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PAROLE BOARD

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Josh Wall
Chairman

DECISION

IN THE MATTER OF

OTIS MILES¹

W61326

TYPE OF HEARING: Review Hearing

DATE OF HEARING: December 11, 2012

DATE OF DECISION: September 10, 2013

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

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, institutional record, the inmate's testimony 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 two years from the date of the hearing.

I. STATEMENT OF THE CASE

Otis Miles appeared before the Massachusetts Parole Board on December 11, 2012, for a review hearing. This was his second appearance before the Board. Following his initial eligibility hearing on December 10, 2009, the Board denied parole and set a three year period of review citing Mr. Miles' lengthy criminal history, numerous disciplinary reports for aggressive behavior, and the need for a longer period of positive adjustment and program involvement to address his anger issues.

On September 24, 1996, Mr. Miles was convicted of second-degree murder in Suffolk Superior Court after a jury trial and sentenced to serve life in prison. He was also sentenced to serve a concurrent prison term of seven to ten years for unlawful possession of a firearm. The Appeals Court affirmed the convictions, and the Supreme Judicial Court denied Mr. Miles' application for further appellate review. *Commonwealth v. Miles*, 46 Mass. App. Ct. 216, rev.

¹ Mr. Miles is also known as Hakim.

denied, 429 Mass. 1103 (1999). The following facts are culled from the Appeals Court's opinion.

On October 7, 1994, Otis Miles, age 29, shot and killed 22-year-old Tony Evans. In the summer of 1994, Miles told the victim's cousin that Mr. Evans had stolen his moped, that he was upset as a result, and that he was going to kill Mr. Evans. When Mr. Evans' cousin suggested that Miles simply injure Evans instead, Miles replied, "No, he fucked up . . . I shot my own brother, so what the hell [do] I care about [Evans]." Subsequently, Evans returned the moped to his cousin, who then returned it to Otis Miles.

On the evening of October 7, 1994, Tony Evans saw Mr. Miles sitting on the front steps of the apartment building where Miles' girlfriend lived. The two men exchanged words. Miles went inside of the apartment building, but Evans followed and a fight ensued between the two until friends broke it up. Evans yelled, "Go get your heat," to which Miles responded, "Motherfucker, stay right here 'til I get back." Miles went upstairs to the second floor and Evans left the building.

Several minutes later, Tony Evans returned to the front of the apartment building with two other men. Miles emerged from the apartment building and confronted Evans, who moved his empty hands away from his body and threw them into the air. Nonetheless, Miles pulled out his gun and fatally shot Evans in the stomach. A witness testified at trial that, after the shooting, Miles said to Evans, "I told you not to fuck with me."

II. PAROLE HEARING ON DECEMBER 11, 2012

Otis Miles appeared for his second parole hearing after serving 18 years of his life sentence for the second-degree murder of Tony Evans. Miles told the Board that "I had a bad habit of using violence and it took me a long time to realize it." A Board Member commented that "your criminal record indicates that this event was inevitable." Miles has a DYS commitment resulting from a delinquency for possession of a dangerous weapon, numerous charges for possession of a firearm with five convictions for that offense, four prior House of Corrections commitments, and two prior state commitments involving multiple sentences, including six to ten years for armed robbery and five to ten years concurrent for cocaine dealing. During that incarceration, Miles received 27 disciplinary reports; he was returned to higher custody twice for threatening staff and insolence.

Miles said he began carrying a gun at about age 16 because he lived "in a rough neighborhood" and that he "always kept with the gun; I never gave it up but I should have." He admitted that, "I shot at someone before; in street beefs; there was a falling out with dudes in the neighborhood and we had a shootout." He recalled that "at 16, I shot someone in the foot, I hid the gun, the police frisked me and let me go." He said he was never in a gang. Miles provided information on his history of drug dealing and robberies. He said, "when I was doing drugs all of us robbed customers; everyone in the neighborhood was doing it; I was doing cocaine then; I smoked crack for two six month periods; I got busted on December 11, 1987 and I stopped using drugs after that." A Board Member asked Miles for more information on the robberies. He admitted he committed many armed robberies but offered that he targeted only drug sellers and users. A Board Member asked Miles how he was viewed in his community. He responded, "My neighbors loved me; I took care of kids and people; most

people respected me; I'm not going to lie to you, guys on the street respected me and some feared me; they knew that I wanted respect and if you crossed me I was going to deal with you." He was asked about his habit of owning expensive cars, including a BMW and a Jaguar when he did not work steadily. He said, "I had girlfriends who were helping me."

