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PAROLE BOARD

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Josh Wall
Chairman

DECISION

IN THE MATTER OF

MATTHEW FARLEY

W38635

TYPE OF HEARING: Review Hearing

DATE OF HEARING: March 4, 2014

DATE OF DECISION: August 21, 2014

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, Josh Wall

DECISION OF BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, institutional record, the views of the public as expressed at the hearing or in written submissions to the Board, and the inmate's testimony, 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 five years from the date of the hearing.

I. STATEMENT OF FACTS

On March 4, 2014, Matthew Farley, age 51, appeared before the Massachusetts Parole Board for his fifth parole hearing. Farley was denied parole at his initial hearing in 1996, and was subsequently denied parole after review hearings in 1999, 2004, and 2009. Farley is serving a life sentence for the second degree murder of D.S.¹, age 28.

The facts are derived from the co-defendant's case, *Commonwealth v. Burden*, 15 Mass. App. Ct. 666 (1983), which affirmed Burden's conviction for the rape and murder of D.S. On March 14, 1981, at approximately 1:00 pm, Farley, then age 18, and Weldon Burden broke into the Boston Back Bay apartment of D.S., a nurse employed by Beth Israel Hospital. Weldon and

¹ A pseudonym. G.L. c. 265, § 24C.

Farley managed to smash open the front door, leaving it to hang only by the uppermost of its three hinges.

Farley and Burden then robbed D.S., and one of the men² raped and fatally stabbed her. Farley, who testified against Burden at his trial, claims that Burden chased D.S. into the bathroom where he grabbed her by the hair, hit her, demanded money, ripped off her jeans with a knife and then proceeded to rape and stab her.

Farley claims that he stole jewelry, a camera, a stereo, and other valuables while Burden was attacking D.S. Both men fled the apartment with D.S.'s valuables.

D.S., who suffered from a four to six inch stab wound to her abdomen, managed to call the police, and told the dispatch that she had been stabbed and needed an ambulance. Shortly before the ambulance arrived, a nurse who was nearby heard D.S. say, "Get a doctor." When the nurse entered the apartment, she asked D.S. what had happened. D.S. responded that she had been raped and stabbed. The nurse checked D.S. for injuries, saw that she had a stab wound on her right side just below her rib cage, and tried to stop the bleeding with a towel. D.S. lost consciousness shortly after describing her attackers to the nurse. The stab wound had cut through D.S.'s liver and aorta, causing a massive hemorrhage. The ambulance arrived, and D.S. was transported to Boston City Hospital where she succumbed to her injury and was pronounced dead.

Meanwhile, Farley and Burden ran from the apartment and split up several blocks away. Farley claims that he later returned to their apartment where Burden met him at the door and said, "*I killed the bitch.*" Farley and Burden then sold the camera, and split the proceeds.³

On December 16, 1981, after testifying against Burden, Farley pleaded guilty to second degree murder in Suffolk Superior Court. He also pleaded guilty to armed robbery, armed assault in a dwelling, and breaking and entering in the daytime. He received life sentences for armed robbery and armed assault, and 8 to 10 years for breaking and entering. All sentences were ordered to run concurrently with each other.

Burden, after trial, was convicted of second degree murder and rape. He was sentenced to life for murder, and to 30 to 40 years for rape, which was ordered to run from-and-after the life sentence. He postponed his scheduled January 2014 parole hearing.

II. CRIMINAL & INSTITUTIONAL HISTORY

Prior to his conviction on the governing offenses, Matthew Farley had 23 juvenile arraignments, and in 1978, he escaped from the Department of Youth Services, only to be apprehended three weeks later. Additionally, Farley had 32 adult arraignments, having been found guilty of assault and battery with a dangerous weapon in 1979, and had four breaking

² Burden, who was convicted of rape by a jury, accused Farley of the rape and stabbing. Farley testified that it was Burden, and maintains it was Burden who raped D.S.

³ Burden admitted to breaking into D.S.'s apartment and to selling her camera and splitting the proceeds later that day.

and entering related arraignments that were guilty filed in 1980. Farley also received a five month suspended sentence for breaking and entering in the day time in November 1980.

