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PAROLE BOARD

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DECISION

IN THE MATTER OF

RICHARD CROWELL

W28969

TYPE OF HEARING: **Revocation Review Hearing**

DATE OF HEARING: **August 28, 2012**

DATE OF DECISION: **August 30, 2013**

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

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 writing, we conclude by unanimous vote that the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in five years from the date of the hearing.

I. STATEMENT OF THE CASE

Richard Crowell appeared before the Massachusetts Parole Board on August 28, 2012, for a review hearing on his life sentence for second degree murder. This review hearing was conducted following Mr. Crowell's most recent return as a parole violator in 2003 and parole denials in 2004 and 2007. On October 7, 2007, after a review hearing, the Board unanimously denied parole and set a five year review date.

On June 13, 1962, in Suffolk Superior Court, 19-year-old Richard Crowell pleaded guilty to the second-degree murder of Harry Cohen, age 52, and was sentenced to serve life in prison. The Court also sentenced Mr. Crowell to serve a concurrent 15 to 20 year sentence for assault with intent to rob or murder and a three to five year sentence for assault by means of a dangerous weapon. Mr. Crowell also pleaded guilty to an unrelated armed robbery for which he received a concurrent 15 to 20 year sentence. On December 31, 1974, Governor Francis W.

Sargent commuted Mr. Crowell's life sentence to 36 years to life, creating a parole eligibility date of December 23, 1975.

Mr. Crowell filed numerous appeals relating to his guilty plea for the murder of Harry Cohen. On August 6, 1962, Mr. Crowell filed a motion to withdraw the plea. The judge denied the motion on July 1, 1963. The Supreme Judicial Court dismissed Mr. Crowell's appeal of the motion judge's denial. *Commonwealth v. Crowell*, 347 Mass. 771 (1964). On March 3, 1967, Mr. Crowell filed a petition for habeas corpus, which was dismissed. *Crowell v. Commonwealth*, 352 Mass. 288 (1967). On August 7, 2001, Mr. Crowell filed another motion to withdraw his guilty plea, which was denied. On March 16, 2011, the Appeals Court affirmed the denial. *Commonwealth v. Crowell*, 79 Mass. App. Ct. 1103, rev. denied, 460 Mass. 1102 (2011).

On January 1, 1962, Mr. Crowell and his associates were responsible for the murder of Harry Cohen during a violent armed robbery. Mr. Crowell and his associates committed a series of violent robberies in late 1961 and early 1962, the last of which resulted in the murder of Mr. Cohen.

In November 1961, two associates of Mr. Crowell, William A. Hayes, age 17, and John McCarthy, age 25, broke into an apartment in Charlestown and stole, among other items, a Webley .38 caliber revolver. Mr. Cohen would be murdered with a .38 caliber revolver.

On December 29, 1961, Mr. Crowell, Mr. Hayes, and Roy Blampye, age 21, robbed a variety store in Charlestown.¹ One of Mr. Crowell's victims, a 16-year-old, was a clerk there. Mr. Blampye carried a gun, pointed it at the teenager, and told him to put money in a bag. After obtaining \$56, Mr. Blampye threatened the teenager, stating "Don't do anything for 10 minutes or I'll kill you." During the robbery, Mr. Crowell placed a knife to the throat of another patron in the store. On his way out, Mr. Blampye struck the patron on the back of the head with the gun.

On December 30, 1961, Mr. Hayes and Mr. Crowell robbed another Charlestown variety store. While carrying a revolver, Mr. Crowell urged Mr. Hayes to take money directly from the store owner. After Mr. Hayes took the money, Mr. Crowell cut the telephone wires and ordered the store owner to "stay put."

