



Deval L. Patrick
Governor

Andrea J. Cabral
Secretary

The Commonwealth of Massachusetts
Executive Office of Public Safety

PAROLE BOARD

12 Mercer Road
Natick, Massachusetts 01760

Telephone # (508) 650-4500
Facsimile # (508) 650-4599



Josh Wall
Chairman

DECISION

IN THE MATTER OF

RICHARD KENDALL

W52646

TYPE OF HEARING: Review Hearing

DATE OF HEARING: August 13, 2013

DATE OF DECISION: March 10, 2014

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, 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, criminal record, institutional record, the testimony of the inmate 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 three years from the date of the hearing.

I. STATEMENT OF THE CASE

Richard Kendall appeared before the Massachusetts Parole Board on August 13, 2013 for the third time, having been denied parole twice. On June 1, 1992, in Middlesex Superior Court, Kendall pleaded guilty to the second degree murder of 31-year-old Martin Santos, and was sentenced to life imprisonment. Kendall was also sentenced to a concurrent sentence of ten to fifteen years for armed robbery. Kendall was 18 years old at the time of the offense. Kendall acted along with his co-conspirator, Derek Cryer, who took his case to trial and was found guilty of first degree murder.

On the evening of March 4, 1990, Kendall accompanied Cryer to Santos' basement apartment in Everett, Massachusetts for Cryer's express purpose of robbing and killing Santos. Santos knew Cryer and welcomed them inside when they arrived. While in Santos's bedroom

drinking and watching television, Cryer armed himself with a single scissor blade and began attacking Santos. Cryer stabbed Santos multiple times before Santos was able to push Cryer backwards onto the floor and obtain a knife from the kitchen. When Santos confronted Cryer with the knife, Kendall picked up a guitar and knocked Santos to the floor by striking him with the guitar.

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

After the murder, Kendall enlisted in the Army to get away. During his first Army leave, Kendall returned to Massachusetts and reunited with Cryer. Kendall and Cryer were arrested in New Hampshire on September 25, 1991, 18 months after the murder. The arrest was for breaking and entering and robbery after they broke into a home and stole items, including a camcorder on which they unintentionally recorded incriminating statements concerning Santos' murder.

II. INSTITUTIONAL CONDUCT

Kendall has received 27 disciplinary reports during this incarceration, including four for fighting. He has not had a disciplinary report since 2007. The Parole Board's 2010 decision indicates that it was primarily concerned with Kendall's lack of institutional programming, noting:

He has concentrated more on work within the institution and less on programming that would help address and help him deal with the causative factors. His revelation of family trauma warrants a need for counseling that he has not engaged in. Mr. Kendall has more work to do in continuing his positive adjustment and demonstrating a commitment towards rehabilitation.

Since his last parole hearing, Kendall has actively engaged in programming, including Alcoholics Anonymous (AA), the Correctional Recovery Academy (CRA), and three modules of Alternatives to Violence (AVP). He completed the CRA and AVP programs, and now acts as a facilitator for both.

III. PAROLE HEARING ON AUGUST 13, 2013

Richard Kendall, now age 42, appeared for his third parole hearing on his life sentence for second degree murder, having served 22 years. Attorney John Rull represented Kendall. Attorney Rull noted Kendall's accomplishments, including 22 years of sobriety and occupational skills in carpentry, electrical, plumbing, and HVAC. Kendall reported he grew up in Everett with his mother and two sisters. While he dropped out of high school, Kendall eventually graduated after attending night school classes.

Kendall's father did not play a significant role in his upbringing. Kendall nevertheless resided with his father at some point after his mother had given up on him and had him committed to a psychiatric hospital because she "couldn't handle" him. Kendall ended up living with his father for a while, and was working with his father doing air conditioning and heating work prior to participating in the murder of Martin Santos. His employment in that field ended when the company dissolved, and he was working for a produce company at the time of the murder.

Kendall reports that he was using illicit drugs (cocaine, acid, marijuana) and abusing alcohol around the time of the murder. He said he did not know Santos prior to the March 4, 1990 encounter. His friend Derek Cryer, whom he had known for eleven years, knew Santos, and had informed him of his plan to go to Santos' apartment to rob and kill him. Kendall said he accompanied Cryer to Santos' apartment despite Cryer's expressed intent, because he did not think Cryer would actually kill Santos. Santos let them into his apartment when they arrived, and they were watching television in Santos' bedroom when they attacked Santos.

