



The Commonwealth of Massachusetts  
Executive Office of Public Safety and Security

PAROLE BOARD

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**DECISION**

**IN THE MATTER OF**

**Robert Loder**  
**W46851**

**TYPE OF HEARING:** Review Hearing

**DATE OF HEARING:** January 22, 2015

**DATE OF DECISION:** March 31, 2015

**PARTICIPATING BOARD MEMBERS:** Tonomey Coleman, Ina Howard-Hogan, Tina Hurley, Lucy Soto-Abbe, Lee Gartenberg, Dr. Charlene Bonner

**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 written submissions to the Board, we conclude by a vote of five to one that the inmate is not a suitable candidate for parole. Parole is denied with a review hearing scheduled three years from the date of the hearing.

**I. STATEMENT OF THE CASE**

On January 31, 1975, in Middlesex Superior Court, Robert Loder was convicted of rape and sentenced to life in prison. On that same date, Loder was also convicted of armed robbery and received a consecutive life sentence. He received an additional 3 to 5 year sentence for unnatural acts, which was ordered to run concurrent with the subsequent life sentence. In 1976, Loder was convicted of escape and sentenced to 1 year to 1 year and a day<sup>1</sup>.

At approximately 3:00 am on July 25, 1974, Robert Loder and his co-defendant, Donald Bourrassa<sup>2</sup>, entered the apartment of Jane Doe<sup>3</sup> and Joseph Ricciardi through a window off the fire escape. Both Ms. Doe and Mr. Ricciardi were awakened. As Loder and Bourrassa searched

<sup>1</sup> This sentence is expired since it was ordered to run concurrent with the initial life sentence.  
<sup>2</sup> Donald Bourrassa was convicted of rape, armed robbery, and burglary and received a sentence of nine to ten years. He was discharged from his sentence on April 4, 1987.  
<sup>3</sup> A pseudonym will be used to identify the victim of the rape pursuant to G.L. c. 265 § 24C; G.L. c. 42 § 97D.

the apartment for money, Mr. Ricciardi was ordered to the floor. After finding approximately \$4, both men raped Ms. Doe, as well as forced her to perform unnatural acts on each of them. During these attacks, Mr. Ricciardi was held at knife point. Loder and Bourrassa then ordered Ms. Doe and Mr. Ricciardi to perform sexual intercourse with each other, while they (Loder and Bourrassa) watched. These attacks took place over a two hour period. As Loder and Bourrassa left the apartment, they threatened to kill Mr. Ricciardi and to cut up Ms. Doe if the police were called.

Loder and Bourrassa were arrested the following day after Ms. Doe saw them in a park near her mother's residence.

## **II. PAROLE HEARING ON JANUARY 22, 2015**

Robert Loder is 60 years-old and has been incarcerated for 40 years. This was Loder's fourth hearing before the Parole Board. Loder was represented at the hearing by Margaret Laffan and Van Huynh, student attorneys from Northeastern University School of Law Prisoner's Assistance Project.

Loder, in conjunction with his attorneys, opened the hearing by offering an apology to his victims and by providing a basis for his request for parole. The Parole Board then reviewed the prior decisions of the Board with Loder and asked him for his understanding as to why he has been denied parole from his current sentence. Loder explained that he was paroled in 1989 from his life sentence for rape to his life sentence for armed robbery. He emphasized that he was found not sexually dangerous in 1976 and that he complied with all of the Parole Board's recommendations from his 1989 decision. Loder stated that it was not until 1996 (22 years after he committed the crime) that the Department of Correction (DOC) recommended he participate in Sex Offender Treatment (SOTP). Loder stated that given he was not found to be sexually dangerous, he did not consider SOTP as part of his rehabilitation and, therefore, did not engage in the program. Loder said that at his next parole hearing in 2004, he was surprised that he was denied parole on the basis that he failed to participate in SOTP. Loder acknowledged, however, that the Parole Board made it clear that he was expected to engage in SOTP and that whether he agreed or disagreed with the Parole Board's rationale, he understood that he was jeopardizing the likelihood for a positive vote, should he fail to do so.

Loder explained that following the Parole Board's decision in 2004, he researched the program materials and concluded that he would not have been able to complete the program. In order to do so, Loder would have had to admit (among other things) that he had experienced "deviant fantasies." Loder explained that he has never experienced any deviant fantasies and that the sexual offense he committed was a single event in his life, which was more related to a crime of opportunity, than a pre-meditated desire to sexually victimize someone. Loder also explained that he has never engaged in any sexual misconduct, nor has he had any desire to sexually victimize another person prior to (or since committing) the offense. Not all Board Members were satisfied with Loder's explanation of the offense, however, and questioned him regarding specific details that portrayed a more violent and sexually motivated role. One Board Member cited portions of a transcript from the appeals court that indicated that Loder used a knife in the commission of the crime. Loder denied that he had any weapon, but stated that his co-defendant had an exacto knife. Loder was asked to describe his role in the sexual offense and to provide an estimated period of time he was in the

victim's residence. Loder's version grossly underestimated other witness accounts. He also denied that either he or his co-defendant forced the victims to engage in further sexual acts.

