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DECISION

IN THE MATTER OF

MATTHEW LAVOIE
W82875

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: April 26, 2016

DATE OF DECISION: November 17, 2016

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, Tina Hurley, 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 five years from the date of the hearing.

I. STATEMENT OF THE CASE

On December 16, 2003, in Middlesex Superior Court, a jury convicted Matthew Lavoie of the second degree murder of 29-year-old Westley Vaananen.¹ Mr. Lavoie was sentenced to life in prison with the possibility of parole for the murder of Mr. Vaananen.

In March 2001, Mr. Vaananen was living at a home in Townsend, Massachusetts with Kevin Fuller (one of Mr. Lavoie's co-defendants) and Mr. Fuller's girlfriend, Samantha Litalien (Mr. Lavoie's other co-defendant). In the weeks preceding Mr. Vaananen's murder, the three roommates had been joined by Mr. Lavoie for about four nights per week. On March 7, 2001, Mr. Vaananen was fatally shot three times with a nine millimeter handgun, while lying in his

¹ The jury had been instructed on the theories of murder in the first and second degrees, as well as joint venture, during the trial. The general verdict did not specify whether the jury found Mr. Lavoie guilty individually or as a joint venturer. *Commonwealth v. Lavoie*, 67 Mass.App.Ct. 1114 (2006).

bed.² About two weeks prior to Mr. Vaananen's murder, Mr. Lavoie and Mr. Fuller were both seen playing with the gun used to kill Mr. Vaananen. At the time of Mr. Vaananen's death (or immediately following it), Mr. Fuller took Mr. Vaananen's money and cocaine from his pockets. Mr. Lavoie, Mr. Fuller, and Ms. Litalien then smoked the cocaine and divided the money. Mr. Fuller allegedly gave Mr. Lavoie \$1,500 of the victim's money and kept the rest for himself.

Mr. Lavoie and his co-defendants waited until nightfall to dispose of Mr. Vaananen's body and evidence of the murder. Mr. Lavoie helped wrap Mr. Vaananen's body in an egg crate foam pad, duct tape, plastic wrap, and a blanket. He and Mr. Fuller then placed Mr. Vaananen's body in a vehicle and drove it to a secluded area of Fitchburg. The two men proceeded to remove the body from the vehicle, douse it with gasoline, and light it on fire. Mr. Lavoie and Mr. Fuller then returned to the home in Townsend and, along with Ms. Litalien, consumed more cocaine and continued to dispose of evidence. They put the contents of Mr. Vaananen's bedroom in black trash bags and loaded them into Mr. Fuller's vehicle. The murder weapon was also placed in a black trash bag. That evening, Mr. Lavoie and Mr. Fuller were observed drinking beer and enjoying themselves at a restaurant in Townsend.

A witness discovered the charred remnants of Mr. Vaananen's body on the morning of March 8th (the day after the murder). On March 9th, Mr. Fuller and a third party were observed disposing of trash bags in a dumpster at the restaurant where Mr. Lavoie and Mr. Fuller had been seen on the night of the murder. Ms. Litalien disposed of additional items at the home of a friend. Much of the previously disposed of evidence was recovered and linked to Mr. Lavoie, Mr. Fuller, and Ms. Litalien. Mr. Lavoie and his co-defendants were arrested on March 10, 2001. On May 31, a Middlesex grand jury returned indictments against Mr. Lavoie charging him with murder in the first degree and unlawful possession of a firearm.³

II. PAROLE HEARING ON APRIL 26, 2016

On April 26, 2016, Mr. Lavoie, now 37-years-old, appeared before the Parole Board for his initial hearing and was represented by Attorney Russell Sobelman. In his opening statement to the Board, Mr. Lavoie apologized to Mr. Vaananen's family, as well as his own family. He also expressed shame and remorse for killing Mr. Vaananen. After noting that Mr. Lavoie had described having a very supportive (and intact) family, the Board asked Mr. Lavoie when his life began to take a very different course. Mr. Lavoie said that he began hanging around with a different group of people and using drugs shortly in the summer before his junior year in high school. He started drinking alcohol and smoking marijuana. When Mr. Lavoie was 17-years-old, he entered a mental health treatment facility to address his depression and suicidal thoughts that he had been experiencing. After being discharged from the mental health facility, Mr. Lavoie began using heroin. His family intervened early and got him into a detox facility, but his addiction escalated to the point where he was using two to three bags of heroin a day. A methadone maintenance program eventually helped him stop using heroin. Mr. Lavoie was doing well for a while, but subsequently relapsed and began using cocaine.

² There were conflicting accounts as to who actually shot Mr. Vaananen.

³ A jury subsequently convicted Mr. Lavoie of murder in the second degree and acquitted him of the firearm possession charge.

