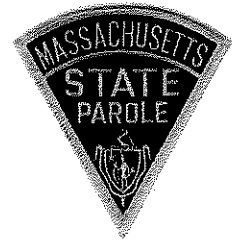


The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



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DECISION

**IN THE MATTER OF
SUSAN FAPPIANO**

F36675

TYPE OF HEARING: Review Hearing
DATE OF HEARING: December 5, 2017
DATE OF DECISION: October 23, 2018

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley¹

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 hearing scheduled in five years from the date of the hearing.²

I. STATEMENT OF THE CASE

On October 1, 1998, after a jury trial in Hampden Superior Court, Susan Fappiano was convicted of the second degree murder of her 15-month-old son, Clyde Harper, Jr., and was sentenced to life in prison with the possibility of parole.³ On that same date, she was also convicted of assault and battery by means of a dangerous weapon on Clyde; the wanton and reckless permitting of bodily injury to Clyde; the wanton and reckless permitting of bodily injury to Clyde's siblings, a 3-year-old sister and a 5-year-old brother; the assault and battery of Clyde's brother by means of a dangerous weapon, to wit, a belt; the assault and battery of Clyde's brother and the assault and battery of Clyde's sister by means of a dangerous weapon, to wit, a belt or woman's sandal. On those convictions, she received two consecutive sentences

¹ Board Member Lucy Soto-Abbe recused.

² Four Board Members voted to deny parole with a review in five years. One Board Member voted to deny parole with a review in four years.

³ Ms. Fappiano was tried both as a principal and as a joint venturer.

of 9 to 10 years in prison, as well as five concurrent 2 ½ year sentences and one concurrent 4 to 5 year sentence. Additionally, Ms. Fappiano received probation until 2018, a condition of which includes no contact with her other children.

At the time of the criminal offenses on October 20, 1996, Susan Fappiano was living in an apartment in Holyoke with her live-in boyfriend Alberto Torres and her three young children: a 5-year-old son, a 3-year-old daughter, and 15-month-old Clyde Harper, Jr. Ms. Fappiano and Mr. Torres regularly beat the children. On October 20, 1996, Ms. Fappiano and Mr. Torres were both home with the children throughout the day and evening. That evening, Ms. Fappiano called 911 to report that her 15-month-old son was not breathing. Police officers and emergency medical technicians arrived at the Holyoke apartment to find Clyde Harper, Jr. covered with bruises and cool to the touch. He was not breathing and resuscitation efforts failed. Clyde was declared dead at the hospital. Injuries to the infant included a spiral fracture to one leg that was between two and eight weeks old, bruises of various ages, a lacerated anus, a transected or completely severed small intestine, and a lacerated liver. Multiple blows of blunt force trauma caused the injuries. Medical experts concluded that a blow of "massive force" by an adult's fist or foot severed the bowel. Peritonitis resulted from the lacerated bowel. That infection caused the child a painful process of deterioration and, after many hours, caused his death.

Ms. Fappiano gave three statements to police on the night of October 20, 1996, each recounting a different version of events. On October 22, 1996, Ms. Fappiano gave a fourth version of what occurred on the day of Clyde's death. Ms. Fappiano admitted that she had lied on Mr. Torres' behalf.

II. PAROLE HEARING ON DECEMBER 5, 2017

Ms. Fappiano, now 47-years-old, appeared before the Parole Board on December 5, 2017, for a review hearing and was represented by Attorney Timothy Bradl. Ms. Fappiano had been denied parole after her initial hearing in 2012. Attorney Bradl gave an opening statement on Ms. Fappiano's behalf, during which he asked the Board to parole Ms. Fappiano to her from and after sentences. Attorney Bradl highlighted Ms. Fappiano's institutional adjustment and requested that accommodations be made for her mental health diagnoses. When Board Members asked Ms. Fappiano whether she might have difficulty in understanding their questions (due to her mental health diagnoses), Ms. Fappiano replied in the affirmative. The Board instructed Ms. Fappiano to refrain from answering any question that she did not understand during the course of the hearing and to confer with her attorney as needed or desired.

