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PAROLE BOARD

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Josh Wall
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RECORD OF DECISION

IN THE MATTER OF

VERNON MILLER

W33563

TYPE OF HEARING: Review Hearing

DATE OF HEARING: March 20, 2012

DATE OF DECISION: March 26, 2012

PARTICIPATING BOARD MEMBERS: Cesar Archilla, Dr. Charlene Bonner, Sheila Dupre, Ina Howard-Hogan, Roger Michel, Lucy Soto-Abbe, Josh Wall

DECISION OF THE BOARD: Release to Home Plan which meets Parole Board specifications on or after April 9, 2012. The decision is by a vote of 6-1.

I. STATEMENT OF THE CASE

On March 20, 2012, Vernon Miller appeared before the Massachusetts Parole Board for a Review Hearing for the second-degree life sentence he is currently serving at MCI –Gardner. Mr. Miller is 73 years old.

On March 25, 1972, in Middlesex Superior Court, Mr. Miller was found guilty of first degree murder and armed robbery and was sentenced to life (the jury requested that the death penalty not be imposed). The victim was fifty three year old Armand Clivio, 53 years of age. On February 12, 1986, His Excellency Governor Michael S. Dukakis commuted Mr. Miller's sentence of first degree life to 22 ½ years to life. The armed robbery conviction remained the same. With this commutation, Mr. Miller's parole eligibility date was April 14, 1986.

On April 12, 1971, Vernon Miller and Arthur Morris entered a Sunnyhurst Farms convenience store in West Medford and demanded money from Mr. Clivio, the store clerk. Mr. Clivio was then shot in the head and the two men escaped with \$140.00. Miller was tried first. It was established at the time of the trial that Morris shot and killed Mr. Clivio. Miller, however, was found guilty of first-degree murder on a felony murder theory because he was present and shared the intent to rob. He later agreed to testify against Morris, whose trial resulted in a not guilty verdict.

II. PAROLE AND INSTITUTIONAL HISTORY

On June 9, 1986, Mr. Miller was paroled from Northeastern Correctional Center. On December 9, 1994, eight and a half years later, he was revoked by the Board due to drug and alcohol use and failure to maintain employment. Mr. Miller was revoked and re-paroled in 2002 and 2008 on substance abuse related reasons. His most recent return to custody, in May 2011, involved a positive drug screen. It was noted on his revocations that he was the non-shooter in the governing offense and testified against his co-defendant (the shooter) who was acquitted. He has medical issues and has elderly housing.

Mr. Miller has approximately 24 years of parole supervision on the streets with three violations resulting in a return to custody and he had one hearing on the street. While incarcerated he successfully completed over seventy furloughs with only two incident reports (failing to phone and coming back late). He was involved in AA/NA, educational courses, church services, music program and worked several years in the CARVE Hospital Program at the Metropolitan State Hospital. DOC records note that he was very well liked by staff and other inmates and received above average to excellent evaluations in both housing and work duties.

Since returning as a parole violator in May 2011, he attended AA/NA meetings once a week. He transferred to NCCI- Gardner in August 2011 and entered the CRA program on November 7, 2011 and is currently in phase II. Mr. Miller has a total of seven disciplinary reports, the last being in August of 1984. He receives average housing evaluations and is not considered a management problem per DOC.

III. PAROLE HEARING ON MARCH 20, 2012

At his presentment, Mr. Miller recognized the need for continued active engagement in his rehabilitative process, particularly regarding his sobriety. By all accounts, during the last two years, Mr. Miller had been adjusting very well in his condominium complex and in his community. He had been involved with SPAN and received ongoing local support. The number of people involved in his life who testified favorably at his hearing evidenced a very strong support network that would enhance his rehabilitation. He has a committed relationship with a girlfriend who is a law-abiding, professional person. She continues to support Mr. Miller.

IV. DECISION

Accordingly, it is the majority opinion of the Board, by a vote of 6-1, that Mr. Miller's release on parole is not incompatible with the welfare of society and it is reasonably probable that he will not commit a criminal offense if released. Mr. Miller is an elderly man, age 73, who shows no sign that he presents a current risk for violence. The Board votes to reserve to an approved home plan on or after April 9, 2012. Board Member Sheila Dupre dissents after concluding that Mr. Miller's continued substance abuse issues show inadequate rehabilitation.

SPECIAL CONDITIONS: No drugs or alcohol use; substance abuse evaluation by Parole's substance abuse counselor with requirement to follow recommended treatment plan; AA or NA 3 times per week with sponsor.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing.


Caitlin E. Casey, Chief of Staff


Date