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DECISION

IN THE MATTER OF

T'SHOMBE RISE
W63968

TYPE OF HEARING: Review Hearing

DATE OF HEARING: December 8, 2015

DATE OF DECISION: March 1, 2016

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, Tina Hurley, Lucy Soto-Abbe

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 offenses, 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 in four years from the date of the hearing.

I. STATEMENT OF THE CASE

On January 21, 1998, after a jury trial in Suffolk Superior Court, T'Shombe Rise was convicted of the second degree murder of Kurt Headen and sentenced to life in prison with the possibility of parole. In the same proceedings, he was also convicted of assault and battery with a dangerous weapon on Michael Hodge, as well as possession of a firearm, and received concurrent sentences that he has since completed. At a separate trial, co-defendant Levar Rise was convicted of first degree murder; he died in prison, reportedly from cancer.

On June 15, 1994, Kurt Headen was shot six times, but survived. Mr. Headen cooperated with police and identified Ray Rise, T'Shombe Rise's cousin, as the shooter. (The Rise family had a history of violent interactions with Mr. Headen.) Ray Rise was arrested and charged with the June shooting. On October 7, 1994, 14-year-old T'Shombe Rise and his cousin, Levar Rise, approached Kurt Headen, who was seated in a car on Irma Street in Mattapan. Levar Rise opened fire with a handgun, while T'Shombe Rise opened fire with a rifle.

Mr. Headen was shot four times in the head. Mr. Headen's friend, Michael Hodge, who was sitting with him in the car, was shot in the shoulder. At the trial of T'Shombe Rise, the Commonwealth proceeded under the theory that this murder involved the killing of a court witness.

T'Shombe Rise's rifle was a .30 caliber semi-automatic with a short stock, a hand grip, and a laser beam. It was recovered in November 1994, pursuant to a search warrant, from T'Shombe Rise's residence at 76 Greenwood Street in Dorchester. The search warrant was also connected to another shooting incident committed by T'Shombe Rise. On November 1, 1994, T'Shombe Rise fired the rifle into a residence at 112 Greenwood Street. No one was hit. Ballistics testing determined that the shell casings recovered from both the 112 Greenwood Street shooting and the Kurt Headen murder scene were from the .30 caliber rifle recovered from T'Shombe Rise's residence. Juvenile charges against Mr. Rise related to this shooting were dismissed.

II. PAROLE HEARING ON DECEMBER 8, 2015

T'Shombe Rise, now 36-years-old, has been incarcerated for approximately 21 years. Mr. Rise appeared before the Parole Board on December 14, 2010 for his initial hearing. He is currently serving his sentence at Old Colony Correctional Center, where he is enrolled in the following programs: Criminal Thinking, Anger Management, and the Graduate Maintenance Program. At this parole hearing on December 8, 2015, Mr. Rise was represented by Attorney Jonathan Shapiro. Mr. Rise presented noticeably different than at his prior hearing. When asked about his prior uncooperative and aggressive attitude before the Board, Mr. Rise acknowledged his inappropriate behavior and stated, "I regret the state of mind I was in." He informed the Board that he had been transferred to higher security and had experienced issues with adjustment.

Mr. Rise testified that he accepts responsibility for Mr. Headen's death. He now admits that he intended to kill Kurt Headen, which is in stark contrast to his testimony in 2010, when he stated that he fired the rifle, but "did not intend to harm anyone." Mr. Rise continues to insist that the motive for shooting Mr. Headen stemmed from a dispute arising out of a break-in at his cousin's home. Board Members expressed doubts about the break-in being the motive for the shooting, noting that Mr. Headen was the key witness in a criminal case against Mr. Rise's relative. The case was dismissed after Mr. Headen's death. Similarly, the Board expressed concerns about the motive for the shooting that occurred on November 1, 1994. Despite prior testimony in which he obscured his role and denied any intent to shoot into the building, Mr. Rise currently admits that he shot at the apartment "to send a message" to the occupant's boyfriend. Board Members acknowledged Mr. Rise's enhanced insight of his criminal behavior and encouraged him to continue programming and counseling to support his rehabilitative efforts.

Since his prior parole hearing (and despite programming), Mr. Rise has accumulated five additional disciplinary reports. When questioned about these additional infractions, Mr. Rise advised that "I had a lapse of judgment...They don't reflect my overall behavior, which is positive." Notwithstanding Mr. Rise's view of his institutional adjustment, the Board advised him that he needs to be forthcoming about his disciplinary reports, as he attempted to minimize his actions. The Board further advised that Mr. Rise must utilize the tools he acquired from

numerous programs to improve his institutional adjustment and enhance his rehabilitation. Additionally, Mr. Rise was encouraged to engage in individual counseling to assist in his maturation process.

The Board considered three letters of support that were submitted on behalf of Mr. Rise. The Board also considered testimony from Kurt Headen's mother and Suffolk County Assistant District Attorney Charles Bartoloni, who both expressed opposition to Mr. Rise's release.

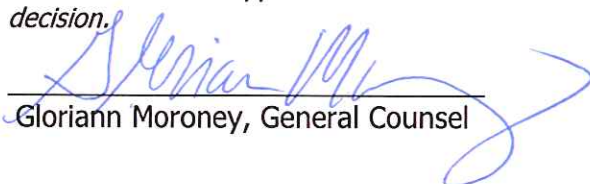
III. DECISION

The Board is of the opinion that Mr. Rise has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board believes that a longer period of positive institutional adjustment and programming would be beneficial to Mr. Rise's rehabilitation.

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 a juvenile homicide offender's right to be represented by counsel during his initial appearance before the Board. *Id.* at 20-24. The Board has also considered whether risk reduction programs could effectively minimize Mr. Rise's risk of recidivism.

After applying this standard to the circumstances of Mr. Rise's case, the Board is of the opinion that Mr. Rise is not yet rehabilitated and his release is not compatible with the welfare of society. Mr. Rise, therefore, does not merit parole at this time. Mr. Rise's next appearance before the Board will take place in four years from the date of this hearing. During the interim, the Board encourages Mr. Rise 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.


Gloriann Moroney, General Counsel

3/1/16
Date