



Charles D. Baker
Governor

Karyn Polito
Lieutenant Governor

Daniel Bennett
Secretary

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security

PAROLE BOARD

12 Mercer Road
Natick, Massachusetts 01760

Telephone # (508) 650-4500

Facsimile # (508) 650-4599



Charlene Bonner
Chairperson

DECISION

IN THE MATTER OF

NOEUN SOK

W68773

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: June 25, 2015

DATE OF DECISION: August 19, 2015

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, Tina Hurley, Lucy Soto-Abbe. Board Member Lee Gartenberg recused himself from the hearing.

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 a unanimous (6-0) vote that the inmate is a suitable candidate for parole. An order of deportation is in place and the Parole Board expects that the inmate will be deported to Cambodia. If not deported, then the inmate must comply with specific parole conditions as set forth by the Parole Board.

I. STATEMENT OF THE CASE

On April 19, 2000, after a jury trial in Middlesex Superior Court, Noeun Sok was found guilty of first degree murder by reason of extreme atrocity or cruelty and was sentenced to life in prison without the possibility of parole.¹ An Immigration and Customs Enforcement (ICE) detainer was lodged with the Department of Correction on August 29, 2006.

¹ Sok's co-defendant, Noeun Phan (W68917) received an 18 to 20 year sentence for manslaughter. He is currently serving his sentence at Souza Baranowski Correctional Center.

On December 24, 2013, the Massachusetts Supreme Judicial Court (SJC) issued a decision in *Diatchenko v. District Attorney for the Suffolk District & Others*, 466 Mass. 655 (2013) in which the Court determined that the statutory provisions mandating life without the possibility of parole were invalid as applied to those, like Noeun Sok, who were juveniles when they committed first degree murder. The SJC ordered that affected inmates receive a parole hearing after serving 15 years. Accordingly, Sok, who has served 16 years, became eligible for parole and is now before the Board for an initial hearing.

The facts of his case are derived from *Commonwealth v. Noeun Sok*, 439 Mass. 428 (2003), an SJC decision affirming his conviction. In the afternoon of January 12, 1999, Noeun Sok and a friend, Noeun Phan, both 15-years-old and members of a local gang, were walking on Central Street in Lowell to mail a letter. Walking toward them from the opposite direction were four older teens, Keoudone Onexavieng, Shane Downs, Edwin Rosa, and German Acevedo. They were going to Acevedo's house to play video games. Onexavieng and Downs were members of a rival gang. Acevedo and Rosa were affiliated with another gang that aligned themselves with the rival gang.

As the groups neared, Sok and Phan gave Onexavieng "a real dirty look." Phan bumped into Acevedo, who responded with a push. Onexavieng bent down as if to pick up something. Sok, who believed that Onexavieng was going to throw a rock at both him and Phan, drew a Samurai sword from a sheath hidden under his coat. The sword was approximately 30 inches long and had a 15 inch blade. Onexavieng and his three friends then fled. There was no evidence that the group of four had any weapons, yet Sok and Phan pursued them. At first, the group of four fled together, but Onexavieng and Acevedo subsequently broke away, with Sok and Phan following them. As Sok and Phan closed the gap on Onexavieng (who was trailing Acevedo), Phan yelled, "Get him. Get him." Sok shouted, "If you want to f*** with me, I'll get you for it." Onexavieng lost ground when he turned into a passageway near a locksmith shop and slipped on some ice. As Onexavieng stopped to cross a street, Sok caught up to him and thrust the sword with an upward motion into Onexavieng's right lower back, pushing the blade more than six inches upward and toward the center of Onexavieng's torso. The blade nearly passed through the front of Onexavieng's body. Notwithstanding his injuries, Onexavieng continued to run (with Sok in pursuit, sword in hand), until he collapsed. When the chase ended, Sok and Phan jumped up and down and "looked kind of happy."

