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*The Commonwealth of Massachusetts*  
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**PAROLE BOARD**

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Josh Wall  
Chairman

**DECISION**

**IN THE MATTER OF**

**STEPHEN HEMPHILL  
W41925**

**TYPE OF HEARING:** **Revocation Review Hearing**

**DATE OF HEARING:** **November 5, 2013**

**DATE OF DECISION:** **July 29, 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, 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 five years.

**I. STATEMENT OF THE CASE**

On November 5, 2013, Stephen Hemphill appeared before the Parole Board for a revocation review hearing concerning his life sentence for second degree murder. This is Hemphill's fifth appearance before the Board. Following his last appearance on November 20, 2008, Hemphill was denied parole with a five year setback.

On February 11, 1985, Hemphill, then 25 years old, repeatedly stabbed his friend Peter Basso, age 27, during an argument while in Mr. Basso's Boston apartment. Both men had been drinking together for several hours prior to the incident. Two days later, on February 13, Mr. Basso's father, Joseph, went to the apartment and found his son's body. Joseph observed a large amount of dried blood on the back of Mr. Basso's head and multiple puncture wounds. A three and a half-inch knife blade was at the scene. An autopsy report confirmed that Peter Basso suffered from over 50 incising and penetrating stab wounds to his head, face, neck,

chest, and abdomen. On November 22, 1985, Hemphill received a life sentence after he pleaded guilty in Suffolk Superior Court to second degree murder.

In 2002, Hemphill appealed his conviction, seeking a reduction to manslaughter. *Commonwealth v. Stephen M. Hemphill*, Docket Number 2002-P-1071. However, the Appeals Court denied the appeal for failure to prosecute.

## **II. CRIMINAL HISTORY**

Stephen Hemphill's criminal history began in 1974 as a juvenile, when he made four court appearances to face charges of breaking & entering and larceny. While some of the larceny charges were filed, three of the remaining charges yielded probation.

While Hemphill's adult record begins in 1976 with a minor violation, on March 21, 1977, Hemphill was charged with assault with intent to murder and assault by means of a dangerous weapon following a March 10, 1977 incident in which he stabbed a man with a screwdriver. Following a heated argument, Hemphill, then 18 years old, had a fight with the victim and stabbed him in the upper right chest. On September 12, 1977, Hemphill received a three to five year suspended sentence in the Plymouth Superior Court after being convicted of assault by means of a dangerous weapon. The charge for assault with intent to murder was dismissed.

In May of 1979, Hemphill was charged with a DWI and leaving the scene of an accident occurring in Laconia, N.H. He was fined \$500 and had his license revoked for 18 months. In addition, Hemphill received a 30-day House of Correction sentence in Laconia, N.H. for criminal trespassing and bail jumping.

In August 1979, Hemphill was charged with contributing to the delinquency of a minor and fined \$50.00. In 1980, Hemphill was charged with disorderly person, illegitimacy and drinking in public. The disorderly person charge yielded a fine, and the other charges were held in default. In 1984, Hemphill was charged with assault and battery by means of a dangerous weapon, but that charge was dismissed.

## **III. PAROLE HISTORY**

Following his parole denial in 2000 after an initial hearing, Stephen Hemphill received a parole on March 24, 2004, after his second parole hearing. However, on August 30, 2007, Hemphill was returned to custody following his arraignment for domestic assault and battery. The Middlesex County District Attorney's Office did not prosecute the charge, and Hemphill was released from custody following a full Board vote of revocation not affirmed.

On January 26, 2008, Somerville Police arrested Hemphill following a fight inside a bar during which Hemphill stabbed the victim in the back. Hemphill and the victim became involved in a physical altercation at the bar earlier that evening. Hemphill then left the bar, returned, and stabbed the victim. On January 28, 2008, Hemphill was arraigned for assault with intent to kill and was returned to custody for violating the conditions of his parole. Hemphill admitted to the parole officers that he had been drinking alcohol earlier in the day of the incident.

On July 9, 2008, Mr. Hemphill was found not guilty after a trial by jury on an amended charge of assault and battery with a dangerous weapon. The victim invoked his Fifth Amendment right not to testify at the trial. Moreover, while the victim's girlfriend witnessed the incident and gave statements to police, she changed her statements at trial, testifying that she could not identify Hemphill as the individual who stabbed the victim. She also failed to appear in court to give testimony on the second day of trial.

Nevertheless, on September 17, 2008, following Hemphill's final revocation hearing, the Board revoked his parole based on his violation of three conditions of parole, including "new arrest for violent felony," "supervise for liquor," and "supervision fees in arrears." The Board placed his case on the next available list for a parole review hearing.

Following a November 20, 2008 review hearing, the Board denied parole with a five year set back. The Board denied parole for several reasons including that since his return to custody Hemphill enrolled in no programming to address his criminological needs, including substance abuse and anger management. Indeed, at the review hearing Hemphill stated that he was not enrolled in Alcoholics Anonymous because he does not believe he needed those services. The Board further observed Hemphill's apparent failure to grasp fully the role that substance abuse plays in his assaultive and aggressive behavior, and noted the parallels between the 2008 incident in Somerville and his governing offense.

#### **IV. INSTITUTIONAL HISTORY**

Hemphill is presently incarcerated at NCCI-Gardner. Since his 2008 parole denial, Hemphill has enrolled and completed several programs, including Violence Reduction Program, Alternatives to Violence, Emotional Awareness, and Correctional Recovery Academy. In addition, Hemphill has attended Alcoholics Anonymous and Substance Abuse Education programming. Throughout his incarceration, Hemphill has incurred several disciplinary reports, the last of which occurred in 1999 for being out place, disobeying an order, and disruptive conduct.