During his incarceration on the governing offenses, Farley has a remarkably poor institutional record with little to no program work or participation. Indeed, since his conviction over thirty years ago, Farley has not been involved in programming of any kind. Moreover, at the time of his 2014 parole hearing, Farley had incurred approximately 228 disciplinary reports for a variety of misconduct, including violence towards staff and other inmates, threats, lying, insolence, and possession and use of prohibited substances, among others. Indeed, Farley incurred at least 13 disciplinary reports since his last review hearing in 2009. His most recent disciplinary report was on November 20, 2012 for stealing from another inmate.

Farley was transferred to two out-of-state facilities during this incarceration, and on both occasions, was returned to Massachusetts for poor adjustment. The first return was from New Hampshire in 1982 for refusing to work and reside in the general population. The second was from Rhode Island for accumulating multiple disciplinary reports and assaulting correctional officers on two separate occasions.

III. PAROLE HEARING ON MARCH 4, 2014

Matthew Farley began with an opening statement wherein he asked for forgiveness for the crime and said the following:

I have no intentions of being the person that I was that got me into this situation. I know that my institutional record has not been good. It's not all due to my not being rehabilitated. It's because of the crime and how it happened, and the fact that I testified against my co-defendant and the heat he suffered. I am a changed person, and I believe I should have the opportunity to prove that I've changed and rehabilitated myself.

When asked how he managed to become rehabilitated, Farley said his rehabilitation came from himself, and that he learned to read, write and better himself. He further added that the only way he can prove his rehabilitation is if the Parole Board gives him the opportunity to prove it, because his prison record "doesn't show that."

Farley said he entered but was unable to complete programs in prison due to incurring disciplinary reports. He said he completed the Correctional Recovery Academy ("CRA") program and obtained his GED. However, there is no institutional record to verify this and Farley did not present any record of his own. Farley placed most of the blame for his disciplinary reports not on himself, but on his circumstances. Specifically, he said he received many disciplinary reports because he testified against his co-defendant (Burden), and that caused other inmates to attack him. He said the correctional officers did not like him because of the nature of his case, and would encourage other inmates to provoke him. When asked to identify some disciplinary reports that were due solely to his conduct, Farley mentioned only that he had to make homebrew to sell to other inmates because he was not getting any money in prison. When asked how he has been able to improve his conduct more recently, Farley said he had to put himself in protective custody and stop being around people.

With respect to his background, Farley reports that he began robbing and stealing at around age nine or ten. He specifically recalled that at around age nine he suffered serious injuries after crashing a stolen car. Farley dropped out of school in the seventh grade, and was thereafter sent to a reform school or juvenile facility known as the Hayden School for Boys. He met Burden there when he was age 14 or 15, and the two would commit approximately four robberies prior to the governing offense.

With respect to the March 14, 1981 robbery and murder of D.S., Farley denies that he any had knowledge of the rape and murder while at the scene of the crime. He said he was busy stealing items from another room at the time, and did not hear or see anything indicating that D.S. was either raped⁴ or murdered while he was in her apartment. He said, "I never did anything to the victim; I saw her briefly when she came to the front door; I said 'throw her in the closet'; I steal for a living; I don't rape and kill; I am wrongfully convicted of murder."

No one spoke in support of Farley's parole. Two of the victim's cousins spoke in opposition. Suffolk Assistant District Attorney Charles Bartoloni submitted a letter also in opposition to Farley's request for parole.

IV. DECISION

At age 18, Matthew Farley participated in a home invasion and robbery that led to the rape and murder of a young woman who was unfortunate to be home. Farley has a criminal record of theft and violence dating back to age 11, and has admitted to having engaged in such conduct since age nine or ten.

Farley, by his own admission, has a poor record of institutional conduct. Yet, he is asking the Board to take his word that he has changed himself without the benefit of programming, and to trust that he is rehabilitated enough to return to society without placing the community at risk. Farley's entire history from at least age nine has been one of criminal and antisocial behavior, and by his own admission, the only reason he has been able to moderate his behavior over the last 16 months is because he "stopped being around people."

⁴ Burden testified at his own trial that he saw Farley holding his hand over D.S.'s mouth, and later saw Farley on top of D.S. while they were in her bedroom. *Burden, 15 Mass. App. Ct. at 671 (1983).*

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 Mr. Farley does not merit parole at this time because he is not rehabilitated. The period of review will be five years, during which time Farley should engage in rehabilitative programming (particularly addressing violence, anger, defiance, lack of empathy, substance abuse, mental health concerns, and educational deficits), and must substantially improve his institutional conduct.

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, General Counsel

8/21/14
Date