



The Commonwealth of Massachusetts
Executive Office of Public Safety



PAROLE BOARD

12 Mercer Road
Natick, Massachusetts 01760

Deval L. Patrick
Governor

Timothy P. Murray
Lieutenant Governor

Mary Elizabeth Heffernan
Secretary

Telephone # (508) 650-4500

Facsimile # (508) 650-4599

Josh Wall
Chairman

DECISION

IN THE MATTER OF

CHRISTOPHER GREENBERG

W49921

TYPE OF HEARING: Revocation Review Hearing

DATE OF HEARING: April 19, 2012

DATE OF DECISION: May 8, 2012

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

DECISION OF THE BOARD: Denied with a review in two years. The decision is unanimous.

I. INTRODUCTION

Mr. Greenberg appeared before the Massachusetts Parole Board on April 19, 2012 for a release hearing, his parole having been previously revoked by unanimous vote of the Board. After careful consideration of all relevant facts, including the nature of the underlying offense, the circumstances surrounding his parole violations, the views of the public as expressed at the hearing or in written submissions to the Board, the inmate's criminal history, his institutional department, and his level of engagement with rehabilitative programming while incarcerated, we conclude that a further parole opportunity is not indicated at this time.

II. STATEMENT OF FACTS

The victim in this case, Noel Rafalko, had been introduced to the inmate on the day preceding the murder by a mutual friend, Daniel. Daniel, Mr. Rafalko and the inmate had traveled to Old Colony Correctional Center to visit Daniel's brother, David, who was incarcerated there. After the visit, the three men spent the balance of the day together, driving around,

drinking alcohol and using drugs. Late in the evening, they pulled off the road and slept through the night in their vehicle.

The next morning, the inmate asked David if he could return with him to his home to get some more sleep. When David refused, Mr. Rafalko offered to allow the inmate to come home with him. The two men then went to Mr. Rafalko's apartment (the upstairs unit of a multi-family house). Mr. Rafalko's mother was at home asleep when the men arrived. Mr. Rafalko retired to his bedroom and the inmate went to sleep on the couch.

As for what happened next, the inmate has given varying accounts over the years. At the time of his arrest, the inmate stated that, at some point, he left the couch and got in bed with Mr. Rafalko. Later, he recanted that story and stated that he remained on the couch. What is certain, however, is that the inmate ended up in Mr. Rafalko's bedroom and stabbed him to death with a knife he had taken from the dead man's kitchen.

After the murder, the inmate left Mr. Rafalko's room and immediately encountered the victim's mother. She was getting ready to leave the house to run some errands. The inmate informed Mrs. Rafalko that her son was still sleeping. He then asked Mrs. Rafalko if she would give him a lift into town so he could catch the train. Mrs. Rafalko agreed, and the two left the apartment a few minutes later.

After Mrs. Rafalko dropped the inmate off near the train station, he immediately returned to the Rafalko apartment. Using Mr. Rafalko's keys, which he had stolen after the murder, he went inside, taking some money and various other small items. Then, the inmate lit several fires in the apartment in the hope of concealing the murder. By the time Mrs. Rafalko returned to her home, it was fully ablaze. Initially, she blamed herself for the fire, assuming that she had left an appliance on when she went out.

Ultimately, the true circumstances of Mr. Rafalko's death were discovered. After a trial in the Superior Court, the inmate was convicted of 2nd degree murder and burning a dwelling house. As to the latter offense, the inmate received a three to ten year sentence concurrent with the mandatory life sentence imposed in consequence of the murder conviction. The inmate denied his guilt at trial. Indeed, he refused to accept responsibility for his crimes for many years after the offense. He now concedes the facts as described herein.

While incarcerated, the inmate's institutional adjustment was good overall, although decidedly poor at the outset. During the first few years of his imprisonment, the inmate made not less than three earnest suicide attempts. He also received multiple d-reports in these early years for either fighting with or assaulting other inmates. However, after 1996, the year the inmate was transferred to MCI Shirley, the d-reports abruptly stopped. He thereafter held a number of institutional jobs, some involving significant responsibility. He was also diligent about meeting the requirements of his risk reduction plan, participating in a very large number of rehabilitative programs. His mental health issues seemed to subside, as well, with no further suicide attempts noted. On the strength of this record, as well as in consideration of other factors described more fully in the Board's prior record of decision, the inmate was paroled on October 31, 2007.

The inmate's parole was not successful. After less than two years, the inmate relapsed into marijuana and alcohol use and was charged with carrying mace without a license. However, in consideration of the inmate's ability to find and maintain employment during his parole, his apparently stable home environment, and the non-violent nature of his violations

(the Board credited the inmate's statements that he was carrying the mace for self-protection in carrying out his job duties as a delivery man), his parole was continued.

Unfortunately, approximately one year later, the inmate had another relapse. He was found to be in possession of alcohol while a resident at the Serenity House. He was terminated from that program and his parole was ultimately revoked. In mitigation, the inmate did not seek to avoid responsibility for his missteps, and was taken into custody without incident. He now seeks a further opportunity to reside in the community on parole.

III. DECISION

Several considerations underlie our decision. First, we note that the offenses here were apparently unprovoked and unusually egregious. By setting the fire to avoid responsibility for the murder of Mr. Rafalko, the inmate risked the lives of all the people who lived in the victim's apartment building. We also note that the circumstances of the murder, particularly the inmate's interaction with the victim's mother in the immediate aftermath of the killing, reflect an unusually callous disregard for life. Further, while the inmate eventually was able to conform his conduct to the rules of the DOC, he has nonetheless amassed a troubling list of institutional infractions. Along these lines, we note that the inmate incurred a serious d-report, carrying a concealed razor, since his most recent return to custody. This is a serious setback. The inmate's mental health also remains a source of concern for the Board. His demeanor at the hearing, as well as some of the answers that he provided, suggest that he may not yet have gained clear insight into his motive for murdering Mr. Rafalko. Likewise, he showed little insight into the triggers for either his anger or substance abuse. Finally, we note that his family support is less robust than in the past, particularly as regards the deterioration of his relationship with his father. We were also troubled to learn that his home sponsor assisted him in obtaining alcohol on multiple occasions.

The standard we apply in assessing candidates for parole is set out in 120 CMR 300.04, which provides that "[p]arole 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 here, we find the inmate is not deserving of a further opportunity on parole at this time. He may not apply for further review until at least two years from the date of his last hearing. In the meantime, he should focus on maintaining a clean disciplinary record, taking advantage of any appropriate program opportunities, addressing his mental health needs, and preparing a home plan calculated to avoid the various pitfalls that led to his prior parole failures. With diligent efforts on his part, there is every possibility that the inmate may obtain a different result at some future hearing.

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

5/8/12
Date