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Josh Wall
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DECISION

IN THE MATTER OF

MICHELLE TOURIGNY

F36778

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: July 16, 2013

DATE OF DECISION: November 14, 2013

PARTICIPATING BOARD MEMBERS: Cesar Archilla, Dr. Charlene Bonner, Tonomey Coleman, Ina Howard-Hogan, Lucy Soto-Abbe, Josh Wall.¹

DECISION OF BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, criminal record, institutional record, the testimony of the inmate at the hearing, the views of the public as expressed at the hearing or in written submissions to the Board, we conclude by a unanimous vote that the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in five years.

I. STATEMENT OF THE CASE

On July 16, 2013, Michelle Tourigny appeared before the Parole Board for an initial hearing seeking parole from her life sentence for the second degree murder of Manuel Martin, age 56. Ms. Tourigny seeks parole to a dual diagnosis mental health rehabilitation program.

On September 10, 1998, Ms. Tourigny, age 32, stabbed Mr. Martin, her live-in boyfriend, during an argument. Mr. Martin died as a result of a deep stab wound to the abdomen, which lacerated his liver.

Ms. Tourigny and Mr. Martin had been involved in a relationship since December of 1997. During their relationship, Ms. Tourigny physically assaulted Mr. Martin on several

¹ Board member Sheila Dupre participated in the hearing but was unavailable for the vote. G.L. c. 127 § 133A.

occasions, including a stabbing. On March 21, 1998, Mr. Martin complained to a building security officer that Ms. Tourigny punched him, picked up a knife, and tried to kill him. When security guards brought Ms. Tourigny into the office, she said, "He hit me first." Ms. Tourigny later told her social worker that she had an argument with Mr. Martin and stabbed him with a knife.

In April of 1998, Mr. Martin moved into Ms. Tourigny's apartment in Lowell. During the night of September 10, 1998, Ms. Tourigny and Mr. Martin were in their apartment together with Mr. Martin's son, Manuel Martin, Jr. and two neighbors, Thomas Sarantakis and Benito Torres. Both Ms. Tourigny and Mr. Martin had been drinking, and as the night progressed, they began to argue. Ms. Tourigny argued with Mr. Martin because she wanted him to give her money to buy more alcohol.

At approximately 10:00 p.m., Manuel Martin, Jr., Benito Torres, and Mr. Sarantakis left the apartment. While walking to his friend Benito Torres's apartment on the same floor, Manuel, Jr. heard Mr. Martin yelling in Spanish, "She stabbed me, she stabbed me," and "It hurts." Manuel, Jr. then ran back to find his father outside the apartment, lifted his shirt, and noticed blood coming from a wound in his father's upper abdomen. As Manuel, Jr. was tending to his father, he noticed Ms. Tourigny come out of the apartment holding a knife with an 8-inch blade. Martin, Jr. dragged his father towards Mr. Torres' apartment, asked Mr. Torres to call the police, and then ran to his brother's home to tell him what happened.

Mr. Torres' wife immediately called 911 while Mr. Torres attempted to help Mr. Martin. Before the police arrived, Joan LaMarche, a nurse's aide, also attempted to help Mr. Martin, who was lying on the floor. While Ms. LaMarche tended to Mr. Martin, he was screaming, "I'm dying. I'm dying." Ms. LaMarche asked Mr. Martin who injured him and Mr. Martin replied that it was his "wife," referring to Ms. Tourigny. The Lowell police and Trinity Ambulance arrived shortly thereafter, and Mr. Martin was transported to Lowell General Hospital where he later died following surgery for a severely lacerated liver.

After speaking to several individuals, the police located Ms. Tourigny in Mr. Sarantakis' neighboring apartment. Ms. Tourigny was asked to step into the common hallway, where she spontaneously told the police: "He beats me. It was self-defense. He beats me all the time." Ms. Tourigny, however, did not appear to have any injuries and did not complain of any injuries.

Ms. Tourigny was arrested and charged with armed assault with intent to murder and assault and battery with a dangerous weapon. On September 30, 1998, Middlesex County Grand Jury returned an indictment for murder in the first degree. During trial, Ms. Tourigny pursued two theories: that she stabbed Mr. Martin in self-defense and that she accidentally stabbed Mr. Martin. On November 16, 1999, a Middlesex County jury found Ms. Tourigny guilty of second degree murder for killing Mr. Martin. She was sentenced to life imprisonment with the possibility of parole. This conviction was twice affirmed on appeal.

