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PAROLE BOARD

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Josh Wall
Chairman

DECISION

IN THE MATTER OF

TYRONE CLARK

W34419

TYPE OF HEARING: Review Hearing after Revocation

DATE OF HEARING: September 25, 2012

DATE OF DECISION: April 18, 2013

PARTICIPATING BOARD MEMBERS: Cesar Archilla, Dr. Charlene Bonner, Sheila Dupre, Ina Howard-Hogan, Roger Michel, 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 views of the public as expressed at the hearing or in written submissions to the Board, we conclude that the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in two years. The decision is unanimous.

I. STATEMENT OF THE CASE

A Suffolk County jury convicted Tyrone Clark of rape, robbery, and kidnapping on January 24, 1974. He received a life sentence for the rape, with 25 to 35 years for the robbery to be served from and after the life sentence, and 8 to 10 years for the kidnapping to be served at the same time as the robbery sentence. Mr. Clark maintains that he did not commit the crimes, was erroneously identified by the victim and five other witnesses, and wrongfully convicted by the jury.

At trial, the victim testified that Mr. Clark forced his way into her Back Bay apartment at 3:00 p.m. on June 23, 1973. He beat her and used a knife to coerce sexual intercourse. He continued to beat and choke her in an attempt to coerce additional sexual acts. After the sexual assault, he forced her to walk with him to Roxbury where he sexually assaulted her again. Five people who saw the victim walking with the perpetrator, including four firefighters,

identified Tyrone Clark as the man they saw with the victim. The victim sustained a fractured orbital bone under the right eye, a badly bruised and swollen face, and vaginal injuries.

Tyrone Clark was 19 years old at the time of the crime. He had prior Superior Court convictions for larceny and assault and battery for using a knife to take money from a man parking his car in the Boston Common Garage. He was on parole for six weeks on those charges when these crimes were committed. He has several juvenile charges for similar street robberies, two of which resulted in juvenile delinquencies.

II. PERFORMANCE ON PAROLE

Tyrone Clark received parole on the life sentence in 1988 at his initial hearing, and began serving his 25 to 35 year from and after sentence. He was released to the community on parole supervision on February 23, 2005. The parole occurred after the 25 to 35 year sentence was completed, and after a complicated set of events that resulted in Mr. Clark's civil lawsuit against the Parole Board. As part of the settlement of the civil lawsuit, the Parole Board agreed to release Mr. Clark to the community on parole supervision for his life sentence.

Mr. Clark was on parole for 14 months, during which time he obtained housing in the South End of Boston, was monitored on GPS, attended counseling, participated in a job training program, and received public benefits. Boston Police arrested Mr. Clark on May 24, 2006, when he was caught stealing clothing worth \$435 from a Roxbury store. He pleaded guilty to larceny and the case was placed on file. Parole was revoked and Mr. Clark returned to custody on the life sentence.

After the 2006 revocation, the Parole Board denied re-parole after a 2007 hearing and five year review was set. That review hearing took place on September 25, 2012, and resulted in this decision.

III. PAROLE HEARING ON SEPTEMBER 25, 2012

At the hearing, Tyrone Clark continued to maintain that he was erroneously identified as the rapist and wrongfully convicted. He has been assisted by the New England Innocence Project since 2002. His lawyers have worked with the Suffolk County District Attorney in an attempt to locate physical evidence connected to the crimes that might be suitable for forensic testing. Attorney Neil Raphael represented Mr. Clark at this parole hearing. Mr. Clark is 58 years old. After the hearing, the Parole Board requested that the attorney submit more materials connected to the investigation and trial, and kept the record open for two months.

Parole Board Members questioned Mr. Clark about the crime, his assertion of innocence, his performance on parole, the theft that resulted in revocation, his disciplinary record in the institution, and his poor program participation since his return to custody in 2006.

Mr. Clark has a poor institutional record. He has completed no rehabilitative programs since 2006 when he completed three phases of Alternatives to Violence. He was terminated from the Correctional Recovery Academy in January 2011 for not following the program rules, which is very problematic for an inmate seeking parole. The Correctional Recovery Academy staff recorded that Mr. Clark was "consistently missing his job obligations and not following

group rules." Mr. Clark at the time of his hearing was classified to maximum security placement at Souza-Baranowski due to his recent disciplinary reports, including fighting with another inmate, a physical altercation while possessing a weapon, and sexual acts with another inmate. Behavior that results in a maximum security placement is very problematic for an inmate seeking parole.

The recent poor conduct is similar to Mr. Clark's institutional behavior before he received parole. During those 31 years from 1974 to 2005, Mr. Clark received 78 disciplinary reports, five returns to higher custody, one sentence to the disciplinary segregation unit, and three lateral transfers due to disciplinary or enemy issues. Many of his disciplinary reports involved threats, fighting, and weapons possession. One incident involved an attempt to extort inmates for sexual favors. In 2003, his employment at Bridgewater State Hospital was terminated because he sought sexual activity with a patient in the hospital library.

At his parole hearing, Tyrone Clark seemed unconcerned about his poor behavior and lack of effort towards rehabilitation. In seeking parole, he relies primarily on the length of time that he has been incarcerated as justifying his release.

Suffolk Assistant District Attorney Charles Bartoloni testified in opposition to parole. No one appeared in support of parole.

IV. DECISION

Given the fact of wrongful convictions in our criminal justice system, the Parole Board does not have a policy that admission of guilt is an absolute requirement for parole and nowhere does the law impose such a requirement. Tyrone Clark does have to establish, however, that he meets the legal standard for parole that requires that he is unlikely to commit a new crime if paroled and that his release is compatible with the welfare of society. Mr. Clark has a long history of antisocial behavior that began as a young person, continued during his long incarceration, and resulted in a theft while on parole in 2006. He needs to work at reducing his criminal thinking, antisocial behavior, and risk to reoffend. Rather than working towards these rehabilitative goals, Mr. Clark has been poorly behaved and has completed no programs since 2006. Because he has not worked towards rehabilitation, Tyrone Clark is likely to re-offend if paroled and his release is not compatible with the welfare of society. Accordingly, parole is denied.

Mr. Clark needs to understand that maintaining innocence is not the same thing as establishing rehabilitation, and that he needs to get to work on a thoughtful program to reform his thinking and behavior. The review will be in two years, during which time the Parole Board advises that Mr. Clark have excellent behavior, maintain employment, and participate in rehabilitative programs that address his criminogenic risks and needs.

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.



Josh Wall, Chairman



Date