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DECISION

IN THE MATTER OF

TIMOTHY LUCAS
W55018

TYPE OF HEARING: **Review Hearing**

DATE OF HEARING: **August 12, 2014**

DATE OF DECISION: **January 8, 2015**

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Sheila Dupre, Tina Hurley, Lucy Soto-Abbe.

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying 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 a long term residential program after one year in lower security within the Department of Correction.

I. STATEMENT OF THE CASE

(This version is taken from Commonwealth v. Timothy Lucas, 39 Mass.App.Ct.1114, 1995.)

On July 2, 1992, after a jury trial in Plymouth County Superior Court, Timothy Lucas was found guilty of second degree murder and sentenced to life imprisonment. Lucas was on parole at the time of this offense and a parole warrant was lodged on July 21, 1992. The Massachusetts Appeals Court affirmed Lucas' conviction in 1995. Two motions for a new trial have been dismissed.

On November 3, 1991, Timothy Lucas, age 19, shot and killed 18 year old Christopher Bender in Brockton. Lucas and six associates¹ went to the Crescent Court housing project armed with guns and specifically searching for Mr. Bender. Lucas and one of his associates had a dispute with Mr. Bender two weeks prior to the shooting. Lucas was the first to run toward the car that Mr. Bender was sitting in and fired the first shot towards Mr. Bender. After that, the co-defendants began shooting at Mr. Bender. At least 21 shots were fired and Mr. Bender was hit four times. Lucas, who was on parole at the time of the murder, was apprehended at the parole office while visiting his parole officer.

At the trial, Lucas and three co-defendants were convicted of second-degree murder. Three other co-defendants were convicted of first-degree murder and another was convicted of accessory after the fact.

II. PAROLE HEARING ON AUGUST 12, 2014

Timothy Lucas appeared for his third parole hearing on August 12, 2014, after being denied at a review hearing in 2011 and his initial hearing in 2008. Lucas is 42 years old and has served 21 years of his life sentence.

Since entering the institution, he has completed a significant number of rehabilitative programs that enhance reintegration into the community, including treatment and education. According to his personalized program plan, Lucas remains on the waitlist for participation in additional programming. Lucas has always sought and maintained employment while incarcerated and he currently works as a canteen worker, a position he has held since 2013. Prior to his recent employment, he worked as a companion in the Assisted Daily Living Unit at MCI-Shirley.

Lucas provided a detailed and comprehensive version of his prior offenses and the murder. Lucas stated at the time of the murder he was "getting into trouble in Boston" and relocated to Brockton. He said he was a member of a gang in Boston and another gang in Brockton. He admitted that he and his co-defendants brought firearms to a party in Brockton and displayed guns at the party prior to the shooting. Lucas was asked about his lifestyle, the changes he has made, and how he would now be able to be a productive citizen. Lucas presented as having benefitted from his incarceration and increased investment in rehabilitation. Lucas stated he understood the reasons for his prior parole denials and advised the Board that he has been more program involved and accepts the responsibility for the death of Christopher Bender. His completion of the CRA (focus on addressing addiction) program and STG program (focus on termination from gang life) appeared to play a significant part in his positive transformation. Lucas also described his experience working in the hospital section of the prison as being an "awesome experience." He stated that he was able to gain more insight into appreciating the feelings of others. Lucas stated "these people can do nothing for themselves. These people were sick." He further stated that he would write letters for them

¹ Steven Fernandes was found guilty of first degree murder and is currently serving his sentence at NCCI- Gardner. Charles Dyous was found guilty of first degree murder and currently serving his sentence at the Bridgewater State Hospital. Ernest Fernandes was found guilty of first degree murder, is currently serving his sentence at MCI-Concord and is scheduled to appear before the Parole Board in April 2015 pursuant to the December 2013 Diatchenko decision. Karl Moore was found guilty of second degree murder and is serving his sentence at MCI-Concord. Eroy Kindell was found guilty of second degree murder and was granted parole in June 2008. Kevin Bynum was found guilty of accessory after the fact of second degree murder and sentenced to five to seven years, which has since expired.

and took care of them because they had no one else. Lucas reported that this experience was influential in helping him to change.

Lucas became attracted to street life at an early age by gravitating to a lifestyle of gang activity, violence, and drug sales. As he conveyed, he now realizes that his behavior was callous, self-centered, and damaging to the fabric of a healthy society.

Lucas made no excuse for his criminal record or for his part in the murder of Christopher Bender. His criminal record has offenses related to drugs and violence that include assault and battery on a police officer, assault and battery with a dangerous weapon, and possession with intent to distribute a Class B substance. Lucas committed the murder while on parole supervision for the latter two offenses. He has, however, appeared to gain necessary insight into his history of poor decisions and the pain he has caused others, including the community at large. Records indicate that Lucas incurred approximately 20 disciplinary reports throughout his incarceration. The most recent infraction occurred on July 11, 2014 for violating the rules and regulations of MCI-Shirley and was subsequently dismissed.

Lucas seeks a parole to reside with his fiancé Wendie Nicholson in Templeton. He also indicated he would be amenable, if the Board deemed, to parole to a long term residential program in the Worcester area. He envisioned securing employment in landscaping, painting, or construction. He plans to continue to engage in Alcoholics Anonymous. Lucas identified a positive support network in the community. Several family members and friends attended the hearing in support of his petition for parole. His fiancé, daughter, and two nieces spoke in support of his parole, noting they will provide him with the necessary supports to successfully re-enter the community.

There were no attendees or written submissions from the public in opposition to Lucas' release. However, Plymouth Assistant District Attorney Matthew Libby urged the Board to deny Lucas' petition for parole citing, "On November 3, 1991, he committed a brutal and senseless murder that took the life of an innocent unarmed 18 year old man. Mr. Lucas armed himself for confrontation and led the charge by firing first. Mr. Lucas demonstrated his unsuitability for parole by his serious criminal activity before he murdered Christopher Bender and the numerous disciplinary reports he has amassed throughout his incarceration. His release would pose a substantial risk to the community."

III. DECISION

When Timothy Lucas was 19 years old, he was entrenched in a gang lifestyle that resulted in the senseless murder of Christopher Bender. During his 21 years of incarceration, Lucas chose a path of rehabilitation and has made sincere strides toward reforming his criminal thinking. The Board is of the opinion that Lucas has demonstrated his rehabilitative progress and presents no current risk for violence and that supervised release is compatible with the welfare of society.

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 Timothy Lucas merits parole at this time because he is rehabilitated.

SPECIAL CONDITIONS: Parole after one year in lower security to a long term residential program; no drug use, testing required; no alcohol use, testing required; attendance at AA at least three times per week with a sponsor; mental health counseling for adjustment and transitional issues; and comply with curfew at Parole Officer's discretion.

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 Smith, Executive Director

1/8/15
Date