II. INSTITUTIONAL HISTORY

While incarcerated at MCI-Framingham, Ms. Tourigny has accumulated 18 disciplinary reports for offenses that include refusing instructions, using abusive and obscene language, possession of a hand-made knife, lying, and insolence. Ms. Tourigny last received a disciplinary report on May 13, 2013, or approximately two months prior to her parole hearing, for disruptive conduct. Ms. Tourigny was yelling and arguing with another inmate, and complied with the correctional officer's instruction to return to her cell only after several direct orders to do so. When she returned to her cell, Ms. Tourigny continued to yell and bang items in her cell. Ms. Tourigny ceased this behavior only after several more direct orders were given to her.

During her incarceration, Ms. Tourigny has been actively seeking self-improvement by completing institutional programming, having received 33 certificates. Mr. Tourigny completed the Women's Recovery Academy in 2011. In 2012, Ms. Tourigny completed programs including Anger Management, Domestic Violence Reduction, and Using Self Control. She is working towards her GED.

III. PAROLE HEARING ON JULY 16, 2013

Michelle Tourigny, now age 46, appeared for her initial parole hearing. Ms. Tourigny suggested both that she acted in self-defense at the time of the murder and that she accidentally stabbed Mr. Martin while taking the knife away from him, thus repeating the defenses rejected by the jury during her criminal trial.

Ms. Tourigny claims she was the victim of prior abuse by Mr. Martin, and suggested that she killed Mr. Martin out of fear that he was going to harm her with a knife. According to Ms. Tourigny, Mr. Martin threatened to kill her during the argument, and she thereafter heard the kitchen drawer open. She feared that Mr. Martin had retrieved a knife because he had done so during an argument three days earlier when she had cut her finger while trying to grab the knife from him. Ms. Tourigny claimed she was also fearful of Mr. Martin because he had hit her with a metal baseball bat during an argument some five months prior to the murder. She therefore stabbed Mr. Martin with the knife on September 10, 1998, while attempting to take it away from him.

Ms. Tourigny had no explanation for how the knife managed to plunge ten inches deep inside Mr. Martin's body, as documented by the autopsy report. Furthermore, aside from Ms. Tourigny's uncorroborated assertions, there is nothing in the record suggesting that Mr. Martin had a violent disposition. At trial, a friend of Ms. Tourigny's testified that Ms. Tourigny told her Mr. Martin treated her nicely and they got along. The friend also testified that she never saw Mr. Martin hit Ms. Tourigny at any time. Also, two of Martin's sons testified at the hearing. Eduardo Martin, who was with Martin just before the murder, stated that Ms. Tourigny regularly abused Mr. Martin. His other son, Richard Martin, stated that Mr. Martin was not known for violence and had no criminal record. Indeed, Mr. Martin had no criminal record, and nothing in the hearing record contradicts the testimonies of Mr. Martin's sons.

Ms. Tourigny's history of violence is well known to this Board. Ms. Tourigny had been abusing drugs and alcohol and exhibiting violent tendencies before she murdered Mr. Martin. In 1993, Ms. Tourigny had a 209A abuse prevention order taken out against her by her then

husband. In addition, Mr. Tourigny had at least two prior incidents involving knife assaults, one of which involved Mr. Martin. The first incident occurred around 1994 and involved her injuring her then boyfriend with a knife after she became extremely anxious and angry because he withheld crack cocaine from her. Ms. Tourigny was criminally charged for this incident, but the case was eventually dismissed due to non-cooperation from the victim.

The other incident involved Mr. Martin and occurred on March 21, 1998, approximately six months prior to the murder. At the time of this incident, Ms. Tourigny was either visiting or living with Mr. Martin at his public housing apartment within the Lowell Housing Authority. Ms. Tourigny minimized this incident, noting only that Mr. Martin had declined to press charges and failing to mention that someone else was present until confronted with the incident report. The other person was Antonio Martinez, the one who had first introduced Ms. Tourigny to Mr. Martin. Mr. Martinez indicated that the three of them were drinking and watching television together when Ms. Tourigny "started to punch Mr. Martin in the face several times," and "then picked up a knife and jabbed him in the side." A security report concerning this incident indicates that Mr. Martin's tee-shirt was "pulled out of shape at the waist and neck line" and "his nose appeared broken, bruised and scraped" when he reported the incident.