There are several inconsistencies in Kendall's version of the incident, which make his credibility questionable. First, it makes no sense that Kendall would find surprising Cryer's murderous assault on Santos, given that Cryer had informed him of his intent to rob and kill Santos prior to undertaking the mission. Also, Kendall knew Cryer for 11 years and admittedly was aware of Cryer's violent tendencies. Moreover, even if Kendall believed Cryer was incapable of killing Santos, Kendall offered no resistance and did not seek to withdraw from the crime once he saw Cryer stabbing Santos multiple times. Instead, Kendall remained present, actively assisted Cryer in the killing, and then stole the cable box after killing Santos. These factors support the conclusion that Kendall shared Cryer's intent to rob and kill Santos.

Second, Kendall's prior statements undermine his current assertion that he fled from Everett and joined the Army to get away from Cryer after the murder. Specifically, during his July 23, 2010 interview for his 2010 parole hearing, Kendall indicated that Cryer also attempted to join the Army after the murder, but was rejected due to his criminal record. This fact suggests that they both shared the intent of using the Army as a means of avoiding discovery and apprehension. Kendall was given the opportunity to review this previous representation during his August 5, 2013 interview by parole staff and he essentially agreed with the prior version, adding only that he had kicked Santos once in the head. Hence, it appears that Kendall had no intention of disassociating himself from Cryer after the murder, and had been conspiring with Cryer to cover their tracks.

Third, it is difficult to reconcile Kendall's assertion that he wanted to get away from Cryer with the fact that he reunited with Cryer during his first leave from the Army, accompanied Cryer to New Hampshire, and was arrested with Cryer after committing a crime there. The only reasonable conclusion to be drawn from these facts is that Kendall and Cryer remained partners in crime from the time of the murder to their ultimate arrest, and that Kendall has not been forthright in addressing this matter.

Kendall reports that the programs he took since his last hearing taught him how to deal with anger issues and violence, and how to assess situations before acting. He also reports to have gained a deeper insight into how drugs and alcohol negatively impacted his life in the

past. He said he would not have associated with the wrong people if he had not used drugs and alcohol.

Although the Board is appreciative of Kendall's progress over the last three years, it does not appear that he has obtained sufficient insight into the reasons for his past behavior and criminal conduct. Although alcohol and drug use contributed to his behavior, it is apparent that Kendall's substance abuse was the symptom of a deeper underlying problem rather than the cause. He has issues of anger, violence, and criminal thinking that need to be addressed. Kendall reportedly had a tumultuous childhood, reporting that his mother abused alcohol and prescription pills, had boyfriends who would beat him, and had him committed to a psychiatric hospital where he was placed in padded cells and in full restraints. He had two sisters and no father figure.

Kendall became friends with Cryer during childhood. Cryer was a year older than Kendall, and Kendall apparently looked to Cryer for guidance, given Kendall's explanation for his conduct. Kendall's sister and brother spoke in support of parole. His sister, Barbara, lent credence to this belief, when she related two incidents in which Kendall rallied to Cryer's aid. One incident involved a motor vehicle stop where Cryer began fighting with the police. Kendall was reportedly present, and immediately began helping Cryer. In the other incident, Barbara had gotten into an argument with Cryer, and Kendall knocked her to the ground. Middlesex Assistant District Attorney Christina Lucci spoke in opposition.


In closing, Richard Kendall said, "In the beginning I blamed my co-defendant; I didn't take responsibility for the murder; I went into the house to rob him; it took a while, but I am a changed man; I had a hard time coming to terms with what I did."

IV. DECISION

Richard Kendall has not developed enough insight into his behavior, judging from his presentation before the Board. Although he has made progress since his last parole hearing, Mr. Kendall apparently has not had sufficient programming to develop a full appreciation for his history of poor decisions and conduct, and has not adequately demonstrated that he has learned how to take responsibility for them and how to avoid repeating them in the future. Mr. Kendall is encouraged to continue with programming and counseling to address issues of anger, violence, and criminal thinking.

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 Mr. Kendall does not merit parole at this time because he is not rehabilitated. The review will be in three years.

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 D. Loreto Noble, General Counsel

3/10/14

Date