Ms. Fappiano indicated to the Board that she accepts responsibility for the death of her son, Clyde, Jr. The Board questioned Ms. Fappiano about her difficulty in the past with speaking about the governing offense. When asked whether that difficulty was due to her mental health diagnoses and/or trauma that she experienced, Ms. Fappiano stated that "it's painful" to talk about. When asked to describe what she could recall about the abuse of her children, Ms. Fappiano indicated that she first observed Mr. Torres strike the children in order to discipline them. Then, she began participating in the abuse and would "discipline the kids in the same way" as he did. Ms. Fappiano denied hitting Clyde, but admitted to striking her other two children. She stated that Mr. Torres caused Clyde's injuries. When asked by a Board Member as to why she did not hit Clyde, Ms. Fappiano stated, "[Clyde] was [her] favorite one."

Ms. Fappiano indicated that she would hit the children with a belt, shoe, or hand and that "when [she] got mad, [she] would discipline them." Ms. Fappiano admitted that she observed bruises on the children, but did not seek out medical attention.

Upon questioning as to the injuries that resulted in Clyde's death, Ms. Fappiano said he had marks on his body from being abused, a fractured leg, and a "blow to [his] liver." Ms. Fappiano indicated that she witnessed Mr. Torres abusing Clyde over a period of time. She stated that Mr. Torres "wouldn't let [her] out of the house to get [Clyde] [medical attention]." She holds herself responsible for Clyde's death, as she "did not protect him like [she] should have." Ms. Fappiano admitted that she "allowed [the abuse] to continuously go on" and was "following [Mr. Torres'] steps of abuse." Ms. Fappiano, however, denied causing the bodily injuries that resulted in Clyde's death. Attorney Bradl told the Board that although Ms. Fappiano denied causing the injuries that resulted in Clyde's death, she fully accepts responsibility for "an ongoing joint venture to inflict grievous bodily harm."

Ms. Fappiano acknowledged giving differing versions to police as to what happened on the day of Clyde's death. When asked by a Board Member as to which version is the truth, Ms. Fappiano said, "The fourth version." Ms. Fappiano explained that on the day of Clyde's death, all she could remember was that when Mr. Torres stepped on Clyde's back, she stopped him and then picked up the baby. Ms. Fappiano could not provide any further details as to what occurred on the day of Clyde's death. When the Board noted that two of her children were sexually abused, Ms. Fappiano indicated that she did not know how that occurred. She acknowledged, however, that there were times when Mr. Torres wanted her to leave one of the children at home with him, while she went out. Ms. Fappiano indicated that she only learned that Clyde was sexually abused after his autopsy.

When asked by a Board Member as to why she believes she could never hurt a child again, Ms. Fappiano indicated that she has addressed her issues through therapy and counseling and has been "working on [herself]." Ms. Fappiano stated that having experienced abuse herself, she "feel[s] really guilty about what happened" to her children. The Board noted that Ms. Fappiano has completed various programs. Ms. Fappiano indicated that she tried to become involved with several mental health groups. Currently, she works in the institutional parole office. Since her last hearing in 2012, Ms. Fappiano received five disciplinary reports, one of which was for engaging in sexual acts with another inmate in 2016. Ms. Fappiano stated that since her incarceration, she has been involved in two relationships, but is not currently in a relationship.

The Board considered testimony in opposition to parole from Hampden County Assistant District Attorney Howard Safford. The Board also considered a letter in opposition to parole from the Holyoke Chief of Police.

III. DECISION

The Board is of the opinion that Ms. Fappiano has not demonstrated a level of rehabilitative progress that would make her release compatible with the welfare of society. Ms. Fappiano remains unwilling to provide the details of the governing offense. She has no insight into her own immoral and criminal conduct. At sentencing, the trial judge stated that Ms. Fappiano "was conducting a torture chamber within her household. "

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 Ms. Fappiano's institutional behavior as well as her participation in available work, educational, and treatment programs during the period of her incarceration. The Board has also considered whether risk reduction programs could effectively minimize Ms. Fappiano's risk of recidivism. After applying this standard to the circumstances of Ms. Fappiano's case, the Board is of the unanimous opinion that Susan Fappiano is not yet rehabilitated, and therefore, does not merit parole at this time.

Ms. Fappiano's next appearance before the Board will take place in five years from the date of this hearing. During the interim, the Board encourages Ms. Fappiano to continue working towards her 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.



Gloriann Moroney, Executive Director/General Counsel

10/23/18
Date