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DECISION

IN THE MATTER OF
PAUL CIPPERLY
W-56667

TYPE OF HEARING: Review Hearing

DATE OF HEARING: February 24, 2015

DATE OF DECISION: April 7, 2015

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Sheila Dupre, Lee Gartenberg, Tina Hurley, Lucy Soto-Abbe.

DECISION OF THE BOARD: 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 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 in three years from the date of the hearing.

I. STATEMENT OF THE CASE

On June 10, 1994, in Middlesex Superior Court, Paul Cipperly was found guilty of armed robbery and three counts of assault by means of a dangerous weapon (handgun). On June 14, 1994, following a bench trial, Cipperly was found guilty of being a habitual criminal. He was then sentenced to life in prison for armed robbery as a habitual criminal and given three 4 to 5 year sentences ordered to run concurrently with each other and with his life sentence.

(Taken in part from Commonwealth v. Paul S. Cipperly, dated May 26, 1993, Docket Number 93-0791)

On April 24, 1993, at approximately 11:40 am, Paul Cipperly and Nick Brien entered Baybank in Arlington and were armed with (what appeared to be) semi-automatic handguns. Cipperly remained in the lobby area and ordered the customers and bank employees to "get down on the floor," while Brien jumped over the counter into the teller area. At gun point, Brien ordered the two tellers to move away in order to fill a black nylon bag with money. Once

the tellers' drawers had been emptied, both men fled the bank. Unbeknownst to the two robbers, explosive packets containing dye had been placed in the bag. As they ran from the bank towards an adjacent parking lot, the dye packets exploded. At this time, a witness saw an explosion of red smoke and saw two men jump over a fence and get into a black car. Thinking what he had seen was unusual, the witness wrote down the car's license plate number. A subsequent investigation revealed that the get-away car was registered to Paul S. Cipperly, who had a lengthy record for similar offenses. Cipperly was later identified by several witnesses.

On July 23, 1996, in Essex Superior Court, Cipperly was found guilty of assault by means of a dangerous weapon and armed robbery and was sentenced to 4 to 5 years and 15 to 20 years, respectively, and ordered to run concurrent with his life sentences. The victim of this crime was Jennifer Ann Fenton. All of the crimes for which Cipperly is now incarcerated were committed while on parole (from a 10 to 15 year sentence for armed robbery while masked).

On April 4, 1996, the Massachusetts Appeals Court affirmed his convictions. In November 2002, Cipperly filed a motion for a new trial claiming that he was improperly convicted as a habitual criminal. The Court did not act upon that motion. In March 2008, Cipperly filed a motion for a new trial on grounds that he was incompetent to stand trial in 1994. In 2009, Cipperly asked the court to hold his motion in abeyance, which is where it stands today.

II. PAROLE HEARING ON FEBRUARY 24, 2015

Paul Cipperly appeared for his second parole hearing on February 24, 2015. Cipperly is 54 years-old and has served 21 years of his life sentence. His initial hearing was conducted in September 2008 and parole was denied with a review in five years. In 2013, he postponed his hearing due to his placement at Souza Baranowski Correctional Center (SBCC).

Attorney John Rull represented Cipperly at the hearing. Cipperly provided an opening statement in which he apologized to the victims affected by his damaging choices. He said that he has come to understand the ripple effect, both on his family and on the community at large. Attorney Rull also provided an opening statement and outlined Cipperly's pathway to criminal behavior, with a history replete with failure and periods of instability. Attorney Rull contends that Cipperly's participation in individual therapy has led to a better understanding of how years of sexual abuse affected his identity and self-worth. In addition, he summarized Cipperly's parole plan, which includes a support network to aid in his reintegration.

Cipperly provided the Board with an overview of the treatment and programming that he has engaged in since his last hearing and the transformation that he has experienced through intensive counseling. He described himself as positive, caring, and respectful. Programs that he participated in at the Resident Treatment Unit at Old Colony Correctional Center (OCCC) and Souza Baranowski Correctional Center (SBCC) include: Anger Management; Dialectical Behavior Therapy (DBT); Stress Management; and Life Skills. Cipperly also described the skills he learned through DBT to diffuse arguments and to identify solutions. In addition, Cipperly received certificates for completion of Motivational Enhancement and the Beacon Program. He has been employed as a unit runner and is currently employed as a barber. He does not perceive drugs or alcohol use to be an issue. According to departmental records, there is no indication of substance use in the past 22 years.

Cipperly grew up in Revere and, by all accounts, his childhood was good until the age of nine, when he was molested by kids from the neighborhood. This was the first of many sexual assaults that Cipperly stated that he had experienced. In fact, Cipperly stated that he had been sexually victimized by 12 men during his adolescent years. As a result of his history of sexual abuse, Cipperly lost his friends and his grades declined. He said that he lost all interest in school, as well. As an intervention, his parents enrolled him in karate, where he alleges he was sexually molested by his instructor. As a result, he developed a severe stutter. By the time he reached high school, he was enrolled in special needs classes, which led to harassment and bullying. Cipperly also stated that he had a difficult time in high school, resulting in feelings of insecurity and isolation. These feelings were contributing factors to his poor behavior and subsequent placement in the Alpha Omega House (a program for troubled teens). However, Cipperly reported that he was sexually molested two to three times a week, for seven months, by the residing Catholic priest at this program. The abuse stopped when he was discharged from the program, later resulting in a financial settlement from the Archdiocese.

