

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

IN THE MATTER OF

SEAN SMITH

W47602

TYPE OF HEARING: Review Hearing

DATE OF HEARING: April 15, 2021

DATE OF DECISION: December 7, 2021

PARTICIPATING BOARD MEMBERS: Gloriann Moroney, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Colette Santa

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 scheduled in four years from the date of this hearing.

I. STATEMENT OF THE CASE

On December 18, 1989, in Essex Superior Court, Sean Smith pleaded guilty to the second-degree murder of Joseph Baker. He was sentenced to life in prison with the possibility of parole. On February 21, 1990, in Middlesex Superior Court, Mr. Smith pleaded guilty to being an accessory after the fact in the murder of Paul Kelley. He received a 6 to 7-year sentence ordered to run from and after his life sentence.

On November 2, 1988, Sean Smith and his co-defendant Elisabeth Hussey (FKA Edward Hussey)¹ entered Paul Kelley's apartment with the intent to commit a robbery. The two individuals then forced Mr. Kelley into a vehicle, where they strangled him to death. On

¹ On December 19, 1989, Ms. Hussey was convicted of first-degree murder and sentenced to life in prison without the possibility of parole for the murder of Mr. Baker and Mr. Kelley.

November 13, 1988, Mr. Smith and Ms. Hussey were implicated in Mr. Kelley's murder as a result of Joseph Baker's cooperation. When the two individuals were released from police custody, they strangled Mr. Baker to death. Approximately one month later, Mr. Smith and Ms. Hussey were taken into custody on unrelated crimes. Both individuals admitted to their involvement in the murders.

II. PAROLE HEARING ON APRIL 15, 2020

Sean Smith, now 56-years-old, appeared before the Parole Board for a review hearing on April 15, 2020, and was represented by Attorney John Rull. In 2003, Mr. Smith waived his initial hearing. In 2008, the Board denied parole after Mr. Smith refused to participate in the hearing. Thereafter, Mr. Smith postponed both his 2013 and 2018 hearings. In his opening statement to the Board at this hearing, Mr. Smith apologized for "the damage" he caused. He expressed his "profound remorse" for his "heinous" actions. Further, he admitted to being an "active participant" in the murder of Mr. Baker and accepted responsibility for his "limited" role in the murder of Mr. Kelley.

When Board Members discussed his social history, Mr. Smith explained that he rebelled against his parents at a young age. As such, he hung around the wrong people, frequently got into trouble, and eventually dropped out of school. He described the death of his grandfather as "traumatic," fostering his antisocial behavior. When asked about his relationship with Ms. Hussey, Mr. Smith explained that he began working with her when he formed an illegal gambling business. He used Ms. Hussey to collect bets because of her "intimidating stature," stating that she received 10% of each bet she collected. When Board Members inquired as to whether Ms. Hussey resorted to violence when collecting the money, Mr. Smith stated, "I have no idea what Ms. Hussey did or didn't do to collect."

Board Members questioned Mr. Smith as to the details surrounding the death of Mr. Kelley. Mr. Smith initially told the Board that he was sleeping in his car at the time Ms. Hussey killed Mr. Kelley. As such, he didn't have a "clear understanding" of what transpired between the two individuals. However, later in the hearing, Mr. Smith told Board Members that he was aware that Ms. Hussey killed Mr. Kelley almost immediately after the murder took place. When asked why he continued his relationship with Ms. Hussey, Mr. Smith stated that he "believed he was next" and was "scared for his life." Although Mr. Smith maintained that he was unaware of Ms. Hussey's motive, he explained that Ms. Hussey and Mr. Kelley often argued with one another, suggesting that an argument may have precipitated the murder.

When Board Members questioned him as to the events leading up to Mr. Baker's murder, Mr. Smith indicated that it was retaliation, as Mr. Baker had implicated them both in Mr. Kelley's murder when questioned by law enforcement. He further admitted that they were going to kill him shortly thereafter. When Board Members questioned him as to his involvement in the murder, Mr. Smith said, "I just stood there." However, the Board pointed out that Mr. Smith's account of the crime minimizes his culpability and encouraged him to gain additional insight as to his actual involvement.

Board Members noted that Mr. Smith has displayed a pattern of criminal behavior throughout his incarceration. When they raised concern as to his tendency to engage in predatory behavior, Mr. Smith admitted to targeting weaker inmates and stealing from them. In addition, Mr. Smith was accused of participating in a credit card scheme that stole a

substantial amount of money from inmates. While the Board acknowledged that he was not found guilty of the latter, they questioned him as to his involvement. Mr. Smith denied any involvement, claiming that he "just happened to be around when that was going on." Moreover, the Board questioned Mr. Smith on his frequent gambling habits, as evidenced by his numerous disciplinary reports. In response, Mr. Smith said, "It wasn't like I was running a major book operation." Board Members expressed their concern regarding Mr. Smith's inability to acknowledge his wrongdoings, to which Mr. Smith responded, "I wasn't getting high, I wasn't drinking, I wasn't stabbing inmates, but I wasn't perfect either." Mr. Smith nonetheless asserted that "it's hard" to stay out of trouble and asked the Board to recognize the "good" that he's done.

Board Members discussed Mr. Smith's rehabilitative efforts, acknowledging his recent engagement in programming efforts, such as Criminal Thinking, Restorative Justice, Violence Reduction, and Alternatives to Violence. Mr. Smith shared with the Board that he found these programs to be "beneficial" and "life changing." Further, he explained that his participation in Restorative Justice allowed him to recognize his actions from the "victim's side."

The Board considered testimony in opposition to parole from Mr. Kelley's parents. The Board considered testimony and letter in opposition to parole from Essex County Assistant District Attorney Kayla Johnson and Middlesex County Assistant District Attorney Adrienne Lynch.

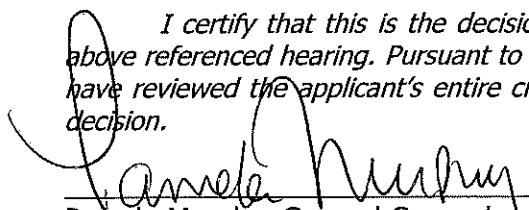
III. DECISION

The Board is of the opinion that Sean Smith has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. In a two-week period in November of 1988, Mr. Smith and his co-defendant murdered two individuals. His overall institutional adjustment has been problematic, despite completing numerous programs. During [his] incarceration, Mr. Smith has displayed a pattern of continued criminal behavior as evidenced by committing multiple schemes to defraud victims. During his hearing, he continued to minimize his victimization of others by declaring he "did not stab inmates or get high." Mr. Smith is encouraged to re-engage in programming that involves victimization of others.

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. Smith'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 a risk and needs assessment and whether risk reduction programs could effectively minimize Mr. Smith's risk of recidivism. After applying this standard to the circumstances of Mr. Smith's case, the Board is of the opinion that Sean Smith does not merit parole at this time.

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


Pamela Murphy, General Counsel

12/17/2021
Date