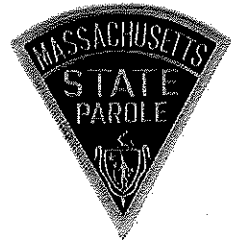




The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

IN THE MATTER OF

MARKENDY JEAN

W89653

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: June 26, 2018

DATE OF DECISION: February 21, 2019

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

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 four years from the date of the hearing.

I. STATEMENT OF THE CASE

On April 6, 2007, in Middlesex Superior Court, a jury found Markendy Jean guilty of murder in the second degree and sentenced him to life in prison with the possibility of parole. At the same time, he was convicted of a firearm offense and received a 3-5 year sentence to be served concurrently with the life sentence. Mr. Jean appealed his conviction and filed a motion for a new trial, both of which were denied. The Appeals Court affirmed both judgments. See *Commonwealth v. Markendy Jean*, 76 Mass. App. Ct. 1115 (2010) and *Commonwealth v. Markendy Jean*, 87 Mass. App. Ct. 1124 (2015). Further appellate review was denied on two occasions. See *Commonwealth v. Markendy Jean*, 456 Mass. 1107 (2010) and *Commonwealth v. Markendy Jean*, 472 Mass. 1104 (2015). Finally, Mr. Jean filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 for violation of his constitutional rights in the United States

District Court for the District of Massachusetts. This petition was denied. See *Jean v. Ryan*, 2017 Westlaw 4169246 (September 19, 2017).¹

On June 8, 2003, Markendy Jean approached 26-year-old Bobby Scott and his girlfriend at a bus stop on Massachusetts Avenue in Cambridge. Without provocation, Mr. Jean shot the victim four times, killing him. Mr. Jean then fled to Florida and, despite contacting Massachusetts law enforcement officials on June 10, 2003, did not disclose his whereabouts until he turned himself in to Florida authorities on July 2, 2003.

II. PAROLE HEARING ON JUNE 26, 2018

Markendy Jean, now 41-years-old, appeared before the Parole Board on June 26, 2018, for an initial hearing. Mr. Jean was represented by Attorney Amy Belger. In Mr. Jean's opening statement to the Board, he accepted responsibility for the murder and apologized to the victim's family, specifically, the victim's daughter. He also apologized to his family and community for the harm caused by his crime. Mr. Jean explained that although he had led a relatively productive life before the murder (by pursuing his education and working full-time), he was derailed by always having "one foot in the street." Mr. Jean told the Board that he chose to leave his family's home in order to regularly deal drugs on the street. He initially met the victim years before the murder, while he was selling drugs. This lifestyle led him to have numerous contacts with the criminal justice system, eventually resulting in his incarceration for a firearm offense. After he was released from custody, he worked odd jobs in order to get himself back on the right track.

When the Board questioned Mr. Jean about the governing offense, he said that his issues with Mr. Scott arose out of a physical altercation with Mr. Scott's cousin. He learned that Mr. Scott was looking for him, and subsequently, the two men had a few interactions over a period of weeks. During one such interaction, Mr. Jean said that Mr. Scott fired a handgun at him numerous times as he ran away. Mr. Jean stated that on the afternoon of the murder, he observed Mr. Scott and his fiancée at a bus stop in Cambridge. He fired numerous shots at Mr. Scott as he ran away, hitting him four times in the back before killing him. When asked by the Board what had precipitated the shooting, Mr. Jean said that Mr. Scott had wordlessly put his fingers in the shape of a gun to his (Mr. Jean's) head. The Board noted that Mr. Jean has changed his account of the events of the murder repeatedly, from when he turned himself in to Florida authorities to his trial, appeals, and other statements. Mr. Jean acknowledged that he has only recently admitted publicly that the killing of Mr. Scott was not in self-defense, as he had previously stated.

The Board questioned Mr. Jean about disciplinary reports incurred throughout his incarceration, noting reports for gambling and consuming alcohol. Mr. Jean explained that prior to his most recent disciplinary report in 2017, he had not had a report since 2009. He credited his change in behavior to his focus on improving himself. He highlighted his work as a barber, tutor, and facilitator (in the program Alternatives to Violence) as being instrumental to his rehabilitation. Mr. Jean's parole plan is to move to a minimum security setting before being placed in a pre-release program. If successful, he would then like to live with his family and continue working as a barber.

¹ Only the Westlaw citation for this matter is currently available.

The Board considered the testimony and written submissions of Mr. Jean's mother, brother, aunt, and friend in support of parole. The Board considered the testimony of Mr. Scott's mother, father, brother, and aunt in opposition to parole. The Board also considered the testimony and written submission of the Middlesex County District Attorney's Office in opposition to parole.

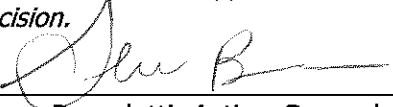
III. DECISION

The Board is of the opinion that Mr. Jean has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Jean should continue to engage in rehabilitative programming and maintain a positive deportment.

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 an 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. Jean's institutional behavior, as well as his participation in available work, educational, and treatment programs during the period of his incarceration. The Board also considered a risk and needs assessment, and whether risk reduction programs could effectively minimize Mr. Jean's risk of recidivism. After applying this standard to the circumstances of Mr. Jean's case, the Board is of the unanimous opinion that Markendy Jean is not yet rehabilitated and, therefore, does not merit parole at this time.

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



Shara Benedetti, Acting General Counsel

2/21/19
Date