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PAROLE BOARD

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Josh Wall
Chairman

DECISION

IN THE MATTER OF

THAPPI PHOMPHAKDY

W69124

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: October 29, 2013

DATE OF DECISION: December 11, 2013

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, and 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 a suitable candidate for parole. Parole is granted to a long term residential program after one year in lower security at the Department of Correction (DOC) during which time Phomphakdy must maintain good conduct and comply with all DOC expectations for programs, activities, and employment.

I. STATEMENT OF THE CASE

On October 29, 2013, Thappi Phomphakdy appeared before the Massachusetts Parole Board for an initial parole hearing. On October 18, 1999 in Middlesex Superior Court Phomphakdy was found guilty of second degree murder and received a life sentence for the murder of Sovanna Chan, a member of a rival gang. Phomphakdy was also found guilty of possession of a firearm, and possession of a firearm with an obliterated serial number, and those charges were filed.

On December 24, 1998, at approximately 4:00 p.m., Phomphakdy, age 14, stood on the front stoop of his mother's home in Lowell and shot Sovanna Chan, age 16, in the neck, killing him. Phomphakdy belonged to the "Tiny Rascals Gang" (TRG). Chan belonged to a rival youth gang known as the "Dangerous Youth Bloods" (DLB).

Earlier that afternoon, Sovanna Chan and three of his friends, who were also members of the DLB, were hanging out at a local variety store. Three other teenagers, including Shane Downs, walked past the store. Chan and the DLB members considered Downs an enemy and followed him. The groups started arguing and swearing at each other. A member of Downs' gang responded by throwing a brick at Chan, and they fled. Chan and his gang pursued. Downs ran to Phomphakdy's house and started screaming for help. After Chan stopped in front of Phomphakdy's house to confront Downs, Downs burst through Phomphakdy's front door.

Phomphakdy, who had just finished showering, heard the shouting, removed a .22 caliber Smith & Wesson revolver from his bedroom, and ran downstairs to the front stoop. Although one of Chan's gang tried to get him to leave, Chan instead put up his hands and taunted Phomphakdy, stating "Go ahead. Buck me. Buck me." Phomphakdy responded by firing four shots in rapid succession, hitting Chan in the neck with one bullet. Phomphakdy ran back into the house, dropped the revolver, and fled through the back.

Phomphakdy stayed with a friend in Lowell for several days. On December 28, 1998, Lowell police located Phomphakdy through another TRG member. Phomphakdy was arrested and charged with murder after giving a statement in which he admitted shooting the victim.

II. CRIMINAL AND INSTITUTIONAL HISTORY

At the time of the murder, Phomphakdy was on probation for assault and battery with a dangerous weapon. That charge was continued without a finding, and the Lowell Juvenile court placed Phomphakdy under DYS supervision.

Following his murder conviction, Phomphakdy was incarcerated at Plymouth County Correctional facility until his 17th birthday. While at the Plymouth juvenile facility, Phomphakdy was placed in segregation twice for fighting other inmates. In August 2001, Phomphakdy was transferred to MCI-Concord, and then to Souza-Baranowski Correctional Center in November 2001. In June 2006, Phomphakdy was transferred to MCI-Norfolk where he was incarcerated at the time of this hearing. During the 13 years of his adult incarceration, Phomphakdy has received four disciplinary reports, the last of which occurred in February 2013 for misusing a computer located in the Metal Shop by accessing and playing downloaded video games.

Phomphakdy has been very involved in institutional programming, education and employment, including Cognitive Skills Workshop, Menswork, Alternatives to Violence, for which he became a Facilitator, four phases of Jericho Circle, and Emotional Awareness. Phomphakdy also counseled at-risk youth while at MCI-Norfolk.

Phomphakdy was in the eighth grade when committed the murder. While at Souza-Baranowski, Phomphakdy received his GED and is currently enrolled in the Boston University college program.

III. PAROLE HEARING ON OCTOBER 29, 2013

Thappi Phomphakdy, age 29, appeared for his initial parole hearing seeking parole from his life sentence for the second degree murder of Sovanna Chan. He provided the following information about his family history and life leading up to the crime. His parents emigrated from Laos to escape a violent political situation. He was born in Texas and moved with his parents to Lowell at age three. He spoke Laotian at home and English is his second language. His parents worked at the same factory, but different shifts. He did not see much of his parents because of their work schedules; if one parent was working, the other parent was home but sleeping after a shift. He had one younger brother at the time and he spent considerable time "watching over" the brother. Because he was causing some problems at home, he was sent to live with his grandparents in California at age nine or ten. He was there for only one year, during which time he "felt abandoned and built up walls" as a result. Upon returning to Lowell, he "hung with kids in the neighborhood; we were not a gang; we did regular kid things; other gangs though treated us like we were a gang; they chased us and beat us up; so we joined the Tiny Rascals gang; I was twelve."