Cipperly has an extensive adult criminal history, including three prior state incarcerations for offenses similar to the armed robbery. He was paroled from two of those sentences and committed new crimes while on parole, including the governing offense. He was given a life sentence after being deemed a habitual offender for armed robbery. In addition, Cipperly was previously committed to the Department of Youth Services on three occasions. Cipperly portrayed himself as a follower, with a desire to be accepted, and feels that this was the catalyst in associating with the wrong crowd. Cipperly talked about his crimes and attributed his criminal record to the molestation he experienced at an early age.

Cipperly has been returned to higher security on several occasions throughout his incarceration and has accrued approximately 30 disciplinary reports since his last hearing. The most egregious incident resulted in his conviction of assault and battery on a public servant on April 25, 2011, in Concord District Court. After a review of his disciplinary infractions during this hearing, the Board conveyed that they are not minor in nature and, further, show that Cipperly does not exhibit rehabilitation. In fact, his comportment can be deemed as abusive when under stress. Cipperly's reports show a pattern of explosive behavior when he perceives others as unreasonable. The Board recognized, however, the positive influence of his clinician. Cipperly appears to be making some positive strides in his rehabilitation, as he continues to address a history riddled with poor coping skills.

According to DOC classification reports, Cipperly has two Bridgewater State Hospital commitments due to suicide attempts by cutting, with the most recent on October 27, 2007. According to an 18(a) evaluation conducted by Bridgewater State Hospital staff on November 6, 2007, Cipperly was diagnosed with Post Traumatic Stress Disorder (PTSD), as well as Borderline Personality Disorder. Beginning in March 2010, Cipperly was transferred to Bridgewater State Hospital on three occasions. He was then transferred to OCCC where, after receiving numerous disciplinary reports, he was returned to maximum security at SBCC. He told the Board he still experiences nightmares as a result of abuse and relies on medication to sleep at night.

Cipperly seeks parole to a long term residential program, after a gradual reduction in security. He has been working with the Office of Pastoral Support and Outreach of the Archdiocese of Boston, who are prepared to provide him with transitional assistance. Upon

completion of a program, he would reside with his brother in Peabody or seek to have his parole transferred to Florida in order to reside with his parents. He will also avail himself of mental health counseling, housing, and programs through the support of the Archdiocese. He has been offered employment at his brother's pizza place in Salem, Massachusetts. Cipperly's brother, daughter, his daughter's mother, and a representative from the Archdiocese spoke in support of parole, noting that they will provide him with the necessary supports to successfully re-enter the community.

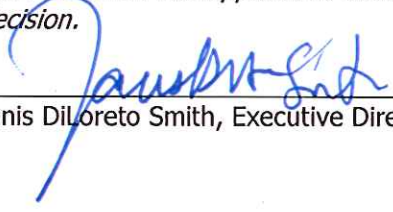
There were no written submissions or testimony from the public in opposition to Cipperly's release. However, Middlesex County Assistant District Attorney Adrienne Lynch (while sympathetic to the abuse he had suffered) provided a letter in opposition to parole. She outlined the reasons for opposition, citing in part that "Mr. Cipperly has not demonstrated that his release on parole would not be a threat to public safety and welfare. He continues to be violent, assaultive and threatening to other." In addition, "Mr. Cipperly continues to have serious anger issues that need to be addressed and resolved before he should ever be granted parole." ADA Lynch was also concerned that Cipperly's parole plan is largely dependent on his family support. ADA Lynch also stated that both Cipperly's brother and father provided false alibi testimony at Cipperly's trial in an attempt to convince the jury that he could not have committed the offenses. The jury rejected his defense and Cipperly has admitted to the commission of the crimes. Therefore, ADA Lynch has concerns about the family's conduct, should Cipperly be paroled to the community.

III. DECISION

Although the Board empathizes with the abuse Cipperly has suffered in his lifetime, they are of the opinion that he has not been rehabilitated to the point where he can safely manage in the community. Cipperly's history, both within the community and within the correctional setting, is replete with instability and anti-social behavior. The Board recognizes the direct link between the abuse and the path he has chosen, as well as the positive influence of his clinician, since Cipperly appears to be making some positive strides in his rehabilitation. However, the Board is of the opinion that Cipperly needs to demonstrate his rehabilitative progress and success through a longer period of positive institutional adjustment and programming before his release is compatible with the welfare of society. His willingness to violate institutional rules remains a source of concern to the Board.

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 Paul Cipperly does not merit parole at this time because he is not rehabilitated. The review will be in three years, during which time Mr. Cipperly should commit to a more comprehensive rehabilitation that addresses his anger issues and his coping skills in stressful or difficult situations.

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 Smith, Executive Director

Date

9/7/15