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*The Commonwealth of Massachusetts*  
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**PAROLE BOARD**

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Josh Wall  
Chairman

**DECISION**

**IN THE MATTER OF**

**LEE UNDERWOOD**

**W45135**

**TYPE OF HEARING:** **Revocation Review Hearing**

**DATE OF HEARING:** **February 14, 2012**

**DATE OF DECISION:** **May 1, 2013<sup>1</sup>**

**PARTICIPATING BOARD MEMBERS:** Cesar Archilla, Charlene Bonner, Sheila Dupre, Ina Howard-Hogan, Roger Michel, 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 the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in three years from the date of the hearing. The next hearing will be in February of 2015.

**I. STATEMENT OF THE CASE**

On February 14, 2012, Lee Underwood appeared before the Parole Board as a parole violator. He was originally paroled on July 6, 2005. His parole was provisionally revoked in January 2007, when he self-reported a drug relapse and checked into a rehab facility after ingesting half of a Fentanyl patch. He also tested positive for Benzodiazepine. The Parole Board issued a warning for these infractions and supervision resumed. He was next taken into custody in May 2007 after being arrested in East Boston for possession of Xanax and driving with a revoked license. The criminal charges were eventually dismissed, and the parole revocation was not affirmed. Mr. Underwood tested positive for Benzodiazepine in June 2009 and admitted that he used Valium that was not prescribed to him. The Parole Board issued a Final Warning and directed him to complete a long-term residential program. Mr. Underwood

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<sup>1</sup> This decision was delayed because it had been assigned to an employee who left the agency without completing the decision. The Parole Board regrets the uncertainty and inconvenience that this delay caused to those involved.

was taken into custody a third time, and revocation proceedings began, in August 2009 after he was terminated from the Wyman Re-entry House for being found in possession of the personal property of a counselor. In March 2010, the revocation was affirmed. The Board denied parole after a review hearing on June 8, 2010.

On January 27, 1985, Lee Underwood beat Donald Crescitelli in the head with a lead pipe, killing him. After a jury trial in July 1988, he was convicted of second-degree murder and sentenced to serve life in prison. 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 Appeals Court's decision.

On the night of the murder, Mr. Underwood and his girlfriend, Donna Carter, were at a bar in Watertown. Mr. Underwood stopped to speak with the victim, who was an acquaintance. At some point during the evening, the victim touched Ms. Carter's buttocks, angering Mr. Underwood. Mr. Underwood and Ms. Carter began to argue, decided to leave, and returned to her car. They continued to argue, and Mr. Underwood left the car, claiming that he wanted to go back inside the bar to use the restroom. Mr. Underwood saw the victim again, followed him into the restroom, and demanded an apology. When the victim refused to apologize, Mr. 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, Mr. Underwood went back to Ms. Carter's car and the two left. Mr. Underwood later told her that he had hit the victim because he was angry at him for touching her buttocks. Mr. Underwood was initially questioned about his involvement in the murder, and denied any knowledge of the assault on the victim. Three years later, however, he admitted his involvement to the police, telling them that he had beaten the victim because he was insulted.

## **II. PAROLE HEARING ON FEBRUARY 14, 2012**

Lee Underwood said that "for 18 months on parole I worked and used all the tools, then I started missing meetings, lost my sponsor, and ended up in full addiction." He said that he worked 60-70 hours a week, and that this led to his relapse. He was represented by Northeastern Student Attorney Sarah Allar.

Since his return, Mr. Underwood said that he is "working tirelessly on these issues." He said that he participates in AA and Fellowship Discussion Group, and that "a lot of people in the institution rely on me for advice."

Board Members questioned Mr. Underwood about his time at Wyman Re-entry House. Wyman counselors had documented multiple problems with Mr. Underwood's actions, including that he was manipulative, unfocused, misrepresented medical issues, received a warning for disobeying staff, and resisted accepting responsibility for his situation. The final event was Mr. Underwood's possession of staff property, which he denied any responsibility for at the program and at this parole hearing. When interviewed by Parole staff before the hearing, Mr. Underwood insisted that he was doing well at Wyman and all the staff claims were false. Under

questioning at this hearing, Mr. Underwood finally acknowledged that "I had a poor attitude at Wyman, I didn't do well."

A Board Member told Mr. Underwood that "my questions are about character, not just addiction; my interpretation of the case notes is that you are a savvy, intelligent, manipulative person." Another Board Member remarked that both Mr. Underwood and his lawyer suggested that he had relapsed because he was working so many hours, but that the record shows that Mr. Underwood was unemployed collecting benefits during much of his parole, including at the time of the last relapse.

Donald Crescitelli's sister, daughter, and son spoke in vehement opposition to re-parole. His sister recalled the trial testimony that Mr. Underwood lay in wait for the victim and killed him with "a sneak attack." Middlesex Assistant District Attorney Steven Hctor noted that Mr. Underwood testified at trial that he acted in self-defense, testimony that he now admits was a lie. ADA Hctor also noted that Mr. Underwood escaped from a non-secure facility in Virginia. Two friends of Mr. Underwood's spoke in support of parole.

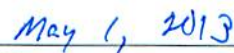
### **III. DECISION**

Lee Underwood was given multiple chances on parole to treat his addiction in the community. For his last relapse, the Parole Board sent him to a long term residential program as an alternative to revocation. Mr. Underwood undermined that solution with a poor attitude, uncooperative behavior, resistance, and denial. Mr. Underwood charted his own path back to the institution. The poor performance on parole indicated that Mr. Underwood was not rehabilitated and was not ready for community supervision. As recently as two weeks before his parole hearing, Mr. Underwood insisted in his parole staff interview that he did nothing wrong at the long term residential program, and that the program staff falsely accused him in every instance. This attitude demonstrates that Mr. Underwood's work in the institution is incomplete and that he is not ready for community supervision.

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 Mr. Underwood is not a suitable candidate for parole. Accordingly, parole is denied. The review will be in three years from the date of the hearing, during which time Mr. Underwood needs to continue addressing his serious substance abuse problem.

*I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing. This signature does not indicate authorship of the decision.*

  
Josh Wall, Chairman

  
Date