When emergency personnel arrived, 18-year-old Onexavieng was lying in a large pool of blood, conscious, and moaning. He was disoriented and combative toward the emergency medical technicians who were attending to him. He was taken to the University of Massachusetts Medical Center in Worcester, where he underwent surgery, and died five hours later.

II. PAROLE HEARING ON JUNE 25, 2015

This was Sok's first parole hearing before the Board. He committed the murder at age 15 and has been incarcerated for 16 years. Sok was afforded a hearing as a result of the SJC's decision in *Diatchenko v. District Attorney for the Suffolk District & Others*, 466 Mass. 655 (2013). Attorney Daniel Callahan represented Sok at the hearing. Sok opened the hearing by taking full responsibility for the murder of Keoudone Onexavieng and apologized to his family. He highlighted the multiple programs he has completed, all which have helped him to address

this senseless crime. In his opening statement, Attorney Callahan stated that Sok committed the murder at age 15 and had entered prison with no hope of parole. In August 2000, while in custody of the Department of Youth Services (DYS), Sok participated in programming and began to gain insight into victim empathy. Through his positive programming, Sok also educated himself, received his GED, rebuilt his relationship with his family, and has had a positive influence on other inmates. He has remained disciplinary report free since 2010.

Sok reported that he is now 31-years-old and currently incarcerated at MCI-Norfolk. Prior to his transfer to the Department of Correction (DOC), he was incarcerated at the Plymouth House of Correction Juvenile Detention Center, where he was assigned a DYS worker. This DYS worker helped him tremendously to "open up," something he had never done before. In addition, he completed multiple programs that were significant to his rehabilitation and "helped him." Sok spoke of an incident that occurred while he was incarcerated at Plymouth House of Correction. He said that his co-defendant and cousin, Noeun Phan, "had problems with other individuals and got into a fight, so I jumped in." Shortly thereafter, Sok spoke with Phan and told him, "I can't do what you have been doing. I have to live behind bars for the rest of my life." Sok said, "I looked at it as I can continue doing bad things or better myself."

In 2000, at age 17, he transferred to Souza-Baranowski (SBCC). Board Members asked him to describe his adjustment while at SBCC. Sok responded that "it was very difficult to deal with people, but violence reduction showed me how to react. I have been able to resolve conflicts with other inmates without incidents." Since his transfer to MCI-Norfolk, he maintains employment five days per week in the Upholstery Shop. Sok remarked, "I work well with others and put 100% into working." He received his GED in 2003 and is currently one month into the Welding Program, which is an eight month program. Sok stated that he is also interested in pursuing a barber's license. His hope is to continue vocational programming. Additionally, he volunteers for "Walk for Hunger" and has donated his hair to "Locks of Love." Furthermore, he is actively involved with the Asian Cultural Awareness Committee and serves on its Board of Directors. Sok stated that he is a facilitator for the Alternatives to Violence Project and remarked, "I enjoy it because I can be creative in teaching others. Some inmates feel that they won't be violent if they take the program and I help them get a better understanding of it." He also completed Emotional Awareness and attended several Restorative Justice Retreats. Sok is a practicing Buddhist (which he started while at SBCC) and attends three times per week.

Sok was asked by Board Members to describe his lifestyle at the time of the crime, including his home life. Sok stated that he was unemployed at the time of the offense and said, "I leaned more towards others that weren't in school as I got along with them better. I had chronic attendance issues and was suspended from school for fighting and smoking cigarettes on school property." The relationship between him and his family was poor, except with his older sister. He stated, "My family has a hard way of expressing themselves. For me I had trouble expressing myself. I wouldn't stay home at all." Sok stated that his first arrest was at age 12 and that he was in and out of DYS. He said, "It was a safe place for me in DYS. I did well at the programs and when I got out I did poorly." Sok reported that at age 13, he became a member of a local gang and admitted to committing more than 20 instances of breaking and entering. Sok stated, "I stole from people. That's how I had money. I bought clothes with the money."