He continues to view his actions as justifiable self-defense, in contrast to the facts recorded in the Appeals Court decision that "the defendant then purposefully approached Evans, whose empty hands were raised in the air, and who did not appear to be armed. The defendant next shot Evans at close range and then stated, 'I told you not to fuck with me.'" In describing the murder, Miles said, "I honestly believe and still believe that I was acting in self-defense. When he went to reach in his jacket, I pulled out my gun and fired; I shot him while he was reaching. Based on the guys he was with, how he came back, how he spoke, I thought he meant to do me harm. There was testimony that his hands were in the air, but that's not true. There was testimony that he did not have a jacket on, but he did. I did not shoot my brother and I never bragged about shooting my brother. I had the gun on me; I did not go upstairs to get a gun."

During this incarceration, Miles has received 11 disciplinary reports, including four for fighting. His last disciplinary report was in 2009. He has completed Jericho Circle, Alternatives to Violence (three phases), Active Listening Workshop, and Problem Solving. He testified that "my programs have helped me tremendously; they taught me to talk effectively without threatening and find common ground with both people respected." He obtained a GED in 1984 and took college courses from Boston University from 2006 until obtaining a bachelor's degree in sociology in 2012. He is currently employed as food server. He reported that he attends Muslim services.

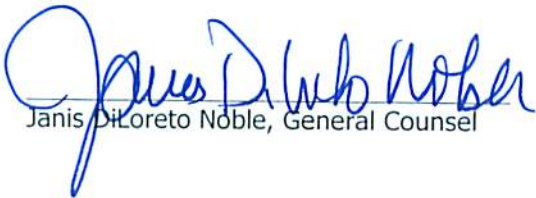
Two people spoke in support of parole. Miles' sister said that, "I have been able to go to school and do my thing in part because people respected and feared my brother. My area was murderer's row; you had to fight in my community." Miles' girlfriend, with whom he has an 18-year-old-son who is in college, testified that "he has changed; he can say he is wrong; he can apologize." Tony Evans' aunt and uncle spoke in opposition to parole. His aunt said, "I heard what I thought were his lies in court; now all I hear is excuses; I don't hear remorse." His uncle disagreed with the negative description of the neighborhood; he said "I never had problems like that" in the same neighborhood. Suffolk County Assistant District Attorney Charles Bartoloni submitted a letter of opposition.

III. DECISION

Otis Miles had an ongoing dispute with Tony Evans. He resolved the dispute by shooting Mr. Evans. Miles has an improved prison record and has been involved in rehabilitative programs that have helped him with anger, impulse control, and conflict resolution. He continues to lack insight, however, into the extent of his violence, the harm done to his community by his criminal conduct, and the role he played in ending Tony Evans' life. He recounts the events of the murder as if acted reasonably and blamelessly at every step. To reform from his extraordinary level of violence and antisocial conduct, Miles needs extended rehabilitative efforts. His lack of insight signals that he needs more time and more work in order to reduce his risk for violence and establish a well-engrained pattern of pro-social thinking and conduct.

The standard 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 an 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, the Parole Board concludes that Mr. Miles is not currently suitable for parole. The review will be in two years, during which time Mr. Miles should recommit to rehabilitation and program involvement with the goals of recognizing what he did wrong in shooting Mr. Evans, understanding why he was so violent and destructive in his community, and realizing the impact his criminal conduct had in the community.

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 each member of the Board has reviewed the applicant's entire criminal record. This signature does not indicate authorship of the decision.


Janis DiLoreto Noble, General Counsel


Date