During the course of the hearing, Mr. Lavoie discussed the murder of Mr. Vaananen. When asked how he met his co-defendants, Mr. Lavoie said that he met them through the victim. He had known Mr. Vaananen for a while, and they began hanging out when Mr. Lavoie began frequenting certain bars. Mr. Lavoie's relationship with his co-defendants and the victim was based solely on drug use. The night before the murder, Mr. Lavoie had been drinking alcohol and smoking cocaine with his co-defendants and the victim in a house that Mr. Fuller, Ms. Litalien, and Mr. Vaananen shared. Mr. Lavoie said that after spending the night on the couch, he woke up to find Mr. Fuller and Ms. Litalien arguing. He later indicated that there had been a previous argument regarding Ms. Litalien staying at the house.

Mr. Lavoie stated that he saw Ms. Litalien carrying a gun as she walked to Mr. Vaananen's bedroom. According to Mr. Lavoie, Ms. Litalien stood by the bedroom door for a few seconds; she then turned and walked back down the hall way to the kitchen, where Mr. Fuller was located. Mr. Lavoie said that about five seconds later, Ms. Litalien and Mr. Fuller went to Mr. Vaananen's bedroom. The door opened and he heard a shot. Mr. Lavoie went to Mr. Vaananen's room and saw that he was hurt. His co-defendants had gone into their bedroom. Mr. Lavoie said that a couple of minutes later, Mr. Fuller went in and shot Mr. Vaananen again (Mr. Lavoie believes that Mr. Fuller was the one who initially shot Mr. Vaananen). When asked if he intervened or tried to help, Mr. Lavoie said, "No."

Mr. Lavoie claimed that the three of them then discussed what they were going to do. The Board questioned how Mr. Lavoie got enlisted in participating in the crime since (by Mr. Lavoie's account) he was not involved until that point. He responded by saying, "I chose to I guess." He said that his role in the crime was to help cover it up, by assisting in the cleanup and disposal of Mr. Vaananen's body. They took Mr. Vaananen's body to Fitchburg in Mr. Fuller's jeep and, after removing the body from the car, poured gasoline on it and then lit it on fire. They returned to the home to use more drugs and drink alcohol. When asked why he helped dispose of the body if he did not participate in the murder, Mr. Lavoie said that he really does not know. He had been using drugs and drinking the entire time and was not thinking. The Board brought up the fact that there were accounts of the murder that conflicted with Mr. Lavoie's version, including one where Mr. Lavoie shot the victim and used a head of lettuce in an attempt to muffle the sound. Mr. Lavoie thinks that his co-defendants came up with this version, but then said he might have been the one to give this account. When asked why he would name himself as the shooter, Mr. Lavoie said that he did not know if he had said this. He had been awake for three days drinking and smoking cocaine at the time he was interviewed by the police. He maintains that he was not the shooter.

The Board expressed concern regarding Mr. Lavoie's disciplinary history and returns to higher custody that resulted from his poor institutional conduct. Mr. Lavoie attributed many of his less serious disciplinary reports to wanting to be placed in segregation, so that he could be alone. When asked which of his disciplinary issues was the most serious, Mr. Lavoie said it was probably his assault on a corrections officer. In 2009, Mr. Lavoie was charged and convicted of assault and battery. Mr. Lavoie said that he had been angry at the time and wanted to return to segregation. Mr. Lavoie also addressed a disciplinary report he received in 2015 for engaging in a fist fight. He said that he was defending himself after a fellow inmate hit him. In regard to his return to higher security in 2010 (after being deemed a security risk), Mr. Lavoie said that he was accused of sending a letter that detailed a plan to escape. Mr. Lavoie claimed

that he never sent a letter that could be interpreted as an escape plan and suspects the letter was written by someone else.

While in prison, Mr. Lavoie earned his GED. Presently, he is enrolled in barber school, participates in therapy and Alcoholics Anonymous (AA), and attends religious services. Mr. Lavoie has completed multiple Spectrum programs, Violence Reduction, and the Correctional Recovery Academy.

Mr. Lavoie had numerous supporters in the audience during his hearing. The Board considered testimony from Mr. Lavoie's mother, father, and older sister, all of whom expressed support for Mr. Lavoie being granted parole. The victim's son and his son's mother spoke in opposition to Mr. Lavoie's parole. Middlesex County Assistant District Attorney Elizabeth Silverman, accompanied by another representative from the Middlesex County District Attorney's Office, also spoke in opposition to Mr. Lavoie being granted parole.


III. DECISION

The Board is of the opinion that Mr. Lavoie has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board believes a longer period of positive institutional adjustment and programming would be beneficial to Mr. Lavoie's rehabilitation. Mr. Lavoie has displayed poor institutional adjustment, and he has shown minimal effort toward rehabilitation.

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

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


Gloriann Moroney, General Counsel

11/17/16
Date