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DECISION

IN THE MATTER OF

MICHAEL TUITT
W36499

TYPE OF HEARING: Review Hearing

DATE OF HEARING: March 8, 2016

DATE OF DECISION: October 4, 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 four years from the date of the hearing.

I. STATEMENT OF THE CASE

On October 27, 1982, in Hampden County Superior Court, a jury found Michael Tuitt guilty of armed robbery while masked and disguised and guilty of carrying a firearm without lawful authority. Based on several prior offenses, Mr. Tuitt was punished as a habitual offender under G.L. c. 279, §25, and sentenced to life imprisonment with the possibility of parole.¹ Mr. Tuitt also received a one year prison sentence for the firearm conviction, to be served concurrent with his life sentence.

¹ Under the Massachusetts habitual offender statute (G.L. c. 279, §25), an individual who falls within the definition of a habitual criminal "shall be punished by imprisonment in state prison or a state correctional facility for such felony for the maximum term provided by law." G.L. c. 279, §25(a).

In addition, on April 9, 1984 (and while serving his habitual offender sentence), Mr. Tuitt pled guilty to the manslaughter of 4-year-old Curtis Felton. Curtis was the son of Mr. Tuitt's girlfriend at the time. On February 15, 1982, two weeks prior to Curtis' third birthday, Mr. Tuitt beat and shook him.² When Curtis arrived at the hospital, he had no vital signs. He remained on a respirator for 14 months, and died as a result of his injuries on April 5, 1983. The beating had taken place four months before Mr. Tuitt committed the armed robbery. Mr. Tuitt had been on parole during both of these offenses. He was sentenced to serve 12 to 20 years on and after his life sentence for the manslaughter conviction. The parole eligibility periods for the armed robbery and the manslaughter were combined, producing a single parole eligibility date of October 4, 2005.

On June 14, 1982, at approximately 11:30 a.m., a bank deposit carrier for several package stores was driving \$4,000 in receipts from two liquor stores to a bank in Springfield. En route, he stopped behind a light blue Chevrolet at a stop sign. Mr. Tuitt and another man, Robert Vaughn, emerged from the Chevrolet and approached the bank deposit carrier's vehicle. Mr. Tuitt (wearing a red ski mask and carrying a .357 Magnum revolver) opened the driver's side door, pointed the gun at the victim, and demanded the money. The victim said, "No." Mr. Tuitt replied, "Don't get killed over someone else's money." As Mr. Tuitt was demanding the money from the victim, Mr. Vaughn opened the passenger side door. Mr. Vaughn was wearing a long, tan trench coat and a nylon stocking mask. He was armed as well. Mr. Vaughn removed two deposit bags from the victim's vehicle, and then ran back to the Chevrolet. After Mr. Vaughn handed Mr. Tuitt the deposit bags, Mr. Tuitt drove away, leaving Mr. Vaughn behind. Mr. Vaughn fled the scene on foot.

A witness saw Mr. Tuitt remove his mask at the scene of the robbery and was able to identify both him and Mr. Vaughn. After receiving a tip regarding Mr. Tuitt's whereabouts, police placed him under arrest on July 6, 1982. At the time of the arrest, the police found a loaded .357 Magnum sitting in a paper bag next to Mr. Tuitt.

II. PAROLE HEARING ON MARCH 8, 2016

Mr. Tuitt, now 68-years-old, appeared before the Parole Board for a review hearing on March 8, 2016, and was represented by Student Attorney Stephen Fuller. This was Mr. Tuitt's third appearance before the Parole Board for his present offense, having been denied parole on both November 3, 2004 and November 3, 2009. In his opening statement to the Board, Mr. Tuitt apologized for his actions that resulted in the eventual death of Curtis Felton, and he expressed his remorse. He also apologized for pointing a gun at the victim of the armed robbery.

While discussing his substance abuse history, Mr. Tuitt said that he lived a "criminal, drug lifestyle" and "lived to get high." He began smoking marijuana when he was about 15 or 16-years-old, and was 19-years-old when he first shot heroin. He would shoot heroin daily, sometimes mixing it with cocaine. He also drank beer and wine, and smoked marijuana in place of cigarettes. Mr. Tuitt would commit crimes in order to obtain money to "party" and use drugs. He admitted that he did not think about how his lifestyle affected his family or other people. He began his criminal activity by shoplifting, and then moved on to breaking and

² Curtis Felton was 2-years-old at the time of the beating. He had two birthdays while in a coma, and succumbed to his injuries at the age of 4-years-old.

entering houses and businesses. He was also committing armed robberies of drug dealers. Throughout his twenties, Mr. Tuitt was in and out of prison. When he was released from prison at the age of 26 or 27, Mr. Tuitt began selling heroin. At that time, he was injecting heroin multiple times a day, and admitted that he was very violent while high.

