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DECISION

IN THE MATTER OF

SOUVANHEUANG PHACHANSIRI
W50489

TYPE OF HEARING: Review Hearing
DATE OF HEARING: May 10, 2016
DATE OF DECISION: September 26, 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 that the inmate is not a suitable candidate for parole. Parole is denied with a review scheduled in two years from the date of the hearing.¹

I. STATEMENT OF THE CASE

On May 6, 1991, in Suffolk Superior Court, a jury convicted Souvanheuung Phachansiri of the second degree murder of his ex-wife, Daravanh Phachansiri. He was sentenced to life in prison with the possibility of parole. On that same date, Mr. Phachansiri was also convicted of kidnapping and received an 8-10 year concurrent sentence.

On February 10, 1990, Mr. Phachansiri, his brother Souvanna Phachansiri (a co-defendant of Mr. Phachansiri), and his friend Mr. Phouthongseng (also a co-defendant of Mr. Phachansiri) attended a family party in Plymouth. Also present at the party were Souvanheuung Phachansiri's ex-wife Daravanh, her husband "Suki," and Daravanh's two children from her former marriage to Mr. Phachansiri. During the party, Mr. Phachansiri was overheard telling his mother that he had \$20,000 to \$30,000 in the bank. Daravanh then asked him, "Why don't you pay child support?" Mr. Phachansiri responded by punching Daravanh in

¹ Five of the Seven Members of the Board voted to schedule a review hearing on Mr. Phachansiri's petition for parole in two years. Two Board Members voted to reserve Mr. Phachansiri to an ICE detainer, with conditions.

the face. Suki told Mr. Phachansiri to stop, and the two men began to fight. Then Souvanna pulled out a gun and threatened Suki. As a result of this altercation, Suki ran to a nearby gas station and called the police. When the party broke up, Mr. Phachansiri, Souvanna, Mr. Phouthongseng, the Phachansiri brothers' mother, Souvanna's wife, and four children left in a blue van. Suki, Daravanh, and her two children (also Mr. Phachansiri's children) left in a different vehicle.

On their way home, Daravanh and Suki stopped in Revere to buy gas. When Suki got out of the car to pay for the gas, Mr. Phachansiri walked up to him and punched him in the face. The two men proceeded to fight. Souvanna joined in the fight, threatened to shoot Suki, and then stabbed Suki in the hand with a broken beer bottle. Mr. Phouthongseng also joined the fight and hit Suki in the head. After a few moments, Daravanh exited her car. Suki saw Mr. Phouthongseng grab Daravanh by the hair and pull her towards the van. Suki then ran to the office to call the police. Witnesses saw Daravanh thrown into the van through the side door. As the van was pulling away, Suki screamed for it to stop; he ran up to it and struck the driver's side window with a "crook lock." The van sped away, and Suki ran into the street. He saw a woman holding Daravanh, who was on the ground lying on her back. Daravanh's eyes were open, but she could not talk. Blood was on her nose and chest. Her clothes were in shambles and her brassiere had been cut off.

The occupants of the van fled the scene and were found in Lowell, where Mr. Phachansiri and his co-defendants were apprehended. On February 28, 1990, Mr. Phachansiri and his co-defendants were indicted for the murder and kidnapping of Daravanh Phachansiri.

II. PAROLE HEARING ON MAY 10, 2016

Mr. Phachansiri, now 56-years-old, appeared before the Parole Board on May 10, 2016, for a review hearing and was represented by Attorney John Rull. Mr. Phachansiri's initial appearance before the Board, in March 2006, resulted in the denial of parole. His review hearing in May 2011 also resulted in the denial of parole. Mr. Phachansiri has an Immigration and Customs Enforcement (ICE) detainer for deportation to his native country of Laos. Laos, however, does not typically accept deportations. In his opening statement to the Board, Mr. Phachansiri apologized to the friends and family of the victim, Daravanh. Mr. Phachansiri also apologized for previously failing to take responsibility for Daravanh's death. Mr. Phachansiri stated he now understands that by following his anger, he initiated the situation which led to her death. Mr. Phachansiri further apologized to his son, who had grown up without a mother or father. Finally, Mr. Phachansiri apologized to Suki, and expressed hope that those affected by the crime could begin to heal.

