



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security

PAROLE BOARD

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DECISION

IN THE MATTER OF

MARVIN CATHEY
W68982

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: September 1, 2015

DATE OF DECISION: December 9, 2015

PARTICIPATING BOARD MEMBERS: Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Lucy Soto-Abbe.¹

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 not a suitable candidate for parole. Parole is denied with a review in five years from the date of the hearing.

I. STATEMENT OF THE CASE

On January 9, 2001, in Worcester Superior Court, Marvin Cathey pleaded guilty to two counts of second degree murder and was sentenced to two consecutive life sentences. On that same day, he also pleaded guilty to forcible rape of a child and received a 10 to 15 year concurrent sentence. Cathey did not file any appeals or post-conviction motions.

In July 1999, 36-year-old Deborah Kucher lived in Leicester with her 18-year-old son, Derrick, and her 9-year-old daughter, Cassie. Marvin Cathey had been living in the Kucher's house since January 1999, but he moved out in June when Derrick moved back home. On July 28th, 1999, Derrick was watching Cassie when Ms. Kucher returned home from work around 5:00 pm. She brought Marvin Cathey home with her, and cooked dinner for everyone while Cathey sat on the couch and drank beer. Two hours later, Ms. Kucher and Cathey went out and Derrick stayed home with Cassie. Cathey and Ms. Kucher returned home around midnight,

¹ Chairperson Bonner accepted Board Member Howard-Hogan's recusal from this matter.

stayed for a short period of time, and then left again. Derrick recalls Cathey being intoxicated at that point in time. At approximately 4:30 am on July 29th, Cassie woke up her brother because their older German shepherd had bitten their new puppy. Derrick cleaned up the puppy, separated the dogs, and went back up to bed. As he lay down, he heard his mother return home with Cathey. Derrick went downstairs, smoked a cigarette, and told his mother about the puppy getting bitten. He then went back upstairs to sleep.

At around noon that day, Derrick woke up and took the puppy outside for a walk. He went back in the house and walked into his mother's bedroom. He found her lying face down and "stiff as a board," with a phone cord around her head. Derrick knew that his mother was dead, so he called 911 and went out the front door. He noticed that his mother's car was missing and called 911 again to inform them of that fact. Derrick then went upstairs to put the puppy into the dog cage (which was located in Cassie's room) and noticed that Cassie had blankets over her. He removed them and discovered her lifeless body, naked from the waist down. Her arms were tied behind her back, there was a towel around her neck, and she was face down on the mattress. He ran from the house and sat (crying) in the middle of the street until police arrived. The medical examiner determined that 9-year-old Cassie had been raped, and died as a result of asphyxia due to strangulation. Deborah Kucher died as a result of ligature strangulation, with two stab wounds found to be contributing factors.

On July 30, 1999, Marvin Cathey was arrested by Massachusetts State Police in Lynn. Cathey made statements at the time of the arrest like, "I choked her" and "I should get the chair." He told police that when he and Deborah Kucher returned to the house around 4:30 that morning, she went up to bed and he sat on the couch, watching pornography and drinking vodka. He said that Cassie came downstairs and when he followed her back upstairs to her bedroom, he proceeded to rape her. He put a pillow over her face, tied her hands behind her back, tied "something around her mouth," and left her face down on the bed. He told police that he then went downstairs and retrieved a knife from the kitchen. He went into Ms. Kucher's bedroom to tell her what happened to Cassie and said that when he entered her room, she got up from the bed and "they began to struggle." He then rolled Ms. Kucher onto the floor, got on top of her, grabbed the phone cord, and wrapped it around her neck until she stopped struggling. He does not recall stabbing her, but her autopsy revealed several stab wounds.

II. PAROLE HEARING ON SEPTEMBER 1, 2015

Marvin Cathey appeared before the Massachusetts Parole Board for his initial hearing. He is currently 47-years-old and is incarcerated at MCI- Norfolk, where he is serving his first of two consecutive life sentences. Cathey did not have representation at this hearing.

Cathey provided an opening statement where he apologized multiple times for his crime. He testified that "it hasn't been easy for me" and thinks about his crimes on a daily basis. Parole Board Members focused extensively on Cathey's lack of institutional programming. They questioned him as to why he has done so little to address his issues with substance abuse, sexual deviance, domestic violence, and overall anger. Cathey provided multiple excuses for his lack of programming: he is "ineligible" for sex offender treatment at this time, he needs more time to reflect, he "couldn't deal" with other inmates making "slurs" directed at him for the nature of his crime, and the Parole Board does not understand what he needs. He told the Board, "I know what I need, the Board does not know." One Board Member noted that Cathey

willingly removed himself from sex offender treatment and actively chose to not participate in Correctional Recovery Academy or in the advanced Alternatives to Violence program. Cathey told the Board he originally thought that after this hearing, he would be automatically paroled to his second life sentence. Thus, his intention was to participate in more advanced programming once he began serving his second life sentence. Cathey also said that despite his lack of programming, he has not spent his incarceration "idly." He testified that he spends his time reading self-help books and reflecting.

