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DECISION

IN THE MATTER OF

NORMAN SILVIA
W57304

TYPE OF HEARING: Review Hearing

DATE OF HEARING: February 9, 2016

DATE OF DECISION: June 20, 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 a suitable candidate for parole. Parole is granted to a long term residential program, with special conditions, after successful adjustment to nine months in lower security.

I. STATEMENT OF THE CASE

On October 17, 1994, in Bristol Superior Court, Norman Silvia was found guilty of armed burglary. Subsequently, he was sentenced to life in prison with the possibility of parole. On that same date, he was given a one year concurrent sentence for unlawful possession of a firearm, and an 18 to 20 year suspended sentence with 10 years of probation for armed assault with intent to murder.

On March 10, 1993, Fall River police responded to a domestic disturbance call that had been reported by a neighbor. The neighbor stated that he could hear the victim yelling for help, so he responded by going up to her apartment. Upon approaching her door, he was met in the hallway by Norman Silvia, who pointed a pistol at his head. The neighbor ran back to his apartment and called the police for the second time. Another neighbor heard Mr. Silvia loudly threatening to shoot the victim and their child. The victim had an active restraining order against Mr. Silvia, but he gained entry to her apartment by breaking in through a second floor

window. The victim and Mr. Silvia shared a daughter together, who was present in the apartment at the time of the disturbance. Mr. Silvia had, on prior occasions, physically abused the victim.

When police arrived at the victim's apartment, they could not immediately gain entry. According to police reports, officers could hear a male yelling that he was going to shoot a girl and a baby. He yelled to police, "Don't come in or I'll shoot the bitch." Mr. Silvia screamed obscenities at the victim, while she cried and pleaded with him not to shoot her or the child. The police then heard a gunshot and, when they gained entry to the apartment, found the victim bleeding on the floor. Upon being confronted by Mr. Silvia, who pointed a gun at them, police fired at Mr. Silvia, striking him in the neck. The victim survived the shooting.

II. PAROLE HEARING ON FEBRUARY 9, 2016

Mr. Silvia received a positive parole vote on February 14, 2008, after the Board noted his positive commitment to rehabilitation and positive institutional adjustment. The Board also noted that Mr. Silvia had established positive supportive relationships, including that of his daughter (also the victim's daughter), and had developed a parole plan that would enable him to continue with his positive re-entry to society. Mr. Silvia was released on parole on July 20, 2009, to the Veterans Transition House, after serving six months in pre-release. Just months prior to the completion of his treatment at the Veterans Transition House, Mr. Silvia began to show signs that he was overwhelmed with numerous issues, which led to his failure to comply with many of his parole mandates. He was terminated from his residential treatment program and returned to prison, per his own request, on March 2, 2010. The Board revoked his parole based on his failure to complete residential treatment, as well as his non-compliance with other conditions.

Mr. Silvia's initial review hearing after his parole revocation occurred on August 31, 2010. The Parole Board rendered a decision to deny Mr. Silvia's parole with a review in two years. The Board noted that Mr. Silvia had not participated in any further rehabilitation, nor had he addressed the mental health issues that precipitated his request for a return to prison. Mr. Silvia's subsequent appearance before the Board on August 28, 2012, also resulted in the denial of parole. The Board, at that time, believed that Mr. Silvia needed to engage in mental health treatment, as well as participate in groups and programming to address issues of anger, control, and domestic violence. Following a review in 2014, the Board requested a mental health evaluation prior to rendering a final decision on Mr. Silvia's suitability for parole. In October 2015, the Board received a mental health report from Dr. Robert T. Kinscherff, Ph.D, Esq. Based upon that report, the Board requested to see Mr. Silvia for the present review hearing.

Mr. Silvia, now 46-years-old, appeared before the Parole Board on February 9, 2016, for a review hearing and was represented by Student Attorney Marsophia Ducheine. In Mr. Silvia's opening statement to the Board, he apologized to the victim, her family, and her loved ones for his actions and expressed his remorse. He acknowledged the serious physical and emotional harm that he caused the victim. Mr. Silvia also admitted that his "selfish" and "careless" actions that night created a dangerous situation for his daughter, the responding police officers, and the victim's neighbors.

