



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

12 Mercer Road
Natick, Massachusetts 01760

Charles D. Baker
Governor

Karyn Polito
Lieutenant Governor

Daniel Bennett
Secretary

Telephone # (508) 650-4500
Facsimile # (508) 650-4599

Paul Treseler
Chairperson

Michael J. Callahan
Executive Director

DECISION

IN THE MATTER OF

**VISETH SAO
W82005**

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: December 1, 2015

DATE OF DECISION: March 8, 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 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 not a suitable candidate for parole. Parole is denied with a review scheduled in four years from the date of the hearing.

I. STATEMENT OF THE CASE

On June 2, 2003, in Suffolk Superior Court, Viseth Sao pled guilty to the second degree murder of Charles Ashton Cline-McMurray. He was sentenced to a term of life in prison with the possibility of parole. At the time of Mr. Cline-McMurray's murder, Mr. Sao was 17-years-old.

In October 2000, Mr. Sao was living in Chelsea. On October 13, the evening of Mr. Cline-McMurray's murder, Mr. Sao met with approximately 10-15 young men at a residence in Revere. All of the men present at the meeting were associated with a known gang (Group 1). The purpose of the meeting was to discuss an ongoing feud between Group 1 and another gang (Group 2). Also present at the meeting were Mr. Sao's co-defendants Savoeun Heng, Loeun Heng, and Savoun Po. Earlier that day, the feud had escalated when Group 1 members were attacked by Group 2 classmates at a local school. In a separate incident, Group 1 and Group 2 members had become embroiled in a verbal confrontation. Both groups agreed to meet for a fight later that evening. Under the leadership of Viseth Sao, it was decided that all

of the young men would arm themselves and proceed to the streets to attack Group 2 members. Mr. Sao armed himself with a large cane knife that he had been seen carrying on prior occasions. Other Group 1 members carried bannister legs, golf clubs, broom handles, and pad locks. At approximately 9:30 p.m., Mr. Sao led Group 1 members to a house in Revere occupied by Group 2 members. Mr. Sao challenged some Group 2 members (who were standing on an outdoor porch) to a street fight. At the time, Mr. Cline-McMurray and 2 other young men were standing further down the street dressed in red clothing, the color associated with Group 2. Mr. Cline-McMurray was 16-years-old and disabled from cerebral palsy.

At some point, the Group 1 members converged on Mr. Cline-McMurray's location, causing the men standing with him to flee the scene. As they did so, one of the men handed Mr. Cline-McMurray a baseball bat. Mr. Cline-McMurray, whose disability prevented him from running away, was quickly surrounded by Group 1 members. Mr. Cline-McMurray dropped the baseball bat to the ground and stated "chill" to the Group 1 members, who then attacked him with clubs and knocked him to the ground. Mr. Sao then stabbed him 4 times with the cane knife he had been carrying. A short time later, Mr. Sao and the Group 1 members were chased off by Mr. Cline-McMurray's friends, who had returned to the scene armed with weapons of their own. Mr. Cline-McMurray was able to stand up and walk a short distance, but soon collapsed. Subsequent investigation revealed that one of the stab wounds entered 6 inches into Mr. Cline-McMurray's body, puncturing his heart and lung. Shortly thereafter, Mr. Cline-McMurray succumbed to his wounds.

On October 15, 2000 Mr. Sao was arrested. In an interview with detectives, Mr. Sao admitted to being a Group 1 member, as well as to stabbing Mr. Cline-McMurray with his cane knife, despite Mr. Cline-McMurray having already been knocked to the ground by other Group 1 members.

II. PAROLE HEARING ON DECEMBER 1, 2015

Mr. Sao, now age 33, appeared before the Parole Board on December 1, 2015 for an initial hearing and was represented by Attorney Rebecca Rose. Presently, a deportation order from the Immigration and Customs Enforcement Agency is lodged against Mr. Sao for his return to Cambodia.

In Mr. Sao's opening statement to the Board, he apologized to Mr. Cline-McMurray's family. During the course of the hearing, Mr. Sao spoke about the night of the murder. According to Mr. Sao, he had smoked marijuana and consumed alcohol earlier that evening. Mr. Sao told the Board that he took on a leadership role when he attended a meeting of approximately 20 other Group 1 members at a house in Revere. Mr. Sao also told the Board that he received the cane knife he used to kill Mr. Cline-McMurray from one of his co-defendants on the night of the stabbing. After the meeting, Mr. Sao led a group of approximately 8 Group 1 members to the house occupied by Group 2 members. Mr. Sao was engaged in a verbal confrontation with a Group 2 member standing on the porch of a house when other Group 1 members ran down the street. Mr. Sao then went down the street to help the other Group 1 members. It was at this time that Mr. Sao murdered Mr. Cline-McMurray. Mr. Sao reported to the Board that he was unaware that the stab wounds he inflicted on Mr. Cline-McMurray were life threatening. A few days later, Mr. Sao was arrested at his mother's home.

Mr. Sao discussed the circumstances of his background and upbringing with the Board. Mr. Sao was born in a refugee camp in Thailand after his family fled the Khmer Rouge in Cambodia. Mr. Sao's family settled in Chelsea when he was 2-years-old, after immigrating to the United States from Thailand. According to Mr. Sao, he experienced problems in school due to language barriers. He also reported being cognizant of racial tensions in his neighborhood. Mr. Sao cited his abusive father as one of the factors that influenced his decision to join Group 1 at age 12.

When questioned by the Board, Mr. Sao addressed his behavior prior to, and during, his incarceration. Mr. Sao admitted to his association with Group 1 and to having carried weapons in the past. While serving his sentence, Mr. Sao has been involved in numerous disciplinary incidents, including fighting with other inmates. Mr. Sao addressed the 29 disciplinary reports he acquired by explaining that he went through a transformation approximately 4 years ago, after he started to engage in programming. The Board notes that despite these assurances, Mr. Sao received multiple disciplinary reports in 2012, 2013, and 2014 for offenses that include fighting with other inmates and possession of contraband, among other violations. During his incarceration, however, Mr. Sao has engaged in a variety of programs that address violence reduction, emotional awareness, and the development of cognitive skills. Mr. Sao also earned his certificate of general equivalency (GED) and completed the Correctional Recovery Academy. By Mr. Sao's own admission, his active participation in programming opportunities has only occurred within the last 4 of the 15 years he has spent in prison. The Board acknowledges the considerable strides Mr. Sao has made toward his rehabilitation over this period of time.

The Board heard testimony from numerous witnesses, including members of Mr. Sao's family, all of whom expressed support for his release and their willingness to assist Mr. Sao during his transition back into society. In addition, Mr. Sao presented testimony from Clinical Nurse Specialist Marguerita Reczycki, who conducted his psychological evaluation.

The Board considered testimony in opposition to Mr. Sao's petition for parole from a representative of the Suffolk County District Attorney's Office.

III. DECISION

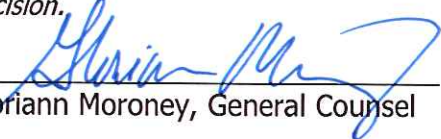
The Board is of the opinion that Mr. Sao has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board believes a longer period of positive institutional adjustment and programming would be beneficial to Mr. Sao's rehabilitation.

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

After applying this standard to the circumstances of Mr. Sao's case, the Board is of the opinion that Mr. Sao is not yet rehabilitated and his release is not compatible with the welfare of society. Mr. Sao, therefore, does not merit parole at this time. Mr. Sao'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. Sao 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

3/8/16
Date