In describing the events leading up to the murder, Sok stated that "weeks prior, I had been released from DYS custody in November." Sok and Phan were both members of a local gang. Prior to the murder, Sok had seen Onexavieng twice before. Onexavieng and his associates were members of another local gang. On the day of the governing offense, Sok was asked by his sister to run an errand for her. Before he left, Sok armed himself with a Samurai sword that he had purchased eight days before at a flea market. He stated, "I bought it for a decoration, as well as for protection." Accompanied by Phan and armed with the Samurai sword (which was under his jacket), Sok left to run the errand. When they came across Onexavieng and his associates they had a brief exchange. Sok stated that he pulled out the Samurai sword and waved it, ran after the victim, and stabbed him. According to Sok, Onexavieng ran with the sword sticking out of his back until it eventually fell out; he was nearly impaled. While Sok agreed that Phan encouraged him to run after the victim, he denied that they "cheered when the victim collapsed." Sok stated, "I wasn't close enough to see him after I stabbed him." One Board Member asked Sok to describe his thought process. In response, Sok stated, "I thought they would leave me alone if I go after them. I brutally murdered someone who was an innocent person."

Board Members inquired of Sok's current gang involvement. Sok stated that although he is labeled as a gang member, he has never been in a "gang block." Since his incarceration in the DOC, he has no gang related incidents and stayed away from gang activity. There has been no formal gang renouncement. However, two weeks before the hearing, Sok requested to begin the renouncement process at the DOC. Board Members commended Sok on his positive institutional behavior and asked about that accomplishment. He stated, "When I entered prison I had to grow up and be my own man. All the people I deal with are on a positive path. I also learned how to meditate." Additionally, he has maintained positive contacts in the community, all of whom are doing well.

Sok was asked by another Board Member to describe what he knew about Onexavieng and the impact of his crime. He stated, "Mr. Onexavieng was supposed to get married two months after the murder. He had a daughter, an older sister and younger sister. I learned this from the trial transcript and the Lowell Sun newspaper. I felt I affected a sense of safety in the community." He conveyed to the Board that although he was given the opportunity of a parole hearing, he was "sad the family has to relive this again." Another Board Member inquired of Sok as to whether he thought his age had anything to do with the commission of the crime. He stated, "I felt lack of education and guidance is what affected me. The groups of people and my environment affected my decision making."

His proposed parole plan(s) includes attending counseling to address his transition, maintaining employment, and obtaining services from both the United Teen Equality Center (UTEC) and the Cambodian Mutual Assistance Association (CMAA). In addition, should Sok be deported, he has maintained contact with a former inmate (who was recently deported to Cambodia) and who is willing to assist him with his reintegration. If he is not deported, then Sok proposed a home plan to reside with his father in Lowell. Throughout his incarceration, Sok has developed a strong relationship with his family. In his closing remarks, Attorney Callahan stated that when Sok was convicted, he was a "small frightened child with no idea what he was facing." However, "he's now a thoughtful person who has demonstrated change [and] whose empathy for the victim began in August 2000." Furthermore, Sok has asked to

officially renounce from the gang. Sok again apologized to the Onexavieng family and to the community. In addition, Sok thanked his family for their continued support.

Several members of both Sok's family and the community spoke in support of parole. His sister and cousin described a deep meaningful relationship between their family and Sok. They have supported him throughout his incarceration, have witnessed him make great progress in his maturity level, and described Sok as a caring and loving individual. They will provide him with support during his transition (which includes a job and home search) and will continue with their positive relationship. In addition, multiple letters were submitted by various family members in support of parole. Jose Bou, a former inmate who has known Sok for approximately 12 years, spoke in support of parole. He stated that upon Sok entering prison, he looked very young and was concerned for his well-being. However, according to Mr. Bou, "Sok stayed in his cell, did his schoolwork and didn't get involved in the bad stuff." Mr. Bou said that Sok's positive attitude and leadership encouraged him to make changes in his life, making him a better person. In turn, Mr. Bou will provide him with support during his transition. Jonathan Lunde, of UTEC Outreach Team, described the services available to Sok through his agency. Those services include employment, job training, mentoring, and counseling. Mr. Lunde has set up a network of five positive strong individuals who will provide support to Sok in the community.