#### **V. PAROLE HEARING ON NOVEMBER 5, 2013**

Stephen Hemphill appeared for his fifth parole hearing on the life sentence he is serving for second degree murder. He was released on parole in 2006. He had a domestic violence incident in 2007 that did not result in parole revocation. A stabbing case in 2008, however, did result in revocation. He was found not guilty on a criminal charge of assault and battery with a dangerous weapon, but the Parole Board denied parole after the revocation and set a review date of five years. In 2008, the Parole Board, relying on evidence from the investigation and grand jury, believed that Hemphill did commit the stabbing and considered him a risk to public safety.

Hemphill's parole in 2006 began at the Gavin House for residential treatment of alcohol addiction. He completed the program, became a union tradesman, and lived with a girlfriend. When that relationship ended, he started a relationship one year later with Tracy Vitiello. They lived together in Somerville. In August 2007, Ms. Vitiello reported that Hemphill grabbed her by the hair and struck her multiple times in the face. The allegations resulted in a charge of assault and battery, but the Commonwealth opted not to prosecute when Ms. Vitiello refused to cooperate or testify. The Parole Board did not revoke parole. At the hearing, Hemphill said,

"We had argued over a blown fuse; she went to her mother's house; I went over there and was standing outside yelling her name; her mother called the police; I never touched her; she told the police I hit her; Tracy wrote a letter to the court and the Parole Board saying that she lied; after that I stayed in a relationship with Tracy."

Six months later, Hemphill's parole was revoked after a bar stabbing resulted in a criminal charge. At the hearing, Hemphill said, "Tracy was at the bar; I stopped there; I was in a little confrontation with a woman outside the bar so I went in to get Tracy; I had one beer; I had an altercation with a guy; I ended up on the ground outside getting beat up; a police officer told me to leave; I left and went back to Tracy's mother's house; I left the mother's house and was walking one block from the establishment; I never went back to the bar; a jury found me not guilty; my girlfriend testified; the victim pled the Fifth because he gave me the beating." A Parole Board member pointed out that in 2008 "the Parole Board did not believe your denial of the stabbing" and accepted the evidence established in the investigation and the grand jury that Hemphill had a strong motive, was seen by a bar employee returning to the bar, was seen thrusting his arm at the victim when he did return, and was stopped by police just one block from the bar. At the trial, the victim did not testify and Hemphill's girlfriend testified differently than she did at grand jury and did not return for her second day of testimony.

Hemphill was not able to explain why he murdered Mr. Basso so brutally. He said he does not remember the stabbing because of a "blackout," and added that "it was a spur of the moment type thing." He gave information on his relationship with the victim. "We were friends; we drank together and we traveled together; we were drinking buddies. Mr. Basso had funds from his father; the money maybe came from an insurance payment. He argued with his father because he wanted more money but his father was worried because he thought the money was for me. I wasn't using him for his money."

A Parole Board member asked Hemphill about another stabbing case that occurred in 1977. Hemphill said, "I was 17; I was involved with my friend's mother; I was in a hotel; her husband came at me with a knife and I took it from him; it was a screwdriver actually; I stabbed him just below the heart." A Board member noted that the police report recorded that "you said, 'I'm going to get him.'" Hemphill denied making that statement. The stabbing resulted in conviction in Superior Court for assault and battery with a dangerous weapon. Hemphill received a sentence of three to five years, which was suspended and he was placed on probation for three years. A Board member suggested that Hemphill consider why he has been involved in so many violent incidents. Hemphill said, "The violence could be from my upbringing."

Hemphill's behavior in prison has been good. He reported that "I have 16 disciplinary reports, but none were violent. The last disciplinary report was in 1999." Hemphill also described his recent programming. "I've completed many programs. I went right into the CRA after my five year setback. I did Alternatives to Violence, AA, and Smart Recovery. The parole denial said I wasn't taking substance abuse or anger seriously so I did those programs." Since the last hearing, he also completed Violence Reduction and Motivational Enhancement.

Hemphill said that he receives no visits but he will have support from his son, uncle, and brothers. No one testified in support of parole.



## VI. DECISION

Stephen Hemphill murdered Peter Basso in 1985 by stabbing him over 50 times. Hemphill cannot explain the circumstances that led to his homicidal rage and says that he has no memory of the stabbing. Hemphill also stabbed a man in 1977, which resulted in a conviction for assault by means of a dangerous weapon. While on parole, Hemphill was drinking alcohol in a Somerville bar and began fighting with a man who was stabbed later that same evening. A grand jury indicted Hemphill for the stabbing and he was found not guilty after the victim refused to testify and Hemphill's girlfriend did not show up for her second day of testimony. In its 2008 decision, the Parole Board concluded that Hemphill did commit the stabbing. The evidence against Hemphill is clear and convincing and gives no reason to disagree with the Board's conclusion in 2008. These three stabbing incidents establish a considerable danger posed by a person prone to antisocial and violent behavior. At the hearing, however, Hemphill showed little understanding of his violent behavior. He offered no insight on his homicidal behavior, denied the stabbing on parole, and suggested the victim was primarily responsible for the events in 1977. He presented himself as a person who had little to work on. Hemphill has good program participation and good conduct in prison, and it is surprising that he has not used these strengths to assess his conduct and issues more honestly and more specifically rehabilitate the traits that have caused him to act violently in the community.

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. Hemphill does not merit parole. The period of review will be in five years, during which time Mr. Hemphill should fully commit to rehabilitation with greater candor, self-assessment, and reformed thinking.

*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 DiLoreto Noble, General Counsel

7/29/14  
Date