibility now in each circumstance. Underwood applied, what appeared to be, a skill set and insight that he has gained since his return to custody. Underwood recognized that the Parole Board failed to release him back to the community because he had not demonstrated that he had been rehabilitated. Underwood insisted to the Parole Board that, especially since



his last hearing, he has been able to gain a deeper understanding of how his criminal thinking and substance abuse/dependency issues contributed to his governing offense and to his parole failures. Underwood attributes his progress in rehabilitation to the programming he has engaged in and to the on-going participation in individual drug and alcohol counseling.

Underwood has been incarcerated for more than 25 years and he has participated and completed numerous programs. The Department of Correction records provide that since his return to custody, Underwood has completed programming to address his issues with violence, such as the Alternatives to Violence Facilitator's Support Group and Criminal Thinking. He has addressed his substance abuse issues by participating in SMART Recovery, Alcoholics Anonymous (AA), 12 Step, and Big Book programs on a weekly basis. Since his last parole hearing, Underwood has also used his time productively, as he worked as a law clerk and participated in the Project Youth initiative, mentoring at risk youths. Underwood said that he is currently working with the administration at MCI-Concord to reinstate the Project Youth program that was suspended in 2013. Finally, he has actively engaged in individual mental health counseling to further address his substance abuse issues, as well as other emotional concerns over the course of the past two years.

Underwood informed the Board that the individual counseling he sought, after receiving the most recent decision from the Parole Board, was one of the most influential programs that he attended. The counseling has provided him with a much deeper understanding of substance abuse/dependency issues and relapse prevention. It also afforded him the opportunity to put things into perspective and to discuss and convey feelings that lead to depression. He now recognizes that although he has engaged in treatment and programming over the years, there were many things that he never internalized. He also spoke to the importance of his participation in the Project Youth program as member, team captain, and ultimately, program coordinator. In addition, the SMART Recovery program, which serves those struggling to overcome substance abuse, has provided him with an understanding of his emotions and how to deal with these as a sober law-abiding citizen.

Underwood is serving his first Massachusetts incarceration, but has two prior out of state incarcerations. His adjustment includes one placement in the Special Management Unit, one parole failure, and 10 disciplinary infractions. He has been disciplinary report free since 2010, when he incurred a minor infraction for failure to stand for count. Underwood seeks a re-parole to a long term residential program after a gradual transition through lower security. He conveyed that he now recognizes a structured release is what would work for him both today and in the future. He would pursue employment as a welder with the Boilermakers, Local 29. His plan is to attend AA and Narcotics Anonymous meetings and to surround himself with other individuals who are in recovery. Underwood provided letters of support who agree to assist him with his transition.

Donald Crescitelli's family members attended the hearing in opposition of Underwood's petition for re-parole. Mr. Crescitelli's daughter and sister spoke in staunch opposition. Another sister of the victim submitted a letter outlining her opposition to Underwood's petition for parole, which was read by a member of the Victim's Service Unit. Middlesex County Assistant District Attorney Adrienne Lynch submitted a letter and spoke in opposition, outlining the District Attorney's position regarding Underwood's petition for parole. ADA Lynch cited, "Since his last hearing, it appears Mr. Underwood has finally *begun* to seriously address the Board's



concerns regarding his substance abuse issues as well as issues related to his mental health and violence history. Although he is to be commended for his efforts thus far, it is the position of the Middlesex District Attorney's Office that he remains a high risk for relapse. Given his track record on the prior occasions when he has been given parole and failed he remains a risk to violate the law. However, if the Board is inclined to give Mr. Underwood yet another opportunity and grant his request for parole, the Commonwealth would respectfully urge the Parole Board to make any release on parole subject to Underwood's successful transition to a lower security level within the correctional system followed by a long term residential program prior to release to the community with the strict conditions of parole in the immediate release prior, including on-going drug and alcohol programming."

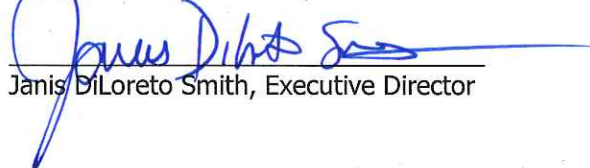
### **III. DECISION**

Underwood murdered Donald Crescitelli in January 1985 and has been incarcerated for over 25 years. Underwood was returned to custody in 2009 for issues that were directly related to his addiction. Underwood has identified the issues that have led to his parole failures and criminal history. He appears to have made significant strides in addressing those issues and has established a re-entry plan that will enable him to continue his treatment. After serving an additional six years for his most recent violations, he presents as ready and capable to continue his ongoing treatment and recovery in the community.

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, it is the unanimous opinion of the Board that Lee Underwood does merit parole at this time.

**SPECIAL CONDITIONS:** Reserve to a long term treatment program after six months in lower security; Must have a mental health evaluation; No drug use or alcohol use, with testing for compliance; Attend AA/NA at least three times a week and obtain a sponsor; GPS monitoring; Must abide by curfew; Have no contact with the victim's family; Report to Parole Office on the day of release.

*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, Executive Director

  
Date