



The Commonwealth of Massachusetts
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RECORD OF DECISION

IN THE MATTER OF

MICHAEL PAYNE
W56708

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: February 19, 2025

DATE OF DECISION: June 30, 2025

PARTICIPATING BOARD MEMBERS: Edith J. Alexander, Dr. Charlene Bonner, Tonomey Coleman, Sarah B. Coughlin, Tina M. Hurley,¹ James Kelcourse, Rafael Ortiz.²

VOTE: Parole is denied with a review in 2 years from the date of hearing.³

PROCEDURAL HISTORY: Michael Payne was convicted of two counts of first-degree murder, armed robbery, and unlawfully carrying a firearm on June 21, 1994, in Suffolk Superior Court. Mr. Payne was sentenced to two concurrent life terms without the possibility of parole for his murder convictions. The court sentenced Mr. Payne to 3-5 years for unlawfully carrying a firearm and 15-20 years for armed robbery, each running concurrently with his life sentences.

Mr. Payne became parole eligible following the Supreme Judicial Court's decision in Commonwealth v. Mattis, 493 Mass. 216 (2024), where the court held that sentencing individuals who were ages 18 through 20 at the time of the offense (emerging adults) to life without the possibility of parole is unconstitutional. As a result of the SJC's decision, with regard to Mr. Payne's first-degree murder convictions, his mittimus was corrected to reflect that his life sentence carried the possibility of parole after 15 years.

¹ Chair Hurley participated in the vote prior to her departure from the Board.

² Board Member Coleman was not present for the hearing, but reviewed the video recording of the hearing and the entirety of the file prior to vote.

³ One Board Member voted to grant parole after a 6 month stepdown to a LTRP. One Board Member voted to deny parole with a review in 1 year from the date of the hearing.

On February 19, 2025, Mr. Payne appeared before the Board for an initial hearing. He was represented by Attorney Melissa Celli. The Board's decision fully incorporates by reference the entire video recording of Mr. Payne's February 19, 2025, hearing.

STATEMENT OF THE CASE:⁴ At around 4 a.m. on March 28, 1993, 20-year-old Michael Payne and his co-defendants were gathered on Lindsey Street in Dorchester after a nearby party had ended. Eyewitnesses reported that Kevin Christopher and Lloyd Industrious were killed when Mr. Payne and his co-defendants fired several rounds into a vehicle that the victims had been sitting in. One of the perpetrators then approached the victims, took jewelry from at least one of the victims, and ran from the scene. Mr. Christopher sustained 11 gunshot wounds and Mr. Industrious sustained 7 gunshot wounds. An eyewitness selected Mr. Payne's photo from an array containing 14 photographs. In a statement to the Board, Mr. Payne stated that he attended a party on Lindsey Street that night, but he was not involved in the murders. He claimed that he learned about the murders for the first time on the news. Mr. Payne steadfastly maintains his innocence and is pursuing post-conviction relief.

APPLICABLE STANDARD: Parole "[p]ermits shall be granted only if the Board is of the opinion, after consideration of a risk and needs assessment, that there is a reasonable probability that, if the prisoner is released with appropriate conditions and community supervision, the prisoner will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." M.G.L. c. 127, § 130. In making this determination, the Board takes into consideration an inmate's institutional behavior, their participation in available work, educational, and treatment programs during the period of incarceration, and whether risk reduction programs could effectively minimize the inmate's risk of recidivism. M.G.L. c. 127, § 130. The Board also considers all relevant facts, including the nature of the underlying offense, the age of the inmate at the time of the offense, the criminal record, the institutional record, the inmate's testimony at the hearing, and the views of the public as expressed at the hearing and/or in written submissions to the Board.

Where a parole candidate was convicted of first-degree murder for a crime committed when he was ages 18 through 20 years old, the Board considers the "unique aspects" of emerging adulthood that distinguish emerging adult offenders from older offenders. Commonwealth v. Mattis, 493 Mass. 216, 238 (2024). Individuals who were emerging adults at the time of the offense must be afforded a "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation" and the Board evaluates "the circumstances surrounding the commission of the crime, including the age of the offender, together with all relevant information pertaining to the offender's character and actions during the intervening years since conviction." Id. (citing Diatchenko v. District Attorney for the Suffolk Dist., 466 Mass. 655, 674 (2013) (Diatchenko I); Miller v. Alabama, 567 U.S. 460, 471 (2012); Graham v. Florida, 560 U.S. 48, 75 (2010)). Since brain development in emerging adulthood is ongoing, the Board also considers the following factors when evaluating parole candidates who committed the underlying offenses as an emerging adult: 1) a lack of impulse control in emotionally arousing situations; 2) an increased likelihood to engage in risk taking behaviors in pursuit of reward; 3) increased susceptibility to peer influence which makes emerging adults more likely to engage in

⁴ The Statement of Facts is derived from Mr. Payne's direct appeal and is not intended to be an exhaustive recitation of the facts surrounding the governing offenses. *Commonwealth v. Payne*, 426 Mass. 692 (1998).

risky behavior; and 4) an emerging adult's greater capacity for change. See Mattis, 493 Mass. at 225-229.

DECISION OF THE BOARD: Michael Payne appeared for his initial hearing after the SJC's decision in *Mattis*. Mr. Payne was 20-years-old at the time of the offense. He is now 52-years-old and has been incarcerated for 32 years. The Board reviewed and considered the assessment of forensic psychologist Dr. Michelle Lockwood. Mr. Payne completed Jericho Circle and Emotional Awareness amongst his programs. Currently, Mr. Payne is on the waitlist for multiple programs at the DOC which will aid in his rehabilitation process. His disciplinary report history notes 2 recent disciplinary reports which counsel strongly contests. The Board notes it has concerns regarding Mr. Payne's statements at the hearing, noting that he does not believe programming would be beneficial for him and self-improvement is not a need area. The forensic evaluation noted areas where Mr. Payne struggles with decision making. The Board encourages Mr. Payne to utilize programs to assist with enhancing his skills to address areas in need as identified in the evaluation. The Board heard testimony from Mr. Payne's sister, and a friend, in support of parole. The Board also heard testimony from Suffolk County Assistant District Attorney Montez Haywood who testified in opposition to parole.

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.



Tonomey A. Coleman, Acting Chair

Date