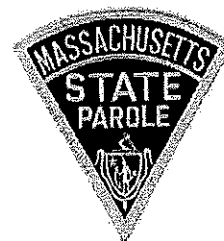


The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

**IN THE MATTER OF
WILLIAM BERRY
W31887**

TYPE OF HEARING: Review Hearing

DATE OF HEARING: June 29, 2021

DATE OF DECISION: March 2, 2022

PARTICIPATING BOARD MEMBERS: Gloriann Moroney, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, 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 not a suitable candidate for parole. Parole is denied with a review scheduled in two years from the date of the hearing.¹

I. STATEMENT OF THE CASE

On October 5, 1968, after a jury trial in Middlesex Superior Court had commenced, William Berry pleaded guilty to the second-degree murder of Linda Marshall and was sentenced to life in prison with the possibility of parole.

On November 13, 1968, Mr. Berry was convicted in Middlesex Superior Court of several charges involving an unrelated offense, including armed burglary. He was sentenced to 12 to 15 years to be served from and after his life sentence for the armed burglary conviction. On that same date, he pleaded guilty to assault and battery with a dangerous weapon and assault with intent to rape. These sentences were ordered to be served concurrently with the 12 to 15 year from and after sentence. On January 17, 1969, in Middlesex Superior Court, Mr. Berry

¹ One Board Member voted to grant parole.

pleaded guilty to two counts of armed burglary, rape, and breaking and entering with intent to commit a felony. He received three concurrent 10 to 12 year sentences. On that same date, Mr. Berry pleaded guilty to unnatural acts and was given a 2 ½ to 5 year concurrent sentence.

On March 25, 1968, William Berry entered the home of Linda Marshall through a bedroom window while she was out. Mr. Berry looked through her home and hid in her bedroom closet, awaiting her return. When Ms. Marshall returned, Mr. Berry attacked her by stabbing her once in the thigh, puncturing her femoral artery, and once in the left side of her chest, puncturing the pericardial sack. After stabbing Ms. Marshall, Mr. Berry fled the apartment and threw the knife in a nearby tree. Ms. Marshall died shortly after the attack.

II. PAROLE HEARING ON JUNE 29, 2021

William Berry, now 76-years-old, appeared before the Parole Board on June 29, 2021, for a review hearing. He was represented by Attorney John Swomley. Mr. Berry was denied parole after his initial hearing in 1989, and after his review hearings in 1992, 1995, 1999, 2004, 2010, and 2015. Mr. Berry's 2020 hearing was postponed at the request of counsel. Attorney Swomley provided an opening statement to the Board that detailed Mr. Berry's declining health, as well as his recent hospitalization from a COVID-19 infection. Attorney Swomley also stated that Mr. Berry's most recent psychological evaluation, conducted by Dr. Carol Ball, indicated deficits in long-term memory.

In response to questioning by the Board, Mr. Berry accepted responsibility for the murder of Ms. Marshall and claimed to be remorseful of his actions. He acknowledged that he was on parole supervision for an unrelated offense at the time he committed murder. When asked to describe his lifestyle at the time of the offense, Mr. Berry stated that it was "alright, I guess." He reported that his grandmother was hospitalized at the time he committed the murder, and he was depressed as a result of her condition. When asked why he chose to break into the victim's residence, he responded, "I don't know, that's a hard question to ask."

Mr. Berry discussed several programs that he participated in during his incarceration, including Emotional Awareness and Jericho Circle. Mr. Berry indicated Emotional Awareness helped him understand that he "can't go around hurting people" or breaking into their homes and that Jericho Circle assisted him in learning to talk to others and in understanding their feelings. Mr. Berry stated that he worked on anger issues, and that his programming efforts have enabled him to better understand himself. He admitted that he did not complete the Restorative Justice program. When Board Members inquired as to why he believes that he is a suitable candidate for parole, Mr. Berry said that he is old and no longer capable of committing the type of crimes that resulted in his incarceration. The Board questioned Mr. Berry as to a disciplinary report incurred in 2016. Mr. Berry stated that he was in possession of K-2 but claimed that he was simply "holding it" for another person and was paid for doing so. He stated that he needed the money because he had lost his job in the institution.

The Board questioned Mr. Berry about his parole plan and whether he anticipated any challenges if granted parole. Mr. Berry informed the Board that he has cousins in the community, whom he anticipates being supportive, and expressed his intent to rely on several counselors, including Dr. Carol Ball. When questioned as to the specific supports he may need, Mr. Berry stated that he simply needed somewhere to live. He expressed confidence that he

would be able to cope with feelings of anxiety, stress, and loneliness upon his release, but did not identify any specific coping mechanisms for processing those feelings. Although he acknowledged that he may face challenges upon release, he declined to elaborate further. Mr. Berry anticipated having an easier time managing his health conditions in the community. When asked by the Board if he anticipated being classified as a sex offender and ordered to participate in sex-offender treatment in the community, Mr. Berry agreed that such conditions would almost certainly be imposed. He stated that he would willingly abide by such conditions and participate in sex offender treatment. Board Members pointed out, however, that such a statement was at odds with his present refusal to participate in sex offender treatment within the institution.

The Board considered testimony from Dr. Carol Ball, as well as William Canavan, Director of the Boston Release Network, in support of parole. The Board reviewed a written evaluation and supplement authored by Dr. Ball. The Board also considered the testimony of Middlesex County Assistant District Attorney Adrienne Lynch in opposition to parole. The Board reviewed written submissions from the Middlesex County District Attorney's Office and the Cambridge Police Department in opposition to parole.

III. DECISION

The Board is of the opinion that Mr. Berry has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Berry has served approximately 53 years for the murder of Linda Marshall. Mr. Berry is 76 years old with a number of medical conditions. However, the parole plan he provided is vague and not adequate to address the challenges he will face in the community. He does not have a support system in place that will assist him in facing challenges he will encounter in society after many years of incarceration. He is encouraged to work with reentry and counsel to address all his needs and to identify an appropriate plan.

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 forming this opinion, the Board has taken into consideration Mr. Berry's institutional behavior, as well as his participation in available work, educational, and treatment programs during the period of his incarceration. The Board has also considered a risk and needs assessment and whether risk reduction programs could effectively minimize Mr. Berry's risk of recidivism. After applying this standard to the circumstances of Mr. Berry's case, the Board is of the opinion that William Berry is not rehabilitated and, therefore, does not merit parole at this time.

Mr. Berry's next appearance before the Board will take place in two years from the date of this hearing. During the interim, the Board encourages Mr. Berry to continue working toward 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.

Pamela Murphy
Pamela Murphy, General Counsel

3/2/2022
Date