



The Commonwealth of Massachusetts
Executive Office of Public Safety



PAROLE BOARD

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DECISION

IN THE MATTER OF

GINO GAILLARDETZ

W42848

TYPE OF HEARING: Review Hearing

DATE OF HEARING: May 17, 2011

DATE OF DECISION: May 3, 2012

PARTICIPATING BOARD MEMBERS: Cesar Archilla, Dr. Charlene Bonner, Shelia Dupre, Ina Howard-Hogan, Roger Michel, Josh Wall

DECISION OF THE BOARD: Re-Parole to Long Term Residential Program after 24 months in lower security. During the additional period of incarceration, Mr. Gaillardetz is required to maintain good conduct without disciplinary incident and to complete all programs and activities as recommended by the Department of Correction. This decision is by a vote of 6-0, as one member did not participate due to recusal.

I. STATEMENT OF THE CASE

On May 17, 2011, Gino Gaillardetz appeared before the Massachusetts Parole Board for a Review Hearing for the second-degree life sentence he is currently serving at MCI-Concord for the murder of Francis P Gray. Mr. Gaillardetz is 48 years old. He was 22 years old when he stabbed Mr. Gray on April 14, 1986 in Hyannis.

Mr. Gaillardetz was drinking and using cocaine on the night of April 14, 1986. He met Francis Gray, who was 43 years old. Mr. Gaillardetz planned to rob the victim. Displaying a knife, he demanded the victim's money. After Mr. Gaillardetz took the wallet, the victim grabbed him. The inmate stabbed the victim once in the chest. After the victim fell to the ground, Mr. Gaillardetz stabbed him two more times in the chest. The inmate fled but was arrested the next day.

Mr. Gaillardetz pled guilty to second-degree murder and armed robbery on October 8, 1986, in Barnstable Superior Court. He was sentenced to serve 40 to 60 years for the armed robbery, with the life sentence for murder to be served from and after. The life sentence was later revised to run concurrent with the 40-60 year sentence. Mr. Gaillardetz filed a motion to withdraw his guilty pleas in 1996. This motion was denied and the denial was affirmed by the Appeals Court in 1998.

The inmate was on parole at the time of the murder. He was on parole from a two year house of corrections sentence for receiving stolen property. He also has prior convictions with house of corrections sentences for breaking and entering, larceny, and larceny of a motor vehicle.

II. PAROLE AND INSTITUTIONAL HISTORY

Mr. Gaillardetz appeared before the Parole Board on November 3, 2009 for his initial parole hearing. He had been incarcerated for 23 years. He did not receive a parole hearing at 15 years because he had not reached parole eligibility on his 40 to 60 year sentence. He was granted parole, on both sentences, to a long term residential program with the requirement that he complete the program. Mr. Gaillardetz was released to Harmony House, a long term residential program in New Bedford, on March 9, 2010. On March 29, 2010, Mr. Gaillardetz left the program, with another program resident, for an afternoon trip to Cape Cod. The trip violated several program rules. The next day, following a meeting with parole and Harmony House staff, the inmate was terminated from the program. Parole was provisionally revoked and Mr. Gaillardetz was returned to Barnstable House of Correction for failing to complete the program and improper association with a convicted felon. He had a final revocation hearing and the revocation was affirmed on June 25, 2010. This parole hearing was scheduled for the purpose of assessing the inmate's request for re-parole.

Mr. Gaillardetz has received a total of 64 disciplinary reports, three returns to higher security, one disciplinary segregation unit placement, and two lateral failures since the start of this sentence. However, his adjustment has improved over the years, receiving a total of five disciplinary reports between April 2001 and 2007. Since his parole revocation, Mr. Gaillardetz received two disciplinary reports regarding the condition of his cell. One was closed administratively and the other was dismissed.

While incarcerated, Mr. Gaillardetz has been program involved, graduating from Correctional Recovery Academy (CRA) and Correctional Recovery Academy Support Program. In addition to the CRA, Mr. Gaillardetz successfully completed the following programs: Basic Computers; Parenting; Reentry Services; Violence Reduction; Health Awareness; Alternatives to Violence (three phases); Life Skills; and Project Youth. He obtained his GED in 1987 and has since completed several HVAC and welding vocational programs.