On the evening of January 1, 1962, Robert Rose, age 27, Mr. Crowell, Mr. Blampye, and Mr. Hayes were together drinking at the Melody Lounge in Boston. They left the bar and stole a nearby car. Mr. Crowell drove. At approximately 9:15 p.m., they arrived at a pharmacy in Jamaica Plain. Mr. Crowell stayed at the wheel of the car as the getaway driver. Mr. Hayes stood on the sidewalk as a look out. Mr. Blampye and Mr. Rose entered the pharmacy. The owner of the pharmacy, Mr. Cohen, was alone in the store. Mr. Blampye, who was holding a .38 caliber revolver, announced to Mr. Cohen, "This is a holdup. Give the money to [Mr. Rose]." Mr. Cohen resisted and a brief struggle ensued. Mr. Blampye shot Mr. Cohen several times in the neck. Mr. Cohen staggered from the store and collapsed on the sidewalk just outside the pharmacy. Mr. Blampye, Mr. Rose, and Mr. Hayes entered the car and Mr. Crowell drove them away.

¹ This is the offense for which Mr. Crowell received concurrent 15 to 20 and eight to ten year sentences.

While Mr. Crowell did not enter the pharmacy, he had knowledge that his accomplices had a gun which they intended to use in the hold up. For their roles in the murder of Mr. Cohen, Mr. Hayes², Mr. Blampye³, and Mr. Rose⁴ each pleaded guilty to second-degree murder and received a life sentence.

II. CRIMINAL HISTORY

On February 10, 1958, Mr. Crowell, then age 15, broke and entered the premises of a Boston area donut shop and stole an unknown quantity of cigarettes from a machine. Consequently, Mr. Crowell completed one year of probation, with a positive adjustment noted, with the exception of a November 14, 1958, charge of destruction of an American flag, which was continued without a finding for six months. On April 10, 1959, Mr. Crowell was arrested for an attempted break-in for which he received a suspended sentence.

Mr. Crowell has been arrested on five separate occasions while under parole supervision. These arrests took place in 1977, 1980, 1982, 1989, and 1990. All were eventually dismissed, with the exception of operating under the influence and operating to endanger charges, which were filed. The offenses also include drinking in public, assault and battery, being a disorderly person, and threatening.

III. PAROLE HISTORY

Mr. Crowell was paroled in November 1975 following Governor Sargent's commutation of his life sentence. On July 23, 1982, a parole warrant was issued, and Mr. Crowell was returned to custody, based on a restraining order entered against him, an assault and battery charge, and a default warrant from the Roxbury District Court relating to charges for operating under the influence and operating to endanger lives and safety. The parole warrant was withdrawn and Mr. Crowell was released on July 27, 1982, subject to a warning from his parole officer that he must stop drinking alcohol. The referenced criminal charges were continued without a finding by the Boston Municipal Court.

Mr. Crowell remained on parole until September 28, 1989, when he was arrested by Boston Police for assault and battery and assault and battery on a police officer. A parole warrant was issued, Mr. Crowell was returned to custody, and his parole was revoked on a provisional basis. In connection with this provisional revocation, Mr. Crowell's parole officer noted that "running records indicate [he] has had a continual problem with alcohol and assaultive behavior throughout his parole period." On January 19, 1990, following a final

² In addition to the murder of Mr. Cohen, Mr. Hayes pleaded guilty in Middlesex Superior Court to second degree murder and armed robbery for another offense he had committed with Mr. Blampye on December 30, 1961. He received concurrent life sentences. Mr. Hayes had been paroled in 1977 and was returned for a new offense in 1980, conspiracy to commit larceny, which was later dismissed. He was re-released on parole in September 1981 and is currently under the supervision of the Parole Board.

³ Mr. Blampye also received concurrent life sentences for a separate murder committed with Mr. Hayes in Middlesex County. Mr. Blampye was paroled in 1982 and returned to custody in 2000. He was re-paroled in 2001 and is currently supervised in another state.

⁴ Mr. Rose has been paroled on four occasions with three revocations. He was most recently paroled in 2008 and is under the supervision of the Parole Board.

revocation hearing, Mr. Crowell was re-released on parole without revocation, one of the conditions being that he complete an alcohol rehabilitation program.

