

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



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AMENDED RECORD OF DECISION

IN THE MATTER OF

SUNIL SHARMA

W66446

TYPE OF HEARING: Review Hearing

DATE OF HEARING: September 25, 2018

DATE OF DECISION: June 15, 2021

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Colette Santa¹

AMENDED DECISION OF THE BOARD: On January 19, 2021, the Supreme Judicial Court in William Dinkins & Another v. Massachusetts Parole Board, 486 Mass. 605 (2021) invalidated 120 Code Mass. Regs. § 200.08(3)(c) and held that the Board must aggregate the parole ineligibility period of a life sentence with the parole ineligibility period of consecutive sentences for purposes of determining a single parole ineligibility date. In accordance with the SJC ruling, Mr. Sharma's parole eligibility was recalculated to determine a single parole eligibility date, making Mr. Sharma eligible to be paroled to the community, subject to special conditions. Accordingly, the Board has amended its June 11, 2019 decision. After careful reconsideration 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 a suitable candidate for parole. Parole is granted to Sunil Sharma's Immigration and Customs Enforcement ("ICE") detainer.

I. STATEMENT OF THE CASE

On April 28, 1999, in Suffolk Superior Court, Sunil Sharma pleaded guilty to the second-degree murder of 18-year-old Ky Ung Shin. He was sentenced to life in prison with the

¹ Chair Moroney recused.

possibility of parole. Mr. Sharma also pleaded guilty to two counts of assault and battery, two counts of armed assault with intent to murder, one count of unlawful possession of a firearm, and one count of unlawful possession of ammunition. He received a 7-10 year sentence on each of the two assault with intent to murder counts. These sentences were ordered to be served consecutive to the life sentence, but concurrent with each other. He also received a one year to one year and a day sentence for unlawful possession of a firearm that was ordered to be served concurrent to the assault with intent to murder sentences. The unlawful possession of ammunition charge and the assault and battery charges were placed on file.

On April 16, 1996, Sunil Sharma (age 16²) shot and killed Ky Ung Shin in the Chinatown neighborhood of Boston. Mr. Sharma was a member of a "crew" whose members used violence to rob and extort illegal gambling operations in Boston's Chinatown. On the night of the murder, Mr. Sharma and two other "crew" members entered the Rainbow Restaurant. He sat down with two members of a rival crew who, earlier in the evening, had extorted money from a gambling club that Mr. Sharma believed should be part of his criminal territory. Mr. Sharma produced a handgun and fired repeatedly at the two men, striking them multiple times. One of the bullets (he fired) struck and killed Ky Ung Shen, a woman who happened to be seated nearby. Mr. Sharma threw the murder weapon into Boston Harbor and fled to Detroit, where he was arrested two months later.

II. PAROLE HEARING ON SEPTEMBER 25, 2018

On September 25, 2018, Sunil Sharma, now 39-years-old, appeared before the Parole Board for a review hearing. He was represented by Attorneys Emma Quinn-Judge and Norman Zalkind. Mr. Sharma had been denied parole after his initial hearing on July 26, 2011. In his opening statement to the Board, Mr. Sharma apologized for his crimes and for the pain it caused the families of Ky Ung Shin and the other victims. He also apologized for his violent behavior in the Department of Correction.

The Board noted Mr. Sharma's psychological evaluation, as prepared by Dr. Michelle Lockwood, which detailed the horrific child abuse that Mr. Sharma endured in India. When the Board asked if he was 16 or 17-years-old at the time of the murder, Mr. Sharma's attorney explained that all of his documents, prior to 1991, show that he was born in 1979, which would have made him 16 at the time of the murder. After 1991, there are contradictory documents. Mr. Sharma said that he lied about his age because he mistakenly thought he would be in less trouble if tried as an adult. Mr. Sharma said that he immigrated to the United States from India in 1990, and that he has an Immigration and Customs Enforcement detainer. Mr. Sharma expects to be deported back to India, if released from prison.