Since his return as a parole violator Mr. Gaillardetz has resumed his program involvement and is attending AA. He held an institutional job at MCI-Cedar Junction. Once he transferred to MCI-Concord, he completed the Discipleship group, 12 step, Big Book, Discussion Group and Alternatives to Violence. In addition, he is on numerous wait lists and he is working in the gym. He receives average housing evaluations and is not considered a management problem per DOC.

III. PAROLE HEARING ON MAY 17, 2011

Mr. Gaillardetz told the story that led to his parole violation. He was not supposed to leave the program and was not permitted, under parole rules, to associate outside the program with a convicted felon. He said that he was unaware that he could not leave the program because a weekend employee allowed him to sign out. He acknowledged that he did sign out properly because he did not reveal his destination as Cape Cod. He drove to Cape Cod with a convicted felon, who also resided at Harmony House and is known as a major dealer of drugs on Cape Cod. The inmate said that he visited his mother at Cape Cod Hospital. He returned to the program late; he stated that traffic "on the bridge" delayed his return to the program.

The inmate described how rehabilitative programs helped him improve his attitude and conduct in prison. He stated that, with the programs, he felt for the first time in his life he was accomplishing something. He said that he had not expected to receive parole after his first hearing, in part because of his disciplinary record in prison. He described a re-parole plan that would include a long term residential program, some family support, and reasonable prospects for employment, possibly as a welder.

The inmate's mother spoke in support of re-parole. She stated that her son did visit her at Cape Cod hospital as he described.

Two of Francis Gray's brothers spoke in opposition to re-parole. They provided information on the victim's life. The Gray family is from Williamstown. As an adult, Frank Gray moved to Springfield where he worked as a college professor. He lived with one of his brothers; the two brothers also owned a real estate company that was involved primarily rental properties in Springfield.

IV. DECISION

The Parole Board was not inclined to deny the inmate's re-parole because his violation was technical and did not involve violence, drugs, alcohol, or lying. An immediate re-parole, however, is not consistent with public safety. Considering the violence of his crime and his below average institutional conduct for 16 years prior to 2002, Board members could not conclude that the sentencing goals of punishment, deterrence, incapacitation, and rehabilitation had been met. Additionally, the previous parole decision did not include a period of transition (commonly known as "step-down") that allows the Department of Correction ("DOC") to reclassify the inmate to lower security settings (minimum and pre-release) that permit the inmate to make gradual adjustments in preparation for a return to the community. A step-down process is imperative for an inmate who presents with this record after a long period of incarceration.

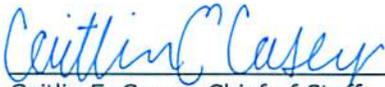
Recognizing the need for additional incarceration and a step-down process, the Parole Board designs a release plan that will maintain Mr. Gaillardetz in custody for four additional years from the date of his parole violation (approximately April 2010 to May 2014). The Parole Board concludes that 28 years incarceration will be sufficient to achieve the sentencing goals of punishment, deterrence, incapacitation, and rehabilitation. During the final two years of incarceration (beginning in May 2012), the DOC is authorized to re-classify Mr. Gaillardetz to lower security settings to assist him in making the transition to living in the community.

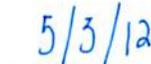
A condition of this re-parole is that Mr. Gaillardetz maintain pro-social behavior in the institution. He is required both to pursue all rehabilitation programs and activities recommended by the DOC, and to exhibit good conduct without disciplinary incident. His failure to meet these two requirements during his remaining years at the DOC would subject him to rescission of this parole decision.

Under the conditions set herein, the Parole Board is able to conclude that it is reasonably probable that Mr. Gaillardetz will not commit a new criminal offense and his release is not incompatible with the welfare of society. Accordingly, we issue this decision to re-parole after Mr. Gaillardetz successfully completes 24 months in lower security.

SPECIAL CONDITIONS: Twenty-four months of incarceration at lower security, with continued programming and no disciplinary reports, prior to a release to a long term residential program; no drug use or alcohol use; substance abuse evaluation with requirement to follow recommended treatment plan; AA or NA three times per week; obtain a sponsor; curfew between 10:00 p.m. and 6:00 a.m. with hours adjustable at discretion of parole officer; no contact with victim's family.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing.


Caitlin E. Casey, Chief of Staff


Date