



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security

PAROLE BOARD

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DECISION

IN THE MATTER OF

WILLIAM SMALLWOOD

W36817

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: October 29, 2024

DATE OF DECISION: December 18, 2024

PARTICIPATING BOARD MEMBERS: Edith J. Alexander, Dr. Charlene Bonner, Tonomey Coleman, Sarah B. Coughlin, Tina M. Hurley, James Kelcourse, and Rafael Ortiz

VOTE: Parole is granted on or after 90 days in minimum custody to CRJ or LTRP (Long-Term Residential Program).

PROCEDURAL HISTORY: On December 4, 1978, in Middlesex Superior Court, William Smallwood was convicted of first-degree murder, armed robbery, and unlawful carrying of a firearm, following a jury trial. Mr. Smallwood was sentenced to life in prison without the possibility of parole for first-degree murder. Mr. Smallwood was sentenced to life with the possibility of parole for armed robbery and 3-5 years in prison for carrying a firearm without a license, each sentence running concurrently with the life without parole sentence.

Mr. Smallwood became parole eligible following the Supreme Judicial Court's decision in Commonwealth v. Mattis, 493 Mass. 216 (2024), where the court held that sentencing individuals who were ages 18 through 20 at the time of the offense (emerging adults) to life without the possibility of parole is unconstitutional. As a result of the SJC's decision regarding a first-degree murder conviction, Mr. Smallwood was re-sentenced to life with the possibility of parole after 15 years. Mr. Smallwood appeared before the Parole Board for an initial hearing on October 29, 2024, and was represented by Attorney Seth Orkand. The Board's decision fully incorporates, by reference, the entire video recording of Mr. Smallwood's October 29, 2024, hearing.

STATEMENT OF THE CASE:¹ On December 16, 1977, 19-year-old William Smallwood and William Florentino robbed Vautour's Liquor Store in Everett. The store owner and a patron were present throughout the entire robbery. While the robbery was in progress, Edward Stevens entered the store. Mr. Smallwood, who was armed with a .38 caliber handgun, ordered Mr. Stevens to move to the rear of the store. When Mr. Stevens did not comply, Mr. Smallwood shot and killed him. Mr. Smallwood and Mr. Florentino fled the store. The two surviving witnesses identified Mr. Smallwood as the shooter.

APPLICABLE STANDARD: Parole shall be granted "only if the Board is of the opinion, after consideration of a risk and needs assessment, that there is a reasonable probability that, if the prisoner is released with appropriate conditions and community supervision, the prisoner will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." G. L. c. 127, § 130. The Board considers multiple factors in making its decision, including the incarcerated individual's institutional behavior; their participation in available work, education, and treatment programs during their incarceration; and whether the incarcerated individual's chances of recidivism could be reduced by participation in risk reduction programs. G. L. c. 127, § 130. The Board considers all relevant facts, including the nature of the underlying offense, the age of the incarcerated individual at the time of the offense, the entirety of the incarcerated individual's criminal record, the incarcerated individual's institutional record, the incarcerated individual's testimony at the hearing, and the views of the public expressed at the hearing and/or in written submission to the Board.

Where a parole candidate was convicted of first-degree murder for a crime committed when he was ages 18 through 20 years old, the Board considers the "unique aspects" of emerging adulthood that distinguish emerging adult offenders from older offenders. Commonwealth v. Mattis, 493 Mass. 216, 238 (2024). Individuals who were emerging adults at the time of the offense must be afforded a "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation" and the Board evaluates "the circumstances surrounding the commission of the crime, including the age of the offender, together with all relevant information pertaining to the offender's character and actions during the intervening years since conviction." Id. (citing Diatchenko v. District Attorney for the Suffolk Dist., 466 Mass. 655, 674 (2013) (Diatchenko I); Miller v. Alabama, 567 U.S. 460, 471 (2012); Graham v. Florida, 560 U.S. 48, 75 (2010)). Since brain development in emerging adulthood is ongoing, the Board also considers the following factors when evaluating parole candidates who committed the underlying offenses as an emerging adult: 1) a lack of impulse control in emotionally arousing situations; 2) an increased likelihood to engage in risk taking behaviors in pursuit of reward; 3) increased susceptibility to peer influence which makes emerging adults more likely to engage in risky behavior; and 4) an emerging adult's greater capacity for change. See Mattis, 493 Mass. at 225-229.


DECISION OF THE BOARD: Mr. Smallwood was 19-years-old at the time of the offense. He is currently 66-years-old and has been incarcerated for 46 years. Mr. Smallwood has invested in his rehabilitation, which began prior to the SJC Mattis decision. He has not had a disciplinary report in 24 years and has been sober for 33 years. Mr. Smallwood has completed programs that addressed Violence Reduction, Emotional Healing, Restorative Justice, Substance Abuse, Vocational Skills, and Education. The Board considered factors associated with Mattis, his age,


¹ The Statement of Facts is derived from Commonwealth v. Smallwood, 379 Mass. 878 (1980).

and the expert opinion of Dr. DiCataldo in rendering it's decision. The Board also considered additional testimony from those speakers in support of, and in opposition to, parole. Middlesex Assistant District Attorney Alicia Walsh provided testimony in opposition to parole. Mr. Smallwood has a release plan that will support his needs.

SPECIAL CONDITIONS: Approve home plan before release; Long-Term Residential Treatment Program or CRJ; Report to assigned MA Parole Office on day of release; Waive work for retirement; Electronic monitoring for 90 days; Supervise for drugs with testing in accordance with Agency policy; Supervise for liquor abstinence with testing in accordance with Agency policy; Must have mental health counseling for adjustment; No contact with victim(s)' family; AA and/or NA at least 3 times per week.

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.


Tina M. Hurley, Chair


Date