

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

IN THE MATTER OF

VISETH SAO

W82005

TYPE OF HEARING: Review Hearing

DATE OF HEARING: December 17, 2019

DATE OF DECISION: May 20, 2020

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Karen McCarthy, Gloriann Moroney, Colette Santa

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 that the inmate is a suitable candidate for parole. Parole is granted to an Immigration Customs Enforcement detainer and is subject to special conditions.¹

I. STATEMENT OF THE CASE

On June 2, 2003, in Suffolk Superior Court, Viseth Sao pleaded guilty to the second-degree murder of Charles Ashton Cline-McMurray (age 16). He was sentenced to a term of life in prison with the possibility of parole. At the time of the 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. These men, associated with a known gang (Group 1), met to discuss an ongoing feud with another gang (Group 2). Also present at the meeting were Mr. Sao's co-defendants Savoeun Heng, Loenun Heng, and Savoun Po. After confrontations earlier that day, both groups agreed to meet for a fight later that evening. Under the leadership of Mr. Sao, it was decided that all of the young men would arm themselves and proceed to the streets to attack Group 2

¹ One Board Member voted to deny parole with a two year review.

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, where they challenged Group 2 members to a street fight. At the time, Mr. Cline-McMurray, who was disabled from cerebral palsy, and 2 other young men were standing further down the street dressed in red clothing, the color associated with Group 2.

At some point, 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, knocking him to the ground. Mr. Sao then stabbed him 4 times with the cane knife. 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 that he was a Group 1 member, and that he stabbed Mr. Cline-McMurray with his cane knife, despite the victim being knocked to the ground.

II. PAROLE HEARING ON DECEMBER 17, 2019

Viseth Sao, now 37-years-old, appeared before the Parole Board on December 17, 2019, for a review hearing. He was represented by Attorney Rebecca Rose. Mr. Sao was denied parole after his initial hearing in 2015. In his opening statement to the Board, Mr. Sao accepted responsibility and apologized for the murder of Mr. Cline-McMurray. He expressed his shame and embarrassment and stated that he had been scared by his actions. Upon questioning by the Board, Mr. Sao admitted to stabbing the victim at least four times after he was on the ground. Mr. Sao told the Board that, although he hadn't intended to kill the victim, he knew what his actions would do. He explained that he carried a knife for protection, at times, but that this was the first time he had used it. When Board Members asked why he stopped stabbing the victim, Mr. Sao responded that the group heard police sirens and ran.

Mr. Sao discussed his life at the time of the murder and explained that he "was a gang banger," joining at age 12. He told the Board that he was committing crimes, smoking weed, and skipping school. His reputation as a gang member was someone who was willing to fight, sell drugs, and make money. He was always willing to do things for the gang because he wanted them in his life. While his parents were working, his older siblings took over the role of parenting, but he did not like discipline. He told the Board that his family was always "tightknit," but that he didn't appreciate his parent's sacrifices or his father's expectations. When he left home, Mr. Sao felt like he could do what he wanted without being held accountable for his actions.

When he entered prison, Mr. Sao described himself as a "convict," by not following rules and misbehaving, as well as exhibiting antisocial behavior, for approximately 13 years. When Board Members questioned him as to why he wanted to change, Mr. Sao responded that he wanted to go home to his family. The Board noted his positive strides in rehabilitation since his last hearing. Mr. Sao told the Board that Restorative Justice helped him realize the affect he has on the community. He enjoys the Asian Cultural Awareness Committee because it teaches

him professionalism and communication skills. He completed the Correctional Recovery Academy program, as well. Mr. Sao acknowledged his sobriety since 2011, and stated that he has no concern of using substances again. Mr. Sao deals with ADHD and anxiety by coloring and writing.

When questioned about a 2016 disciplinary report for transferring homebrew, Mr. Sao explained that he was asked to give a folder to another inmate. He was unaware that a bottle of homebrew was in it until a correctional officer grabbed the folder and pulled out the bottle. After receiving the disciplinary report, Mr. Sao explained that he felt like giving up because he lost so much within the institution as a result. If paroled, Mr. Sao acknowledged that he may be deported back to Cambodia. Since his incarceration, Mr. Sao has developed vocational skills, such as culinary arts and welding. In July 2017, the Department of Correction accepted Mr. Sao's disassociation request from the gang.

The Board considered letters of support from Mr. Sao's sister and mother, which were read by his attorney.

III. DECISION

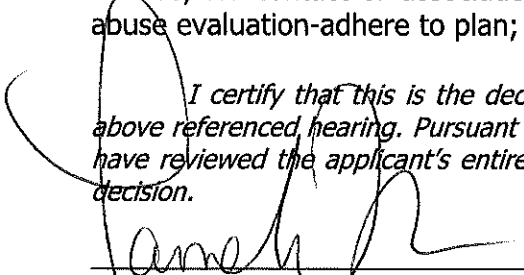
Mr. Sao has served approximately 20 years for the murder of Mr. Cline-McMurray. He was 17-years-old when he committed the offense. It is the opinion of the Board that he has demonstrated a level of rehabilitation that would not make his release incompatible with the welfare of society. Since his last hearing, he completed numerous programs to address his causative factors and criminal behavior.

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 Viseth Sao is rehabilitated, and his release is compatible with the welfare of society. Mr. Sao, therefore, merits parole at this time. Parole is granted to an Immigration Customs Enforcement detainer and is subject to special conditions.

SPECIAL CONDITIONS: Release to other authority – ICE; Approve home plan before release; Waive work; Must be at home between 10:00 pm and 6:00 am; Electronic monitoring; Supervise for drugs, testing in accordance with agency policy; Supervise for liquor abstinence, testing in accordance with agency policy; Report to assigned MA Parole Office on day of release; No contact or association with [named gang] & co-defendants; Must have substance abuse evaluation-adhere to plan; Mental health counseling.

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.



Pamela Murphy, General Counsel

5/20/2020
Date