The Board questioned Mr. Sharma as to the events leading up to the murder of Ky Ung Shin. Mr. Sharma explained how he had made friends with a classmate from his Chinatown neighborhood and, through this classmate, started working for his friend's "Dai Lo," a Cantonese word for big brother or crime boss. Mr. Sharma recounted how, at the direction of his Dai Lo, he and his "crew" extorted money from illegal gambling houses throughout Chinatown. When the Dai Lo was arrested, Mr. Sharma said that outside groups were vying to

² Mr. Sharma gave his age at the time of his arrest as 17, and that he was born in 1978. However, he claims that he lied about his age and that he was 16 and born in 1979. If he were born in 1978, he would only be 7 months younger than his brother.

control the gambling racket. Mr. Sharma believed that killing the two men at the Rainbow Restaurant, who were vying to control the gambling operations in Chinatown, would restore the crew's control of the neighborhood. Mr. Sharma admitted to shooting one of the victims in the face. He guessed that the bullet exited the victim and killed Ky Ung Shin, an innocent bystander.

The Board remarked that although Mr. Sharma has a violent institutional history, including the stabbing of two inmates and the assault of a corrections officer, he has not had a violent disciplinary report in over 10 years. The Board noted only a minor disciplinary report in 2015, and questioned him as to how his behavior improved. Mr. Sharma responded that he has matured and, since stepping down to a lower security facility, he has been able to engage in additional programming that allows him to lead a more structured life. He also attributed his success to his religious involvement, as well as being selective and respectful in regard to the people he interacts with.

Mr. Sharma is asking to be released to his 7-10 year consecutive sentences. After serving his consecutive sentences, Mr. Sharma expects to be deported to India. Mr. Sharma told the Board that he has strong family support, particularly that of his older brother, who could support him financially in India. Mr. Sharma is at his lowest allowable security level because of his immigration detainer, but he requests a lateral transfer to MCI-Norfolk, where he could have access to more programming, as well as additional vocational and educational opportunities. Mr. Sharma stated that he has completed almost all of the programming available to him at MCI-Shirley.

Mr. Sharma's niece testified in support of parole. Mr. Sharma's brother submitted a letter in support of parole. Dr. Michelle Lockwood testified about the findings in her psychological report submitted to the Parole Board. Suffolk County Assistant District Attorney Charles Bartoloni testified in opposition to parole and submitted a letter of opposition.

III. DECISION

Mr. Sharma appeared before the Board for a review hearing on September 25, 2018. The record of decision was issued on June 11, 2019. Parole was granted to his consecutive sentence. The Board amends its previous decision of granting Mr. Sharma parole to his consecutive sentence. Mr. Sharma is granted parole to his ICE detainer. On January 19, 2021, the Supreme Judicial Court in William Dinkins & Another v. Massachusetts Parole Board, 486 Mass. 605 (2021) invalidated 120 Code Mass. Regs. § 200.08(3)(c) and held that the Board must aggregate the parole ineligibility period of a life sentence with the parole ineligibility period of consecutive sentences for purposes of determining a single parole ineligibility date. Mr. Sharma has served approximately 25 years for the murder of Ky Ung Shin in Chinatown. He continues to maintain a positive adjustment and is program compliant.

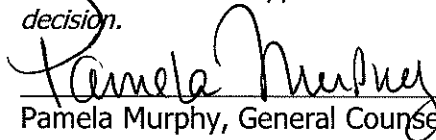
The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the 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

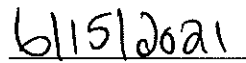
consideration the attributes of youth that distinguish juvenile homicide offenders from similarly situated adult offenders. Consideration of these factors ensures that the parole candidate, who was a juvenile at the time they committed murder, has "a real chance to demonstrate maturity and rehabilitation." *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 has taken into consideration Mr. Sharma'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 psychological evaluation prepared by forensic psychologist Dr. Michelle Lockwood, as well as a risk and needs assessment, and whether risk reduction programs could effectively minimize Mr. Sharma's risk of recidivism. After applying this appropriately high standard to the circumstances of Mr. Sharma's case, the Board is of the unanimous opinion that Sunil Sharma is rehabilitated and, therefore, merits parole at this time. Parole is granted to his ICE detainer with special conditions.

SPECIAL CONDITIONS: Parole to ICE detainer; Approve home plan before release; Waive work for two weeks; ELMO-Electronic Monitoring; Supervise for drugs, testing in accordance with agency policy; Supervise for liquor abstinence, testing in accordance with agency policy; Report to assigned MA parole office on day of release; No contact with victim's family; Must have mental health counseling for adjustment/transition.

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


Date