



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

Thomas A. Turco III
Secretary

Telephone: (508) 650-4500
Facsimile: (508) 650-4599



Gloriann Moroney
Chair

DECISION

IN THE MATTER OF

LEE UNDERWOOD

W45135

TYPE OF HEARING: **Review Hearing**

DATE OF HEARING: **October 16, 2018**

DATE OF DECISION: **July 24, 2019**

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Colette Santa, Lucy Soto-Abbe,¹ Paul Treseler

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 July 22, 1988, after a jury trial in Middlesex Superior Court, Lee Underwood was convicted of the second-degree murder of Donald Crescitelli and sentenced to life in prison with the possibility of parole. Mr. Underwood unsuccessfully appealed his conviction.²

On January 27, 1985, Lee Underwood (age 30) beat to death 41-year-old Donald Crescitelli with a pipe. On the night of the murder, Mr. Underwood and his girlfriend were at a bar in Watertown. Mr. Underwood's girlfriend stopped to speak with Mr. Crescitelli, who was an acquaintance. At some point during the conversation, Mr. Crescitelli touched Mr. Underwood's

¹ Board Member Soto-Abbe was present at the hearing, but was not a Board Member at the time of vote.

² *Commonwealth v. Lee Underwood*, 36 Mass. App. Ct. 906 (1994).

girlfriend's buttocks. Mr. Underwood became angry when his girlfriend told him about the inappropriate behavior. They both left the bar and went to their car, where they argued. At some point, Mr. Underwood left the car, claiming that he wanted to go back inside the bar to use the restroom. Once in the bar, Mr. Underwood exchanged words with Mr. Crescitelli, who then followed him outside. Mr. Underwood went back to his girlfriend's car and retrieved a pipe or club that his girlfriend kept in the car for protection. He then followed Mr. Crescitelli to his car and demanded an apology for touching his girlfriend. An argument ensued, and Mr. Underwood struck Mr. Crescitelli multiple times with the pipe. Mr. Crescitelli died as a result of blunt force head trauma. Blood found in the area indicated that the victim was struck while on the ground.

After beating Mr. Crescitelli, Mr. Underwood went back to his girlfriend's car, and the two left. When Mr. Underwood was initially questioned about the murder, he denied any knowledge about the assault. Three years later, however, he admitted his involvement to police.

II. PAROLE HEARING ON OCTOBER 16, 2018

On October 16, 2018, Lee Underwood, now 64-years-old, appeared before the Parole Board for a review hearing. He was represented by Northeastern law Student's Rachael Mills and Monica Shah. Mr. Underwood was denied parole after his initial hearing in 2002. He was granted parole after his review hearing in 2005. In January 2007, his parole was provisionally revoked, and a warrant was issued for temporary custody, after Mr. Underwood self-reported a relapse with fentanyl and checked himself into a detox center. The Board voted to withdraw the warrant and to add increased substance abuse treatment as a condition of parole. In May 2007, Mr. Underwood's parole was provisionally revoked after he was arrested for driving with a revoked license and for possession of Xanax. These charges were later dismissed. In February 2008, the Board voted not to affirm revocation and released Mr. Underwood to a long term residential program. In June 2009, while at a sober house, Mr. Underwood was evicted after testing positive for Valium. He received a final warning and graduated sanction. In July 2009, he entered the Wyman Reentry Residential Program, where he violated parole. Parole was denied after both his 2010 and 2013 review hearings. Mr. Underwood was granted parole to a long term residential program after his 2015 review hearing. In 2017, Mr. Underwood tested positive for Suboxone use, and his parole was revoked.

In his opening statement to the Board, Mr. Underwood apologized to the Crescitelli family for taking the life of their father, brother, uncle, and son. He also apologized to the Board for violating parole. The Board questioned Mr. Underwood as to why he was first returned to custody. Mr. Underwood explained that, in 2006, he ate a fentanyl patch given to him by an acquaintance. He stated that he immediately reported his relapse to his parole officer and checked himself into a detox center. After being released from the detox center, Mr. Underwood said that he tested positive for benzodiazepine. He claimed that he was given 'Librium' (benzodiazepine) by staff at the detox center as part of his treatment, stating it was the only drug he has taken since the fentanyl patch.

When a Board Member questioned Mr. Underwood as to his arrest for driving with a revoked license on parole, Mr. Underwood explained that the Registry of Motor Vehicles had accidentally issued him a new license, instead of re-instating his right to drive. Mr. Underwood felt that, until his arrest, he had been doing well; he had a job with the boilermakers union, a

car, and an apartment. After his re-release, Mr. Underwood had an operation on his foot and was trying to stay off pain medications, but when a co-worker offered him valium, he took it. This violation led to a final warning and placement in the Wyman Re-entry Program, where Mr. Underwood reported he did not get along with his case manager. After he was given a backpack with work boots for use in the garden, Mr. Underwood said that he put the bag in his room. Later in the day, a staff member accused him of stealing the backpack. Mr. Underwood's parole was subsequently revoked for stealing, for being manipulative to staff, and for not completing the Long-Term Residential Treatment Program. After his re-parole in 2015, Mr. Underwood stated that he was struck by a car while crossing the street. He explained that he suffered painful migraine headaches after the accident, which, combined with his addiction issues, led him to abuse Suboxone and resulted in a parole revocation.

The Board questioned Mr. Underwood as to the underlying events leading up to the murder. Mr. Underwood recounted how he and his girlfriend were drinking at a bar in Watertown, when his girlfriend accused Mr. Crescitelli of touching her inappropriately. Mr. Underwood described how he told Mr. Crescitelli to "keep your hands to yourself," which led to a heated exchange. Mr. Underwood went to his girlfriend's car and got a club that she kept under the seat for protection. He admitted to hitting Mr. Crescitelli with the club, at least three times, before fleeing the crime scene. According to Mr. Underwood, when he and his girlfriend were splitting up three years later, she went to police and told them everything she knew about the murder. He was subsequently arrested and gave a full confession.

Since his return to custody, Mr. Underwood reported that he participates in Gateway to Freedom, Alcoholics Anonymous Big Book and Twelve Step programs, a Narcotics Anonymous/Alcoholics Anonymous discussion group, Correctional Recovery Academy – Relapse Prevention, and a Restorative Justice weekend. Mr. Underwood believes that the Restorative Justice Weekend provided him with deeper insight into the effects of his crime on the victim's family and friends. If paroled, Mr. Underwood asks for a release to a Long Term Residential Treatment Program at Answer House, where he would seek addiction treatment counseling.

A friend from Mr. Underwood's church and his former employer both testified in support of parole. Mr. Crescitelli's daughter testified in opposition to parole. A Victim Services Coordinator read a letter from Mr. Crescitelli's sister in opposition to parole. Middlesex Assistant District Attorney Howard Blatchford testified in opposition to parole and submitted a letter of opposition.

III. DECISION

The Board is of the opinion that Lee Underwood has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. His poor performance on parole continues to indicate that he is not rehabilitated and is not ready for community supervision. He has had the benefit of numerous intensive treatment programs; however he has been terminated from programs due to relapse and conflicts. He continues to minimize his behaviors resulting in a return to custody.

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. Underwood's 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. Underwood's risk of recidivism. After applying this appropriately high standard to the circumstances of Mr. Underwood's case, the Board is of the unanimous opinion that Lee Underwood is not yet rehabilitated and, therefore, does not merit parole at this time.

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

7/22/2019
Date