A letter from a Lowell Housing Authority building manager indicates that Mr. Martin was a "good tenant," was "liked by all," and that the housing authority "never had a problem with [Mr. Martin] until [Ms. Tourigny]² started to visit him." The above information certainly contradicts the picture Ms. Tourigny paints of Mr. Martin. If anything, it illustrates that Ms. Tourigny was the aggressor in the relationship, that she continues to deny responsibility for her actions, and that she has not developed sufficient insight into her behavior and need for treatment.

Ms. Tourigny reported that she grew up in an abusive household, lived in foster homes starting at age 14, and was on her own at age 16. She started receiving SSDI benefits at age 20. She described several abusive relationships. She drank heavily and used cocaine since age 19. For five years, she resorted to prostitution in order to pay for drugs and alcohol.

The mental health picture is complicated. Ms. Tourigny has received diagnoses of post-traumatic stress disorder, bipolar disorder, and borderline personality disorders. She said that "I get manic and very anxious; without meds I can get really depressed." She currently takes six medications and sees a therapist biweekly. One Board Member commented that, "You are asking to be paroled to be taken care of; you will need a lot of care to function." Board Member Bonner discussed with Ms. Tourigny two traits associated with borderline personality disorder: difficulty maintaining relationships and habits of manipulation. Ms. Tourigny said she has had one dysfunctional relationship in prison between 1999 and 2001. She said, "it was abusive; she slapped me and pulled my hair; the relationship ended when she jumped out a second-story church window; I have not had another relationship; I have a few friends in prison, but I spend most of my time in my room."

In discussing her prison activities, Ms. Tourigny said, "In the beginning my adjustment was not so good because I wanted a manslaughter plea and I didn't have a good attorney; I was acting out and had anger issues; I started programs at the end of 1998; I have always worked in prison; I have done the GED program for seven years and have taken the test three

² Ms. Tourigny used her ex-husband's surname "LaPlante" at the time.

times; math is the problem for me; now in prison I go to the Graduate Maintenance Program, which is the follow up for the Women's Recovery Academy; and I go to the Get Fit program."

Middlesex Assistant District Attorney Melissa Johnson spoke in opposition to parole, as did Manuel Martin's two sons, his former wife, his daughter-in-law, and a family friend. They described Mr. Martin as peaceful and "not abusive." Ms. Tourigny does not have much community support. She said, "My children were adopted so I have no contact; I have no contact with my mother; I write to my sister but she doesn't write back; I have two spiritual mentors who are my only regular visitors." One of the mentors spoke in support of parole.

IV. DECISION

Michelle Tourigny has not spent sufficient time addressing and managing anger issues, which appears to have been a major deficit at the time of the murder and at present. Specifically, Ms. Tourigny has incurred 18 disciplinary reports between March 2001 and May 2013, primarily for disobeying orders and insolence towards staff. In addressing the May 2013 disciplinary report during her June 5, 2013 parole interview, she mentioned that she was too angry to employ her coping tools at the time, even though the correctional officer had encouraged her to do so.

Ms. Tourigny likewise has not invested sufficient time in addressing her lengthy history of substance abuse. Although institutional records indicate that she has been very program-involved throughout the years, she appears to have invested little time in addressing her substance abuse issues. Other than completing the Women's Recovery Academy program in 2011, Ms. Tourigny has not actively addressed her substance abuse history. She reports that she currently attends AA/ALANON regularly, but institutional records indicate that she attends only occasionally. These are areas of great concern to the Board, given Ms. Tourigny's history of substance abuse, aggressive behavior, and violence.

In sum, although Ms. Tourigny has made progress towards rehabilitation during the past 15 years, she still has not adequately addressed the core issues that led to her imprisonment for murder. Ms. Tourigny still exhibits a constant need to portray herself as the victim and to blame others for her own deficiencies. She also has not invested sufficient time in addressing core needs areas of substance abuse and anger management. Until Ms. Tourigny is able to demonstrate sincerely that she has developed a more insightful understanding of the genesis of her anger and substance abuse, and that she has learned how to effectively manage these areas, this Board cannot say with confidence that she "will live and remain at liberty without violating the law and that [her] release is not incompatible with the welfare of society."

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 Ms. Tourigny does not merit parole. The review will be in five years.

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 Noble, General Counsel


Date