Loder's refusal to engage in SOTP became the focus of his parole hearing in 2009 and he was subsequently given a five year set-back. Given this repeated message by the Parole Board, several Board Members pointed out that, whether Loder felt he needed the treatment or not, he was told (by those in positions to evaluate his treatment needs and suitability for parole) that he, in fact, did need SOTP. Loder was asked if his refusal to attend SOTP was a reflection of how he would address other directives (whether or not he liked them) and whether he could successfully adhere to parole conditions. Loder continued to respond with his contention that he did not require SOTP for any clinical or treatment need, but insisted that any other directive given by parole staff would be followed. He did not feel that the comparison to adhering to general conditions of parole by engaging in SOTP was necessarily fair, but he understood the general concern. Loder maintained a strong position that, while he was told by the Parole Board he needed to complete SOTP, he did not feel that their opinion is based on his sex offender risk assessment. Loder also emphasized that over the past 40 years, he has invested in programs that have addressed the precipitants to his criminal behavior. Loder stated that he has benefitted from years of treatment and rehabilitation and that he poses no risk to re-offend.

Loder cited an independent evaluation conducted by forensic psychologist, Robert Kinscherff PhD. J.D., in 2009. Dr. Kinscherff also testified before the Parole Board in 2009 as an expert witness on behalf of Loder. Dr. Kinscherff utilized several actuarial tools to help form his opinions. Such actuarial tools included measures for general criminal risk, the presence or absence of psychopathy, and an assessment of those persons who have committed specific sexual offenses and their risk of sexual recidivism. Dr. Kinscherff's overall evaluation was comprehensive as was his testimony in 2009. For the purposes of addressing the need for SOTP, Dr. Kinscherff opined that Loder's sexual offense was a crime of opportunity and not one resulting from planning, fantasizing, or engaging in deviant behavior. This opinion, in part, was based on Dr. Kinscherff's knowledge of patterns of sex offenses that were developed by the FBI's National Center for Analysis of Violent Crime. Loder and his attorney highlighted the findings in specific assessments that ranked Loder in the low risk category to re-offend. The Parole Board reviewed the detailed testimony provided by Dr. Kinscherff, which explained the purpose of each actuarial tool, the static and dynamic risk factors, as well as the age appropriate adjustments that would be made accordingly. One Board Member noted that Dr. Kinscherff is a highly regarded expert in the field of forensic psychology and agreed that Loder did not necessarily fit the profile of needing sex offender treatment. However, the Board Member questioned Loder as to why he would not have simply complied with the recommendations of prior Boards, and how the Parole Board should interpret his resistance. Loder stated that he was concerned that if he did engage in the program, he would fail, as he does not have the characteristics of sexual deviance that he would be required to speak about. However, Loder acknowledged that the SOTP program has changed its treatment requirements (as well as its delivery of treatment) and that he may be able to complete the program by today's standards. The hearing began and ended with Loder's non-compliance with SOTP and the varying ways to interpret this non-compliance.

Loder closed the hearing (in conjunction with his student attorney) by emphasizing that he committed the offenses at a young age (19) and that he was motivated by impulsiveness

and the circumstances of that night. Loder's student attorney also reiterated Dr. Kinscherff's findings and conveyed to the Parole Board that Loder would comply with all conditions set forth by the Parole Board. Loder proposed several options for housing and employment and he acknowledged that based on his conviction, he would be required to engage in sex offender treatment. Loder insisted that he would comply with all conditions of parole.

Loder had many attendees who supported his parole release. Loder's youngest brother testified in support of parole and spoke on behalf of the family, emphasizing Loder's strong character, his remorse, and the strong support he will receive from family members.

Speaking in opposition to Loder's parole was Middlesex County Assistant District Attorney Adrienne Lynch. ADA Lynch emphasized that since 2004, Loder has made the conscious decision to defy the Board's repeated recommendations that he engage in SOTP. ADA Lynch stated that Loder's proposal that he will "do it when he gets out is extorting his release, and you do not get to negotiate the terms of your conditions." Furthermore, ADA Lynch stated that the sex offense was extreme, thus requiring the treatment that the Parole Board has recommended.

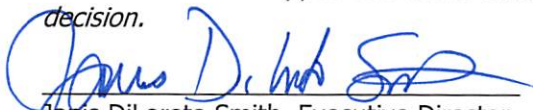
### **III. DECISION**

Loder has been incarcerated for 40 years and is now 60 years-old. While his disciplinary record has been exceptional, and he has participated in some programming, Loder has refused to comply with the Parole Board's repeated recommendation, since 2004, that he engage in sex offender treatment. Loder has continued to defend his position that he does not need sex offender treatment. He supports his position by highlighting the expert testimony of forensic psychologist, Dr. Robert Kinscherff (2009), who provided a detailed evaluation of Mr. Loder's risk to re-offend with any criminal offense, including a sexual offense. The Parole Board considered Loder's refusal to engage in sex offender treatment on many different levels. Based on Loder's commission of a sexual offense, the majority of the voting Members agreed that he should engage in sex offender treatment. His resistance to do so calls into question as to whether Loder would comply with other conditions set forth by the Parole Board. His refusal depicts a level of opposition that also raises concern for the Parole Board. Finally, since the majority of the voting Members rely on the expertise of those who provide treatment for sex offenders to inform the Parole Board of any future risk to reoffend, it is imperative that Loder engage in treatment.

The standard we apply in assessing candidates 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 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 voted to deny Loder's parole (five members voting to deny, one member voting to parole). Dr. Bonner voted in favor of Loder's parole, relying heavily on the expert opinion provided by Dr. Robert Kinscherff. In addition, Dr. Bonner does not view Loder as being in need of SOTP treatment as a requirement for Parole.

Loder will have a review hearing in three years. The majority Members advise Loder to engage in sex offender treatment, which should be completed prior to his next hearing date, and to inform the Board of such completion.

*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.*

  
Janis DiLoreto Smith, Executive Director

3/31/15  
Date