In April of 1990, while at the Salvation Army, Mr. Crowell went whereabouts unknown. When his parole officer asked him why he had not maintained contact with his parole officer about his whereabouts, he replied, "I don't have to!" On May 16, 1990, another provisional revocation of parole occurred as Mr. Crowell again failed to adhere to parole conditions, including failing to report to his parole officer as instructed, failure to notify his parole officer of a change in residence, being under the influence of liquor, and failure to complete the prescribed treatment program. In his recommendation to provisionally revoke parole, the parole officer noted that Mr. Crowell "has gone out of his way to be uncooperative and even belligerent at times," and that he "has a very bitter attitude toward parole which makes him an unmanageable parolee." Mr. Crowell was re-paroled on September 20, 1990, after a final revocation hearing with conditions including that he complete an alcohol rehabilitation program and participate in mandatory AA. Again, the parole officer noted that Mr. Crowell continued to display the same poor attitude. On October 10, 1990, the parole officer received a call from the Boston Police Department informing him that Mr. Crowell was drinking, perhaps using drugs, and had threatened to kill a Boston Police Officer. A parole violation warrant was issued, Mr. Crowell's parole was provisionally revoked, and the Board affirmed the revocation.

The Board held review hearings resulting in the denial of parole for Mr. Crowell in 1991, 1994, and 1997. On November 21, 2003, the Board re-paroled Mr. Crowell with one of the conditions being that Mr. Crowell must complete a long-term residential program and attend AA at least three times per week. Yet, on December 10, 2003, Mr. Crowell was returned to custody on a parole violation report that he had failed to complete the program. On April 20, 2004, the Board affirmed the provisional revocation.

On August 21, 2007, Mr. Crowell appeared for a review hearing. As noted by the Board in its decision, Mr. Crowell "is bitter over the fact that he has been returned to custody" and has refused to answer questions posed by the Board. For his closing statement at the hearing, Mr. Crowell asked, "When are you going to stop this show? I am going to court to have this case thrown out."

IV. PAROLE HEARING ON AUGUST 28, 2012

Richard Crowell appeared before the Parole Board on August 28, 2012, for a review hearing. Michael Horrell from Harvard Law School's clinical program represented Mr. Crowell. It was clear from Mr. Crowell's presentation that he had not made any significant progress since his last hearing in 2007. Upon questioning by the Board, Mr. Crowell was unable to offer any concrete, viable release plan that could assure the Board that he would be compliant on parole after his history of defiance and non-compliance. Board members pointed out his numerous parole violations, returns to custody, and difficulty cooperating with supervision. A Board member asked Mr. Crowell about magazine subscriptions that he had mailed and billed to his parole officer. Mr. Crowell was re-incarcerated at the time. He said the subscriptions "were hilarious" and that it was his way of "letting my parole officer know I was thinking about him."

Board Member Bonner specifically covered the difficulty of managing Mr. Crowell in light of his traumatic head injury⁵ and how his limitations were lifelong challenges. She pointed out that Mr. Crowell would need to be in a very structured setting that would require him to be cooperative with rules and caregivers. In response to these questions, Mr. Crowell was unable to address the concerns related to his combative attitude and the challenges presented in supervising him as a patient or parolee. Instead, Mr. Crowell gave the clear impression that he feels entitled to parole, in part because he was the getaway driver and not the shooter. He said he was incarcerated "13 years for nothing."

No one appeared in support of Mr. Crowell's parole request. Suffolk Assistant District Attorney Charles Bartoloni submitted a letter opposing parole.

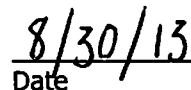
V. DECISION

Richard Crowell has a lengthy history of parole violations, returns to custody, substance abuse while on parole, program failures, new crimes on parole, and an overall uncooperative attitude that further undermines his ability to live under community supervision. His previous parole failures established that he was not sufficiently rehabilitated to live in the community. As demonstrated at his parole hearing, Mr. Crowell has not sought or achieved the rehabilitation necessary to live safely in the community. He has not addressed or reformed his impatient, argumentative, and combative behavior. He showed no recognition or insight concerning this behavior and did not show an inclination or desire to change.

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, the Board finds that Mr. Crowell is not a suitable candidate for parole. The review will be in five years, during which time Mr. Crowell should participate in programs and activities with the goal of learning skills of cooperation. His situation might be aided by an evaluation of the possible mental deficits associated with his head injury.

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.


Caitlin E. Casey, Chief of Staff


Date

⁵ Mr. Crowell sustained a head injury in 1987 which his lawyer said causes some memory lapses. It could be the cause of some other functional limitations.