Cathey said that his life prior to this crime involved substance abuse and included a lengthy criminal history of violent offenses, weapon charges, and a restraining order. He said that he dropped out of school in the 8th grade because "it didn't work; I couldn't apply myself and I didn't have the patience." Once he dropped out of school, he "got high" all the time and could not maintain stable employment due to his substance abuse issues.

Before asking about the specific circumstances of the rape and murders, the Board asked Cathey about his relationship with the victims, and of his prior statements that 9-year-old Cassie had made sexual advances toward him. Previously, Cathey had identified multiple instances where he alleged Cassie made sexual advances toward him. However, at this hearing, he testified that there was only one instance where the 9-year-old behaved in such a manner. Cathey said that he had to push the victim away from him and that she hit her head on the wall. Following this incident, he said that he moved out of the Kucher home. Cathey told the Board that he cannot prove that the young victim made sexual advances towards him, so "why speak on it." He said that he would take a lie detector test. Cathey was reminded by multiple Board Members that this victim was 9-years-old and was both legally and emotionally unable to consent to any sexual behavior.

Parole Board Members attempted to understand Cathey's motives for committing the brutal rape and murders, but Cathey said that he remembers "really nothing." However, a Board Member read several detailed statements that Cathey had made to police shortly after the crime. Cathey said that he remembers minor events, such as arriving at the home and stumbling, and going upstairs with the young victim, but he does not remember the specific acts of the rape and murders. When reminded that he made specific statements to police about his actions on that night, Cathey said, "I made up most of the stuff." However, when questioned further by another Parole Board Member, Cathey testified that he remembers more details of the night, but does not want to talk about it. Due to Cathey's oscillating testimony at this hearing, it is unknown how much he truly remembers and how much he willingly disregards. However, it is known that Cathey provided an extremely detailed version of the crimes to police soon after they were committed. Cathey's only explanation to the Board for the reasoning behind his crimes was "me being lost," being "self-absorbed," and being under the influence of drugs and alcohol at the time.

At the end of questioning, a Parole Board Member informed Cathey that Ms. Kucher's son (and Cassie's brother), Derrick, died several years ago, and that there was some indication that it was a police-assisted suicide. Upon learning of Derrick's death, Cathey became extremely emotional and had to temporarily leave the hearing to recompose. After several minutes, he was able to return to the hearing and listen to public testimony. Cathey's brother spoke in support of parole and expressed remorse for the victim's family. He said that his own

religious beliefs have allowed him to forgive his brother, and he offered encouraging words to Cathey.

There were many people in attendance in opposition to parole for Marvin Cathey. Four family members of both victims spoke in strong opposition. All family members expressed the significant emotional pain that they experienced following this crime. In addition to the untimely death of Derrick, the family identified several other family members who they believe died prematurely due to a "broken heart." They identified Cathey as a "threat and risk" to the community and stated that there "would be no justice," if he were paroled.

Massachusetts State Police Sargent Jon Provost also spoke in opposition. He responded to the crime scene and testified that Cathey remembers more details than he shared and "has not rehabilitated himself." Sargent Provost described his friendship with Derrick following the crime and his belief that Derrick would have opposed the parole of Cathey. Police Chief James Hurley, retired Officer J. Donald Lennerton Jr., and retired Sargent Joseph Fontaine also responded to the crime scene and appeared in opposition to parole. Police Chief Hurley explained that the officers can "vividly recall" the crime scene. They also presented a recent petition that, as of the date of the hearing, received 2,473 signatures from the public in opposition of Cathey's parole. Worcester County Assistant District Attorney Michelle King also spoke in opposition. ADA King testified that she strongly opposes his parole, even to his second life sentence, and stated that Cathey's crimes were "sadistic and cruel." ADA King testified that Cathey has "selective amnesia" and is choosing to not remember certain aspects.

Cathey provided an emotional closing statement where he testified that he is "not a monster" and that he "will never seek parole again" in the hope of providing some comfort to the family of the victims.

III. DECISION

In the early morning hours of July 29, 1999, Cathey brutally raped and murdered a 9-year-old girl and her mother. Cathey has served approximately 16 years of the first of his two consecutive life sentences. He has participated in minimal institutional programming and has provided numerous excuses at his hearing in an attempt to justify his lack of programming. Cathey responded defensively to nearly all questions, could not articulate the causative factors that led to this crime, and specifically chose to not discuss details related to the crime. It is also inexplicable to the Board that Cathey continues to assert his position that a 9-year-old girl made sexual advances towards him (a 31-year-old man) and insinuates that he was coerced into having sexual relations with her. The Board informed Cathey that had he participated in sex offender treatment, he would have hopefully come to an understanding of such distorted thinking.

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 Marvin Cathey does not merit parole. Marvin Cathey is not rehabilitated. The review will be in five years, during which time Cathey should focus on institutional programming to specifically address his areas of need.

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.


Michael J. Callahan, Executive Director

December 9, 2015
Date