



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



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DECISION

IN THE MATTER OF

STEVEN JAMES

W58406

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: June 18, 2019

DATE OF DECISION: March 24, 2020

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Gloriann Moroney, 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, the criminal record, the 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 three years from the date of the hearing.¹

I. STATEMENT OF THE CASE

On April 11, 1995, after a jury trial in Plymouth County Superior Court, Steven James was found guilty of first-degree murder in the death of 22-year-old Edward Sullivan. He was sentenced to life without the possibility of parole. On the same date, Mr. James was also found guilty of assault and battery by means of a dangerous weapon and received a concurrent sentence of 8-10 years. As well, he received three concurrent sentences of 2½ years for assault and battery charges.

On February 21, 1994, 17-year-old Steven James and some friends were in a parking lot of a sandwich shop in Rockland. Some distance away, near a van belonging to Edward Sullivan, an argument had begun between Mr. Sullivan and a friend of Mr. James. Mr. Sullivan took a baseball bat out of his van and used it to fend off the friend of Mr. James, although he

¹ Two Board Members voted to deny parole with a review in two years.

did not actually swing it. Mr. James was then called over. Mr. James and his friends ran toward the van and began taunting Mr. Sullivan. At some point, Mr. Sullivan fell, dropping the bat. While six or seven people hit and kicked him, Mr. Sullivan pleaded with them to stop. Mr. James, however, picked up the bat and swung it three times at Mr. Sullivan's head, crushing his skull and lacerating his brain. Mr. Sullivan, unconscious at this point, was taken to the hospital, where he died. Police responded to the scene, and Mr. James was placed under arrest.

II. PAROLE HEARING ON JUNE 18, 2019

On December 24, 2013, the Supreme Judicial Court issued a decision in *Diatchenko v. District Attorney for Suffolk District & Others*, 466 Mass. 655 (2013), in which the Court determined that the statutory provisions mandating life without the possibility of parole are invalid as applied to juveniles convicted of first degree murder. Further, the Court decided that *Diatchenko* (and others similarly situated) must be given a parole hearing. Following the *Diatchenko* decision, Mr. James became eligible for parole.

Steven James, now 42-years-old, appeared before the Parole Board for an initial hearing on June 18, 2019. He was represented by Attorney Rosemary Scapicchio. In his opening statement to the Board, Mr. James took full responsibility for his actions, resulting in the death of Mr. Sullivan. He acknowledged that he had no right to assault Mr. Sullivan, especially in a manner that could result in his death. Stating that he will never forgive himself, Mr. James insisted that he is not the same person he was when he took Mr. Sullivan's life. He acknowledged that he has been in prison for 26 years.

When speaking about his childhood, Mr. James told the Board that he was born to a 14-year-old mother and a 17-year-old father. Mr. James agreed that he suffered abandonment and neglect from both parents. Board Members noted that he was placed in foster care as a result of Department of Children and Families involvement and, as a result of 24 different placements, Mr. James lacked meaningful attachment. Mr. James agreed that he "felt like an outsider." He also acknowledged that his last placement (before the governing offense) was his most stable environment. Mr. James told the Board that, as a juvenile, he would participate in fights with others. He admitted that he would pick fights with people for "no reason," along with his peer group. Mr. James explained that his fighting skills gave him something to offer the group, helping him to feel like he belonged. Mr. James denied being intoxicated at the time of these fights.

When questioned as to the events leading up to the governing offense, Mr. James described going to the D'Angelo's parking lot with friends. After seeing Mr. Sullivan with a bat, Mr. James struggled to get the bat away from him. At some point after taking it, and while others were punching Mr. Sullivan, Mr. James admitted to hitting Mr. Sullivan in the head three times. When he dropped the bat, he noticed that Mr. Sullivan was unconscious. Mr. James knew this was "serious," as he had never knocked anyone unconscious before. After getting in the car with his friends, he said, "I think I killed him." Mr. James explained that he was crying and, when he got out of the car, wandered around in "disbelief." He called his foster mother to tell her what he did, and then he called the police. Mr. James added that he went back to the scene and turned himself in. He claimed that this fight was very different from any others because he had used a weapon; previously, he had only used his fists.

Mr. James spoke specifically about three disciplinary reports, which he received while in custody. In 1996, he attacked other inmates with a weapon, and at another point, he resisted a "move team" because he did not surrender a food tray. The Board expressed concern that Mr. James threatened a correctional officer, which occurred in 2014. He admitted that, in 1994, he was an out of control, punk teenager. Mr. James claims that today, he is a changed person and does not resort to conflict in a violent manner. Mr. James indicated to the Board that he postponed his 2014 hearing because he "wasn't ready" and wanted to be prepared. The Board noted Dr. Frank DiCataldo's evaluation, which stated that Mr. James had a turning point in his life several years ago. Mr. James denied current treatment for any mental health issues. When Board Members asked why he should be given a second chance, Mr. James responded that the system has given him everything it has to offer. He believes that he has "done a lot of good" during his incarceration, and that he now lives his life with purpose. He spoke about his participation in programming, including Alternatives to Violence, Criminal Thinking, Restorative Justice, and others.

The Board considered testimony in support of parole from Mr. James' brother, fiancé, and sister. Dr. Frank DiCataldo testified to his "Forensic Mental Health Evaluation." The Board considered testimony in opposition to parole from Mr. Sullivan's mother and sister. Both Plymouth County District Attorney Timothy Cruz and First Assistant District Attorney Richard Savignano spoke in opposition to parole.

III. DECISION

The Board is of the opinion that Steven James has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. James has been incarcerated since 1994 for striking Edward Sullivan in the head with a baseball bat, killing him. He should complete the Victim Offender Education Group and remain disciplinary report free.

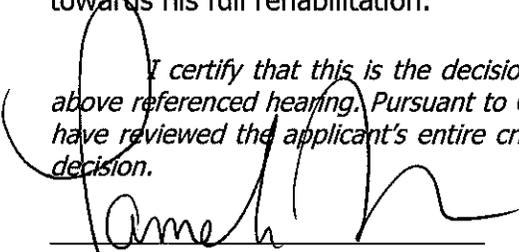
The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." 120 C.M.R. 300.04. In the context of an offender convicted of first or second-degree murder, who was a juvenile at the time the offense was committed, the Board takes into consideration the attributes of youth that distinguish juvenile homicide offenders from similarly situated adult offenders. Consideration of these factors ensures that the parole candidate, who was a juvenile at the time they committed murder, has "a real chance to demonstrate maturity and rehabilitation." *Diatchenko v. District Attorney for the Suffolk District*, 471 Mass. 12, 30 (2015); See also *Commonwealth v. Okoro*, 471 Mass. 51 (2015).

The factors considered by the Board include the offender's "lack of maturity and an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking; vulnerability to negative influences and outside pressures, including from their family and peers; limited control over their own environment; lack of the ability to extricate themselves from horrific, crime-producing settings; and unique capacity to change as they grow older." *Id.* The Board also recognizes the petitioner's right to be represented by counsel during his appearance before the Board. *Id.* at 20-24. The Board has also considered whether risk

reduction programs could effectively minimize Mr. James' risk of recidivism. After applying this standard to the circumstances of Mr. James' case, the Board is of the opinion that Steven James is not yet rehabilitated, and his release is not compatible with the welfare of society. Mr. James, therefore, does not merit parole at this time.

Mr. James'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. James 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

3/24/2020
Date