During the course of the hearing, Mr. Tuitt discussed the crimes for which he is incarcerated. At the time of the armed robbery, Mr. Tuitt was committing crimes of opportunity. He had been in a package store, when he saw the victim come from behind the counter with a money bag. Mr. Tuitt described the victim as an "old man," probably in his sixties or older. Mr. Tuitt followed the victim and watched him come out of a second package store, carrying another money bag. Mr. Tuitt decided to rob him, and told an acquaintance, Mr. Vaughn, about his plan. Mr. Vaughn was interested in participating in the crime, as well.

After learning the victim's pickup route, Mr. Tuitt parked on a side street. He could see the victim as he approached from the main street, before the victim turned the corner onto the street where Mr. Tuitt was parked. When the victim turned, Mr. Tuitt pulled out in front of him, drove down the street, and then stopped at a stop sign and put on his blinker. Mr. Tuitt proceeded to get out of his car and go to the victim's window. He then pointed a gun at the victim, threatened him, and told him to hand over the money. The victim eventually gave Mr. Tuitt the money bags. Mr. Tuitt then instructed the victim to get out of his vehicle and walk back the way he came. Since the victim had been carrying money bags, Mr. Tuitt assumed the victim had a gun in his car. He did not want the victim to shoot him when he (Mr. Tuitt) was returning to his own vehicle. Mr. Tuitt then got in his car and drove away. He and Mr. Vaughn left separately, and then met up at a friend's house to split the money and partake in heroin and cocaine.

The Board asked Mr. Tuitt to discuss the events that precipitated Curtis' death. Mr. Tuitt said that he had just dropped his children at a laundromat to dry some clothing. He was driving around with Curtis, looking for something to do. Mr. Tuitt admitted that he was driving "erratically" and was high on heroin, wine, and marijuana. As he was driving down the street, he saw cars coming towards him, so he slammed on the breaks. Curtis had been on the seat next to Mr. Tuitt. The sudden breaking caused Curtis to fly off the seat and hit the dashboard. Curtis began to cry, so Mr. Tuitt picked him up, began shaking him "roughly," and yelled at him to "shut up." He then "slammed" Curtis onto the seat. When Curtis continued crying, Mr. Tuitt picked him up again, shook him, and slammed him in his seat. Mr. Tuitt stated that he does not know how many times he repeated these actions. Eventually, Curtis stopped crying and became completely quiet. Mr. Tuitt said Curtis "seemed to go to sleep." He began driving and realized that Curtis seemed to be having difficulty breathing. Mr. Tuitt stopped the car and picked up Curtis. The child was unresponsive, and his head "just bobbed around." Mr. Tuitt attempted to perform chest compressions and artificial respiration, but it did not help.

He then picked up Curtis' mother, and they took Curtis to the emergency room. The Board asked Mr. Tuitt what he had told authorities at the time of the incident. Mr. Tuitt said that he told police he was driving down a narrow street when two cars raced past him, so he slammed on the breaks and pulled over to avoid crashing. Mr. Tuitt also told police that Curtis hit his head on the dashboard and concocted a story that he thought would be "acceptable" for his actions. Mr. Tuitt said that it took a long time for him to admit to himself what he had done. He was "ashamed" and tried to avoid speaking about it.

During his first 20 years in prison, Mr. Tuitt continued to do drugs and made efforts to get high on a daily basis. After getting caught for attempting to introduce heroin into the prison, Mr. Tuitt was sent to a different facility. Mr. Tuitt indicated that he had been trying to "manipulate" someone else into smuggling the drugs into the prison. On the occasions when Mr. Tuitt was able to successfully smuggle heroin into the prison, he would use some of the drug, and then sell some for money to purchase more. He believes that the last time he used heroin and marijuana was in 2001. Mr. Tuitt claimed that being treated with Methadone for about nine or ten months in 2007 and 2008 made him lose his desire to get high. He acknowledged the fact that some people find it hard to believe that Methadone "killed" his desire to smoke marijuana, inject drugs, and consume alcohol.

Mr. Tuitt told the Board that he has had difficulty getting into programming, due to his ongoing medical issues. He believes he began participating in programming around 2004 or 2005 and has participated in substance abuse and anger management programs, including the Correctional Recovery Academy (CRA) and Violence Reduction. The CRA helped Mr. Tuitt identify his triggers, which include "feel good now," the opportunity to get money illegally, drugs, partying, and gambling. Since completing the CRA in 2010, Mr. Tuitt has not done any other programs to address his substance abuse issues.

The Board considered the testimony of Mr. Tuitt's son, daughter-in-law, and a friend, all of whom expressed support for his release. The Board also considered the testimony of Hampden County Assistant District Attorney Howard Safford, who spoke in opposition to Mr. Tuitt's parole.

III. DECISION

The Board is of the opinion that Mr. Tuitt has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board believes that a longer period of positive institutional adjustment and programming would be beneficial to Mr. Tuitt's 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. Tuitt'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. Tuitt's risk of recidivism. After applying this standard to the circumstances of Mr. Tuitt's case, the Board is of the unanimous opinion that Mr. Tuitt is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Tuitt'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. Tuitt 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

10/4/16
Date