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Josh Wall
Chairman

DECISION

IN THE MATTER OF

WILLIAM MCDERMOTT

W39101

TYPE OF HEARING: Review Hearing

DATE OF HEARING: November 15, 2012

DATE OF DECISION: September 5, 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, criminal record, institutional record, the inmate's testimony at the hearing, and the views of the public as expressed at the hearing or in writing, we conclude by unanimous vote that the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in five years from the date of the hearing.

I. STATEMENT OF THE CASE

William McDermott appeared before the Massachusetts Parole Board on November 15, 2012, for a review hearing. This is McDermott's fourth appearance before the Board, following denials of parole in 1996, 2002, and 2007. In its 2007 decision, the Board determined that McDermott was not a suitable candidate for supervision, in part because he had not resolved his anger issues and was less than forthcoming describing the murder.

On November 20, 1981, William McDermott was convicted of the first-degree murder of 38-year-old Robert Kemp and sentenced to serve life in prison without the possibility of parole. McDermott was 17 years old at the time of the offense. On appeal, the Supreme Judicial Court vacated the verdict pursuant to G.L. c. 278, § 33E, and remanded the case to the Superior Court for entry of a verdict of second-degree murder and resentencing to life in prison. In its opinion, the Court wrote that McDermott's "youth and background," in conjunction with evidence in the case, warranted a reduction in the verdict. *Commonwealth v. McDermott*, 393 Mass. 451 (1984). A subsequent post-conviction request for relief, and the ensuing appeal, was unsuccessful. *Commonwealth v. McDermott*, 65 Mass. App. Ct. 1112 (2006).

William McDermott¹ shot and killed Robert Kemp in November of 1981 at the Cohasset Golf Club. Kemp was the manager of the golf club, and McDermott worked for him there. On the morning of November 21, 1981, the head cook at the club arrived at work and saw blood on the floor of the kitchen. Initially, he was not concerned about the blood because there had been a recent meat delivery. He became worried and called the police, however, when he found a gun outside near the exit to the club. A short time later, Robert Kemp's body was discovered in a ditch, partially covered with dirt, near the 18th hole on the golf course. His wedding band, which he always wore, his wallet, and several rings were missing. McDermott fled to his sister's house in Pennsylvania after the murder, but was arrested and returned to Massachusetts soon after.

McDermott, whose fingerprint was recovered from Mr. Kemp's vehicle, had shot Mr. Kemp 11 times in the head, chest, and back. According to the medical examiner's testimony at trial, any of the wounds could have been fatal. The weapon used in the shooting was Mr. Kemp's nine shot .22 caliber revolver.

II. PAROLE HEARING ON NOVEMBER 15, 2012

William McDermott, now age 49, testified at his fourth parole hearing. In previous hearings he has falsely claimed that he shot the victim in order to defend himself against a sexual assault. This was also the lie he presented in his trial testimony. There is no evidence to support the fantastical claim, there is considerable evidence to disprove it, and very importantly, the jury verdict repudiated the allegations. Nonetheless, McDermott persisted with the false story for three decades and three parole hearings.

At this hearing, McDermott finally admitted the lie that was apparent to the jury and other objective evaluators. He testified that his "lawyer helped me concoct the story and I kept it going because I felt because of the SJC decision [reducing the conviction to second-degree murder] I had to stick with that." McDermott provided the following version of events at this hearing: "I took the gun from the office earlier that afternoon; I took it up to the ladies bathroom where I was working; I felt powerful with the gun; I took a whole box of bullets; he came up to the bathroom; I came down outside and he followed me; it was alcohol and anger; I was thinking about my dad; I felt rage; I was drunk and was focusing on problems I had with my own dad; only my dad wasn't as nice as the victim and I saw the niceness as weakness; I decided as I passed through the door leaving the second floor that I would shoot him; I came down outside and he followed me; I went into the first floor kitchen door; I said nothing and he said nothing; I turned around and fired the gun; I shot eleven times; the gun held nine bullets; I shot him as he faced me but he must have spun around because I think I shot him four times in the back before I reloaded; I picked up the shell casings and put them in my pocket; the shell casings found outside must have fallen out of my pocket; I did take things; I went through his pockets and took his wedding band and the cash box." In response to a question, he denied that he murdered the victim because the victim caught him stealing from the cash box.

There was a defense witness at trial who made some accusations against the victim. McDermott admitted that "I think my lawyer paid that witness; I think my roommate connected that witness to my lawyer for money." McDermott also said, "in court I had to do what my dad and big shot lawyer said."

¹ McDermott testified at trial that "the shooting had occurred in self-defense" against rape. *McDermott*, 393 Mass. at 452.

After hearing McDermott finally tell the truth about the murder, a Board Member asked, "Is this Day One of your rehabilitation?" The Board Member also asked, "Should lying matter to the Board?" McDermott acknowledged that "I suppose it should." He said that "I have done a lot of work on why I pulled the trigger," and offered the explanation of his rage against his father who abused him physically and verbally. McDermott has completed the Correctional Recovery Academy and reported that he attends AA. He emphasized that after receiving many disciplinary reports, including for several fights, he has not received a disciplinary report in five years. He works daily in Industries. Other than work and AA, he said, "I don't do that much."

There was no one present in support of parole. McDermott acknowledged that he receives no visits and has no phone contact with anyone. He said he has some contact in writing with his elderly mother. He has no contact with his four siblings. A Board Member asked McDermott if he had ever had a healthy adult relationship. He said, "No."

Board Members asked McDermott about several disciplinary incidents or investigations that connected him to possible attempts to escape. He offered an explanation for each incident and denied that he ever planned to escape from prison. A Board Member noted that he had long periods in prison with no rehabilitative programs or activities (1985-1999, 2002-2005) and asked if he had become institutionalized. McDermott said, "I don't think so."

Robert Kemp's son and wife spoke in opposition to parole. They described a devoted husband and father known for his "wit, love of life, and compassion for others." Norfolk Assistant District Attorney Marguerite Grant spoke in opposition to parole.

III. DECISION

William McDermott murdered a kind and innocent man by shooting him eleven times at close range. McDermott defended the criminal case by fabricating a story that smeared the innocent victim. The jury focused on the evidence and convicted McDermott of murder. For thirty years, McDermott perpetuated the lies and defamed the victim. Parole was denied three times. At this hearing, McDermott finally provided testimony that is consistent with the evidence, the verdict, and common sense. As a Board Member suggested at the hearing, McDermott has made an initial step towards rehabilitation after three decades. He has much work to do to identify and achieve rehabilitative goals.

The standard for parole is set out in 120 C.M.R. 300.04, which provides that "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such an 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." Applying that appropriately high standard, the Parole Board concludes that McDermott is not currently suitable for parole. The review will be in five years, during which time McDermott should make a full investment in rehabilitative work and programs.

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 each member of the Board has reviewed the applicant's entire criminal record. This signature does not indicate authorship of the decision.


Janis DiLoreto Noble, General Counsel

9/5/13
Date