He explained his gang activity: "we did regular gang things; fights, graffiti, shoplifting; I helped the older drug dealers; I carried a knife; I found the gun I used a couple of days before at Porky's Bridge; I fired it when I found it to see if it worked; I took it home." He explained that he was too young to be a major drug dealer. He smoked marijuana once a week. He said, "I didn't have the money to buy drugs more than weekly." Phomphakdy was not involved in the fight that immediately preceded the murder. He was at home when he heard "Shane (Downs) yelling for help so I retrieved the gun from under my mattress; I saw Shane in the house catching his breath; I saw two individuals in the yard; they said they wanted Shane; I knew they wanted Shane, not me; Mr. Chan and the other person did have weapons; there was yelling between the two groups; Mr. Chan thought it was a fake gun so he was taunting me to shoot; he said if I didn't shoot he would get me when he could; everything happened so fast; I pulled the trigger three times; the first two times I aimed a little over his head; the third shot struck him; I ran inside the house, out the back door, and then to Porky's Bridge; we had problems with DLB gang; it started before I was in the gang; the older gang members told me they were 'on-sight enemies.'"

Because he was a juvenile when convicted, Phomphakdy began his incarceration at the Plymouth juvenile facility. He said that "I still believed and was involved in the gang at Plymouth; I had a couple of fights with rival gang members at Plymouth." Upon turning 17, he was moved to MCI-Concord. He said, "Things changed when I moved up state; fellow gang members were not there and I was able to grow up without the gang members; I completed my GED and that opened up opportunities I didn't know existed; I went through the Spectrum STG (anti-gang) program in 2006 so I officially renounced in 2006; that wasn't hard because I had not been hanging out with gang members since I got to Concord in 2001."

Board Members asked Phomphakdy to discuss his rehabilitative path at the Department of Correction. He described the important steps: "I met some positive people at Concord and then at Souza; the positive people really helped me; I worked for my GED at Plymouth, Concord, and Souza; it was important for my development to obtain my GED because I had to work hard for that; knowing I could obtain the GED helped my confidence; I was active in Jericho Circle and Second Thoughts and those both helped me; Second Thoughts was an

important program for me because I learned about my issues from childhood; Jericho Circle taught me to express emotion; if I am mad or sad it helps take weight off my shoulders to speak about it." Phomphakdy said he is now a facilitator for Second Thoughts. He described several subjects that, as part of Second Thoughts, he has received additional training on, including gang avoidance, drug and alcohol use, and setting goals. As a facilitator he works weekly with young people who visit the prison. He reported that this is his fourth year with Second Thoughts. He has also completed Alternatives to Violence (multiple phases), Spectrum's Introduction to Treatment, Cognitive Skills, Violence Reduction, Emotional Awareness, Life Skills, and 12 Step. He has trained for a commercial driver's license and taken college courses. He has worked consistently at an institutional job.

Phomphakdy's brother spoke in support of parole. He said that Thappi "was always there for me when we were younger; he cooked and cleaned for me and took care of me; later he helped me make better choices when I was on the wrong path." Middlesex Assistant District Attorney Melissa Johnson spoke in opposition to parole. In closing, Thappi Phomphakdy said, "This was tough because we covered so much; I am real humble right now because we covered so many things that I had to think about."

IV. DECISION

Thappi Phomphakdy was 14 years old and a low level gang member when he committed the murder of Sovanna Chan. Phomphakdy was not involved in the gang fight that immediately preceded the murder, but armed combatants in the gang fight ended up on his front yard. As a loyal gang member, Phomphakdy grabbed a gun, ran outside, squared off with rival gang members who taunted him, and he fired the fatal shot. There is ample evidence that bricks and knives were part of the gang fight, and added to the tension in Phomphakdy's front yard. Phomphakdy has been on a remarkable rehabilitative path since he moved away from gang life in the third year of his incarceration. Once he was away from the gang, he has had very good conduct and active program participation which has specifically addressed his criminogenic needs.

The four goals of sentencing – punishment, deterrence, rehabilitation, and public protection – have been met. In considering Phomphakdy's age, the escalation of violent events that day that occurred before he became involved, and the roles played by older gang members, the Board concludes that 15 years is sufficient to achieve punishment and deterrence. Concerning rehabilitation, Phomphakdy entered prison with a limited set of issues to address. He did not have a long pattern of antisocial behavior, criminal thinking, criminal conduct, or substance abuse. Consequently, his path to reform was less complicated. Through his good conduct, active program participation, and substantive answers as this parole hearing, Phomphakdy has established that he is rehabilitated and presents no current risk for violence.

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, the Parole Board grants parole to a long-term residential program after one year in lower security. This

release plan will allow for important supports and treatment during a closely supervised transition.

SPECIAL CONDITIONS: Parole to a long-term residential program after one year in lower security; no drug use; no alcohol use; substance abuse evaluation at program with recommended treatment, if any, to be followed; one-on-one counseling for adjustment issues.

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.


Caitlin E. Casey, Chief of Staff


Date