



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

**IN THE MATTER OF
STEPHEN SMITH**

W37480

TYPE OF HEARING: Review Hearing

DATE OF HEARING: May 23, 2017

DATE OF DECISION: May 2, 2018

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Lucy Soto-Abbe

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 the 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 unanimous vote that the inmate is a suitable candidate for parole. Parole is granted to a long term residential program, subject to special conditions, and after six months in a lower security facility.

I. STATEMENT OF THE CASE

On February 6, 1980, after a jury trial in Middlesex Superior Court, Stephen Smith was convicted of first degree murder and armed robbery, for which he received a life sentence. He was also convicted of arson, for which he received 18 to 20 years to be served from and after the murder conviction. On April 15, 1980, Mr. Smith also pleaded guilty to additional counts of armed robbery, and armed robbery while masked, for incidents unrelated to the murder. He received concurrent sentences of 12 to 15 years on each count. Mr. Smith appealed his first degree murder conviction. The convictions for first degree murder, arson, and armed robbery were reversed on January 11, 1983, and he was granted a new trial. On March 6, 1984, Mr. Smith pleaded guilty to second degree murder, arson, and armed robbery. Mr. Smith received a life sentence with the possibility of parole for murder, a concurrent life sentence with the possibility of parole for armed robbery, and 18 to 20 years for arson to be served concurrently with his life sentences.

On November 5, 1978, Mr. Smith and his co-defendants went to the Waltham home of William McArthur for the purpose of robbing Mr. McArthur of his drugs and money. Mr. Smith had been drinking liquor and smoking "angel dust." The group stopped at a small grocery store to buy nylon stockings to use as masks. Mr. Smith and his co-defendants went into the house through an unlocked door. Mr. McArthur was stabbed by Mr. Smith and a co-defendant 32 times, and his house was set on fire. After the stabbings, Mr. Smith and his co-defendant went to an apartment to divide 30 dollars and heroin, which they had taken.

II. PAROLE HEARING ON MAY 23, 2017

Stephen Smith was initially paroled in 1994 to an approved home plan with conditions. However, parole was revoked, and he was denied parole after a hearing in 1998. Mr. Smith was again paroled in 2000, but was returned to custody in 2005 due to continued drug use. Mr. Smith has since been denied parole in 2006, 2009, and 2012.

Mr. Smith, now 59-years-old, appeared before the Parole Board on May 23, 2017, for a review hearing. He was not represented by counsel. During the hearing, Mr. Smith discussed his prior parole violations. When he was first released on parole, he tested positive for marijuana and had a new arrest that was ultimately dismissed. Mr. Smith also discussed an incident where he had fabricated a story about being carjacked, after leaving the scene of a car accident. He was arrested and, subsequently, tested positive for marijuana and morphine. He was returned to custody, and parole was ultimately revoked. He was then paroled a second time. Mr. Smith injured himself at work and was prescribed pain medication, which sparked a relapse, and ultimately lead to a second parole revocation. A major factor in both parole failures was Mr. Smith's long-time struggle with substance abuse.

Mr. Smith stated that since his re-incarceration (approximately 12 years ago), he has "learned a lot about [himself] and his addiction." He indicated that during his prior releases on parole, he believed that he was "looking for an excuse to use" and that he "couldn't handle" the stresses of daily life. Mr. Smith has since completed programming to address substance abuse and other issues, including Narcotics Anonymous, Spirituality of the 12 Steps, Anger Management, Criminal Addictive Thinking, Cognitive Skills, Asking for Help, and Violence Reduction. Currently, he works in the prison kitchen and has been employed there for approximately 6 years. He reported that he has been sober for the past 12 years. Mr. Smith has had a total of 13 disciplinary reports during his incarceration, the last of which was in 2008. Mr. Smith has had no record of any violence since the commission of the underlying offenses.

The Board considered the testimony of Middlesex County Assistant District Attorney Adrienne Lynch, who expressed opposition to Mr. Smith's release.

III. DECISION

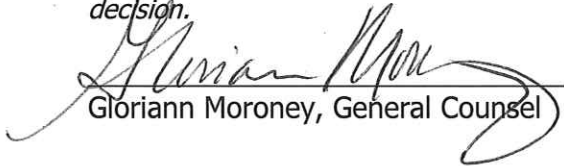
The Board is of the opinion that Mr. Smith has demonstrated rehabilitative progress and, consequently, has acquired the tools and skills that will assist him a successful transition from incarceration. Re-incarceration has served its purpose. Mr. Smith has had a positive adjustment and has maintained program involvement throughout his re-incarceration.

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. Smith's institutional behavior, as well as his participation in available work, educational, and treatment programs during the period of his incarceration. The Board also considered a risk and needs assessment and whether risk reduction programs could effectively minimize Mr. Smith's risk of recidivism. After applying this appropriately high standard to the circumstances of Mr. Smith's case, the Board is of the unanimous opinion that Stephen Smith is a suitable candidate for parole at this time to a long term residential program, subject to special conditions, and after six months in lower security.

SPECIAL CONDITIONS: Waive work for long term residential program; Must be at home between 10 p.m. and 6:00 a.m.; GPS monitoring; Supervise for drugs, testing in accordance with agency policy; Supervise for liquor, testing in accordance with agency policy; Report to assigned MA Parole Office on the day of release; No contact with victim(s); Must have mental health counseling for adjustment/transition; Long term residential program; Attend AA/NA at least 4 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.


Gloriann Moroney, General Counsel

5/2/18
Date