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DECISION

IN THE MATTER OF

RICHARD KENDALL

W52646

TYPE OF HEARING: Review Hearing

DATE OF HEARING: January 31, 2017

DATE OF DECISION: August 1, 2017

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, 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 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 1, 1992, in Middlesex County Superior Court, Richard Kendall pled guilty to the second degree murder of Martin Santos. Mr. Kendall was sentenced to life in prison with the possibility of parole. That same day, he also received a 10 to 15 year concurrent sentence for armed robbery. Mr. Kendall's co-defendant, Derek Cryer, was also convicted of first degree murder.

On the evening of March 4, 1990, Richard Kendall accompanied Derek Cryer to Martin Santos' basement apartment in Everett. Mr. Cryer's express purpose was to rob and kill Mr. Santos. Mr. Santos knew Mr. Cryer and welcomed them inside when they arrived. While in Mr. Santos' bedroom, Mr. Cryer armed himself with a single scissor blade and began attacking Mr. Santos. Mr. Cryer stabbed Mr. Santos multiple times before Mr. Santos was able to push Mr. Cryer backwards onto the floor. When Mr. Santos obtained a knife from the kitchen and confronted Mr. Cryer, Mr. Kendall picked up a guitar and knocked Mr. Santos to the floor with

the instrument. Mr. Cryer and Mr. Kendall were on their way out the door when they heard sounds coming from the kitchen and realized that Mr. Santos was still alive. They returned to the kitchen to find Mr. Santos on his hands and knees and bleeding. He was struggling to get up. Upon seeing this, Mr. Kendall proceeded to kick Mr. Santos in the head several times, while Mr. Cryer stabbed him multiple times in the ear and throat. Before leaving the apartment, they stole a cable box from Mr. Santos' bedroom, as well as two jackets to place over their heads to shield themselves from being identified.

After the murder, Mr. Kendall enlisted in the Army. During his first Army leave, Mr. Kendall returned to Massachusetts and reunited with Mr. Cryer. They were arrested in New Hampshire in September 1991, 18 months after the murder, when they broke into a home and stole items, including a camcorder on which they unintentionally recorded incriminating statements concerning Mr. Santos' murder.

II. PAROLE HEARING ON JANUARY 31, 2017

Richard Kendall, now 45-years old, appeared before the Parole Board on January 31, 2017, for a review hearing and was represented by Student Attorney Christine Sunnerberg. Mr. Kendall was denied parole after his initial hearing in 2006. His 2010 and 2013 review hearings also resulted in the denial of parole. In Mr. Kendall's opening statement to the Board, he apologized to the family of Mr. Santos and expressed remorse for his actions. Mr. Kendall discussed the impact of his actions on the Santos family, as well as on the community at large. Mr. Kendall recognized the loss that the Santos family suffered, including the anguish caused by the murder remaining unsolved for over a year.

During the hearing, Mr. Kendall discussed his relationship with his co-defendant, Mr. Cryer. He met Mr. Cryer when he moved to the Everett area, bonding over similarities they shared with difficult childhoods. At the time of Mr. Santos' murder, Mr. Kendall had dropped out of school and was using alcohol and marijuana on a regular basis. He described himself as a young kid, without any goals or direction, who did not understand the consequences of his behavior. Mr. Kendall cited the lack of a father figure in his life as a significant factor in his criminal behavior. Mr. Kendall explained that by the time of Mr. Santos' murder, he and Mr. Cryer had already engaged in robberies to obtain money for alcohol.