During the course of the hearing, Mr. Silvia discussed his mental state on the night of the shooting. He claims to have gone out to his garage with the intent to hang himself, but then remembered that he owned a gun. After contemplating the act of shooting himself in the garage, he decided to go to the victim's house to commit suicide in front of her. When asked why he wanted to shoot himself in front of the victim, Mr. Silvia replied that he wanted to show her the "emotional hurt" that he was feeling. He now believes that he may have been subconsciously blaming the victim for the pain that he was experiencing. Mr. Silvia maintains that he was trying to get his daughter out of the house, but acknowledges that in his emotional state at that time, he was really only thinking of himself.

The Board asked Mr. Silvia to discuss the factors that contributed to his return to prison after being paroled. Mr. Silvia believes that putting the needs of others, ahead of his mental health, ultimately led to his parole revocation. He became overwhelmed by the challenges he was facing at the time, including that of caring for his brother (who had a disability) and their step-father. Additional stressors included the issues that his girlfriend was having with her drug relapse, a sexual assault, and a miscarriage. These challenges, coupled with the death of a close friend during that time frame, exacerbated Mr. Silvia's depression. He stated that he stopped taking his anti-depressant medication because it caused him to break out in a rash. He also failed to comply with the crisis plan proposed by his counselor and parole officer. Mr. Silvia said that he grew frustrated and desperate, which led him to request that he be sent back to prison.

When questioned by the Board as to how he would deal with becoming overwhelmed if he were granted parole, Mr. Silvia responded that the programming and counseling that he received during his incarceration have given him more tools to help him succeed. During his incarceration, he participated in programming that helped him identify the problems with his first parole, including such programs as Violence Reduction, Alternatives to Violence, Mood Management and the American Veteran Dog Program. He continues to participate in the American Veteran Dog Program. When the Board expressed concern regarding Mr. Silvia's past history of violence and his problems in maintaining healthy relationships, Mr. Silvia stated that he plans to enter a batterer's program conducted by the High Point Treatment Center. He participated in the Violence Reduction Program while incarcerated, which also covered interfamily and personal relationships. Mr. Silvia believes that he now has a better understanding of the need for mutual respect and communication in a relationship. He admits to having been physically and emotionally abusive to the victim while they were together. However, Mr. Silvia has spoken with the victim while in prison, and has apologized to her for his actions.

Mr. Silvia also used his time in prison to address his mental health needs and acknowledges the fact that he has a chemical imbalance. He now realizes that he must be on anti-depressant medication, and currently takes medication that provides effective treatment. Mr. Silvia plans to continue receiving mental health services, and has spoken with his counselor about a crisis plan in the event that one is needed. Mr. Silvia stated that if he were to be granted parole, he would continue to prioritize his mental health and would take any necessary steps that his counselor deemed necessary.

The Board considered written testimony from Mr. Silvia's daughter, sister, two of his brothers, and a friend, all of whom expressed support for his parole. The Board also considered testimony from Bristol County Assistant District Attorney Aaron Strojny, who expressed opposition to Mr. Silvia's parole.

III. DECISION

Due to Mr. Silvia's significant history of mental illness, the Parole Board requested a mental health evaluation from Dr. Robert T. Kinscherff to assist with an assessment of his mental health status and treatment needs. Dr. Kinscherff opined that Mr. Silvia has responded to the mental health care that he received while incarcerated, and believes this that level of care is readily available in a community-based setting. He outlined the measures that Mr. Silvia would need to take in order to be successful, if he were granted parole.

The Board is of the opinion that Mr. Silvia has completed the institutional programming and mental health treatment needed to prepare him for his eventual return to the community. Mr. Silvia is ready to continue mental health counseling, and to further address his issues with healthy relationships, in a residential treatment setting. 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. Applying that appropriately high standard here, it is the unanimous opinion of the Board that Mr. Silvia is a suitable candidate for parole to a long term residential program, with special conditions, after successful adjustment to nine months in lower security.

SPECIAL CONDITIONS: Waive work for Long Term Residential Program; Must be at home between 10 p.m. and 6 a.m.; Electronic monitoring – GPS; Must take prescribed medication; Supervise for drugs and liquor abstinence, testing in accordance with Agency policy; Report to assigned MA Parole Office on day of release; No contact w/victim(s) without PO consent; Must have substance abuse assessment; Must have mental health counseling for psychotherapeutic services - healthy relations; Long Term Residential Treatment – Veteran's Transition House in New Bedford for 2 year period – any change of housing needs Board approval; Mandatory Crisis Prevention Plan; Mandatory work with Massachusetts Rehabilitation Commission - vocational and employment; Mandatory mental health plan/services in place upon release.

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

6/20/16
Date