Finally, the Parole Board reviewed a clinical assessment submitted by Amy Kelso, MSW, LICSW of the Committee for Public Counsel. She concluded that "Noeun has demonstrated substantial emotional maturity, an increase in positive judgment and a strong sense of identity. Noeun has valued rehabilitation in the prison setting. He is a sensitive, empathetic, intelligent, caring and loving young man that strives to be a positive member of the prison community. Noeun continues to develop goals for the future and strives to achieve his vision."

The victim's sister spoke in opposition to Sok's parole. She read a letter highlighting the relationship she had with her brother and the impact of his loss on their family. Also speaking in opposition to Sok's parole was Middlesex County Assistant District Attorney Randall Moss. ADA Moss highlighted his testimony by stating that Sok had an extensive juvenile record. ADA Moss stated that Sok armed himself with a Samurai sword and pursued the victim afterwards, causing the victim to suffer a very painful death. Although the Commonwealth opposed parole, the Board was asked to impose several conditions to ensure public safety, should parole be granted. These conditions include that he not to reside in the Lowell community, have a gradual transition through lower security, and reside at a long-term residential program.

III. DECISION

At age 15, Sok committed a murder. His life, to that point, was marred by arrests, criminal activity, DYS commitments, gang involvement, inadequate family support, and poor school attendance. Sok received several DYS interventions, including placements at residential programs, and excelled within them. However, despite these interventions, Sok reverted to his former lifestyle once he was released back into the community due to his youth, immaturity, and inability to make reasonable decisions. While his age and stage of development alone does not excuse his behavior, it provides some perspective in which to evaluate Sok. The Parole Board considered Sok's age and stage of development when he committed the offense, as well as the relevant peer influences and precipitants that led him to commit the offense. It is

evident that his rehabilitation commenced at the Plymouth HOC Juvenile Detention Center, due in large part to the efforts of his DYS caseworker, who was instrumental in setting the path which laid the foundation for his transformation. Sok re-invested in his rehabilitation within the adult system. Through his conduct, education, employment, insight and positive support that he has acquired, Sok has now demonstrated the necessary foundation for a successful transition into society. The Parole Board considers Sok's rehabilitative efforts to be both genuine and beneficial.

The four goals of sentencing – punishment, deterrence, rehabilitation, and public protection – have been met. 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." By statute, granting of parole is accomplished only when the Board Members, by a two-thirds majority, vote to grant a parole. After careful consideration of all relevant facts, including the nature of the underlying 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 writing, the Board unanimously concludes (by a 6-0 vote) that Noeun Sok meets the legal standard for parole. Accordingly, Sok is granted parole to his immigration detainer because he presents no current risk for violence and his plan to live in the community is sufficient to assure support, treatment compliance, and monitoring.

SPECIAL CONDITIONS:² Reserve to ICE custody for deportation to Cambodia, must comply with specific conditions if not deported; No drug or alcohol use, with testing in accordance with agency policy; No contact with victim's family; GPS monitoring; GPS must include an exclusion zone of the victim's family's residence; No gang association; Return to custody at first instance of gang association; Substance abuse evaluation and follow any recommended treatment; Waive work for 2 weeks; One-on-one counseling to address transition/adjustment; Must comply with the United Teen Equality Center (UTEC) and/or the Cambodian Mutual Assistance Association (CMAA); Must have a Massachusetts home plan approved; Comply with home plan condition if released from ICE.

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.


Michael J. Callahan, General Counsel

August 19, 2015
Date

² The Board's regulations at 120 CMR 300.06(1) provides that "Where parole release is granted to a warrant or other legal process, release will not occur until the requesting authority is present to serve the warrant. The Massachusetts Parole Board's jurisdiction over the inmate shall continue until the inmate is subject to the outstanding obligation arising out from such warrant or other legal process. The Parole Board may establish conditions which apply both before and after the obligation is satisfied."