On the night of the murder, Mr. Kendall stated that he and Mr. Cryer went to Mr. Santos' apartment to collect money owed to Mr. Cryer. Mr. Kendall said he had never met Mr. Santos before. Prior to their arrival, Mr. Cryer had told Mr. Santos that if the money was not provided willingly, both he and Mr. Kendall would take it through violence. They had also discussed the possibility of murdering Mr. Santos before going to the apartment. When they arrived at Mr. Santos' home at approximately 10 p.m., Mr. Kendall had already consumed a couple of alcoholic drinks and smoked marijuana. Mr. Santos let them into the apartment and all three men began to watch television. Mr. Kendall continued to drink inside Mr. Santos' apartment. At some point, Mr. Kendall heard a scuffle and looked to his left. He saw Mr. Cryer on top of Mr. Santos, stabbing him repeatedly with a knife. Mr. Santos was able to fight off Mr. Cryer and run to the kitchen, where he searched through a drawer for a knife. Mr. Cryer approached him and stabbed Mr. Santos in the back. Mr. Santos then knocked Mr. Cryer to the ground. Holding two knives, Mr. Santos lunged at Mr. Cryer. Mr. Kendall then picked up a guitar and struck Mr. Santos in the shoulder, knocking Mr. Santos to the ground. As he and Mr. Cryer were leaving,

they heard Mr. Santos moving around inside the apartment. According to Mr. Kendall, both he and Mr. Cryer made a decision to go back and kill Mr. Santos. Mr. Kendall returned to the kitchen and kicked Mr. Santos in the head, while Mr. Cryer stabbed him repeatedly. To mask their identity, Mr. Kendall and Mr. Cryer took some of Mr. Santos' jackets and wrapped them around their heads. They then parted ways.

Mr. Kendall spoke to Mr. Cryer the next day and learned of news reports indicating that Mr. Santos had been taken to the hospital after the attack, where he succumbed to his injuries. Three weeks later, Mr. Kendall joined the National Guard in order to avoid apprehension. He left the area for approximately 9 to 10 months to attend training, during which time the homicide remained unsolved. According to Mr. Kendall, he had no contact with Mr. Cryer during this time, nor did he have any knowledge of the status of the investigation into the death of Mr. Santos. On leave from the service, Mr. Kendall decided to go camping with Mr. Cryer in New Hampshire, where they ended up breaking into a house, stealing change, beer, and a camcorder. While examining the camcorder, Mr. Cryer questioned Mr. Kendall about whether he had told anyone about his involvement in Mr. Santos' murder. During their discussion, the camcorder had recorded the conversation.

Upon questioning by the Board, Mr. Kendall addressed his understanding of the Board's decision to deny parole at his last hearing in 2013. Mr. Kendall believed he was denied parole in order to work on violence reduction and anger management issues, as well as attend counseling. Mr. Kendall agreed with the Board's assessment of his needs and stated that he thinks the Board reached their conclusion because he was not being truthful about his involvement in Mr. Santos' murder. Mr. Kendall explained that he has embraced programming and has diligently pursued counseling services (which he was able to obtain on a limited basis). According to Mr. Kendall, he has not abused drugs or alcohol since his incarceration began. He said that he attends Big Book, 12 Steps, and Alcoholics Anonymous / Narcotics Anonymous (AA/NA) one time per week (for the past 7 years). Mr. Kendall said that he is also employed as a bookkeeper and has responsibility for overseeing the payroll of institutional workers at NCCI Gardner. The Board notes that Mr. Kendall has not received a disciplinary report since his last parole hearing.

The Board considered oral testimony from Mr. Kendall's step-brother, step-mother, and two sisters, all of whom expressed support for parole. The Board considered testimony from Mr. Santos' brother, sister, niece, and cousin, all of whom expressed opposition to parole. Middlesex County Assistant District Attorney Jason Chandler also expressed opposition to parole.

III. DECISION

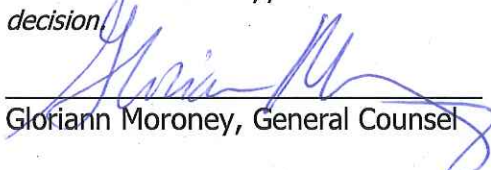
Although Mr. Kendall has made strides in his rehabilitation, the Board maintains that he has yet to develop enough insight into his behavior, judging from his presentation to the Board. Mr. Kendall is encouraged to continue with programming and counseling to address his criminal thinking, anger, and violence.

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

Mr. Kendall's next appearance before the Board will take place in three years from the date of this hearing. During the interim, the Board encourages Mr. Kendall 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

8/1/17
Date