Mr. Phachansiri discussed the events that transpired on the day of Daravanh's death. Mr. Phachansiri's description of the offense was substantially similar to the version of events that he provided to the Board in 2006 and 2011. Mr. Phachansiri said that the fight at the party in Plymouth began when Suki became jealous of a conversation Mr. Phachansiri was having with Daravanh. Mr. Phachansiri said that Suki attacked him, eventually hitting him in the face with a shovel. After the police came and broke up the party, Mr. Phachansiri left in a van with his co-defendants (with Souvanna driving), Souvanna's wife, his mother, and four children. About 10 minutes after leaving the party, Mr. Phachansiri noticed Daravanh's car and told Souvanna to follow them. At his 2011 hearing, Mr. Phachansiri had maintained that they

encountered the victim at the gas station in Revere, by chance, when they stopped to get gas for the van. During the present hearing, Mr. Phachansiri admitted to the Board that he was angry at Suki, and that he willingly and purposefully followed the van because he wanted to fight Suki and get even with him.

Mr. Phachansiri also acknowledged that he got out of the van at the gas station and attacked Suki. However, he maintains that he never saw Daravanh get into the van. He stated that the last time he saw her was when she was standing next to the open sliding door of the van. She had one foot on the step and was talking to his mother, who was seated in the van. Mr. Phachansiri said that he got in the front passenger seat, while Souvanna's wife was in the driver's seat. According to Mr. Phachansiri, Suki then smashed the driver's side front window with a metal tool. Souvanna's wife became frightened and started to drive away. Mr. Phachansiri tried to help Souvanna's wife control the car. He stated that he heard Daravanh say, "Stop or I'll jump." He looked back and Daravanh was no longer in the van. Mr. Phachansiri and his fellow passengers then drove to their homes in Lowell. Mr. Phachansiri claimed that there was no conversation about what had happened in the van during the drive, and he never called anyone to inquire about Daravanh's condition. He did not find out that she was dead until he was arrested by the police several hours later in his home. Board Members noted that due to the many versions of events, they would never know exactly what had happened in the van. One Board Member pointed out that Mr. Phachansiri testified at his trial, and the jury convicted him of second degree murder, indicating that they did not believe his version of the events.

Since his incarceration in 1991, Mr. Phachansiri has had only two disciplinary reports, both for minor infractions. He has taken advantage of many educational opportunities and rehabilitative programs, including classes in pre-GED, literacy, English as Second Language, and Adult Basic Education. Mr. Phachansiri also received training in welding, power technology, small engine repair, and communicable disease training. He has maintained the same institutional employment (janitorial services) for 25 years.

The Board considered oral testimony from Mr. Phachansiri's brother-in-law, niece, nephew, one of his sons (who had been present at the scene of the murder), and sister, all of whom expressed support for Mr. Phachansiri's parole. The Board received letters from some of Mr. Phachansiri's supporters as well. The Board also considered testimony from Suffolk County Assistant District Attorney Charles Bartoloni, who expressed opposition to Mr. Phachansiri being granted parole.

III. DECISION

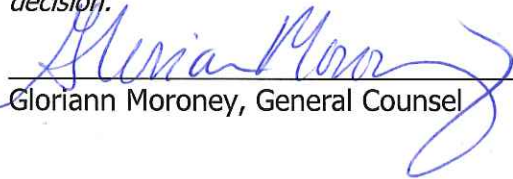
Although progress has been made, the Board is of the opinion that Mr. Phachansiri has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board believes that a longer period of positive institutional adjustment and programming would be beneficial to Mr. Phachansiri's rehabilitation.

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. In forming this opinion, the Board has taken into consideration

Mr. Phachansiri's institutional behavior, as well as his participation in available work, educational, and treatment programs during the period of his incarceration. The Board also considered a risk and needs assessment, and whether risk reduction programs could effectively minimize Mr. Phachansiri's risk of recidivism. After applying this standard to the circumstances of Mr. Phachansiri's case, the Board is of the opinion that Mr. Phachansiri is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Phachansiri's next appearance before the Board will take place in two years from the date of this hearing. During the interim, the Board encourages Mr. Phachansiri to continue working towards his full rehabilitation.

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

9/26/16
Date