



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

KARL MOORE

W55201

TYPE OF HEARING: Review Hearing after Revocation

DATE OF HEARING: May 24, 2011

DATE OF DECISION: August 21, 2012

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

DECISION OF THE BOARD: Parole is denied with a review in five years. The decision is unanimous.

I. STATEMENT OF THE CASE

Karl Moore, acting with several co-perpetrators, shot and killed Christopher Bender on November 3, 1991 at 2:30 a.m. in the Crescent Court housing development in Brockton. Mr. Bender was seated in his car with two other people when the perpetrators opened fire. Mr. Moore was one of several shooters; at least 21m shots were fired; Mr. Bender was hit four times.

Karl Moore pleaded guilty to second-degree murder on June 19, 1984. One of the perpetrators became an immunized witness. Three perpetrators went to trial and were convicted of first-degree murder.

At his first parole hearing in 2007, Mr. Moore asserted that he had no plan to kill that night and fired at what he thought was an unoccupied vehicle. At this parole hearing he maintained his position that he fired solely for the purpose of "vandalizing" the vehicle and had no idea that the car was occupied. These statements are in conflict with the evidence and with Mr. Moore's plea to second-degree murder.

Concerning the murder of Christopher Bender, the Supreme Judicial Court has issued three separate decisions, one decision for each co-defendant convicted of first-degree murder. In each decision, the SJC has summarized the facts based on the evidence at trial viewed in the light most favorable to the prosecution. As documented by the SJC, the prosecution produced evidence that: (a) the perpetrators "formed a plan to kill the victim;" (b) "during the ride [Ernest Fernandes] and Moore loaded their guns while discussing their concerns about leaving fingerprints on the bullets;" (c) "eight men, . . . five of whom carried guns" walked into the housing project to find the victim; (d) the eight perpetrators "found the victim and [his cousin] smoking marijuana in an automobile;" (d) the "automobile was almost directly under a street light;" (e) the perpetrators "opened fire from the driver's side, riddling the vehicle with bullets: at least twenty-one shots were fired; ten hit the driver's side windows, clustered on the front window where the victim was sitting;" (f) the "victim was hit four times;" (g) the "victim's cousin, sitting on the passenger side of the automobile, was not hit by any gunfire;" and (h) as they drove from the scene, the perpetrators made several self-congratulatory statements in recognition of the likelihood that their barrage of bullets hit Mr. Bender. Mr. Moore made one of those statements.

After considering (a) Mr. Moore's second-degree murder conviction, (b) the evidence presented at trial of the co-defendants as described by the Supreme Judicial Court, and (c) the jury's verdicts of first-degree murder for three co-defendants after hearing the evidence, the Parole Board concludes that Mr. Moore has testified falsely in both of his parole hearings when he asserts there was no plan to kill, no intent to kill, and no knowledge that the car was occupied. There is no evidence to support his claim that this is a case of vandalism rather than murder.

II. INSTITUTIONAL RECORD

Mr. Moore earned his GED in 2001. He has been an active participant in groups and programs. He completed two phases of Alternatives to Violence, the Correctional Recovery Academy, Violence Reduction, and Cognitive Skills. He participated in Anger Management, Second Thoughts, and Emotional Awareness.

The inmate has consistently poor institutional conduct which has resulted in at least 40 disciplinary reports. In combination, the disciplinary record shows violence, anger, and resistance to authority. In September 1995 he and one of his co-defendants from the murder beat an inmate, and Mr. Moore was transferred to another institution as a result. In December 1998 he was fired from his canteen job because of his poor work performance and conflicts with staff. He had to be moved from the institution due to continued conflict with staff. In February 1999 he swore at and threatened an officer. In March 2000 he "exposed himself in a sexual manner" to a corrections officer. In December 2002 he was returned to higher custody at Souza-Baranowski due to a fight with an inmate. In December 2003 he lost his position as a cadre worker at Bridgewater due to an uncooperative attitude and lying to staff. In August 2004 he fought with an inmate. In December 2004 he fought with an inmate and was placed in the special management unit.

Mr. Moore received a positive parole vote in December 2007. He received five disciplinary reports after the decision and before his release. He fought with another inmate in April 2008. The parole vote allowed Mr. Moore to transfer to pre-release in September 2008.

He was returned to higher custody in November 2008 after he received a disciplinary report for receiving a visit from a barred visitor at his work site; he was found in the men's bathroom with a woman who had been "repeatedly barred" from visiting Mr. Moore. The disciplinary record shows little improvement in Mr. Moore's behavior over time.

III. PERFORMANCE ON PAROLE

Mr. Moore received a positive parole vote in December 2007 after his initial hearing. The vote required that he successfully complete six months in pre-release, which he was unable to do. He violated pre-release rules and was returned to higher security. The Parole Board initiated rescission proceedings but after a hearing voted not to rescind parole. He received four other disciplinary reports while awaiting parole release. Mr. Moore could not find a suitable home which further delayed his release. He was eventually released on December 7, 2009 to reside in a sober house.

Mr. Moore performed poorly from the outset of his parole. His parole officer had difficulty reaching him and parole staff concluded that Mr. Moore was intentionally avoiding communication. He did not maintain employment or pay his supervision fees. He had several curfew violations and associated with a person with a criminal record. Two curfew violations were discovered when local police departments questioned him, once at 2:45 a.m. and once at 2:14 a.m. He failed to report those law enforcement contacts to his parole officer. He did not attend counseling for anger management that was required despite repeated efforts by his parole officer to get him to counseling. Mr. Moore was frequently not candid or forthcoming with his parole officer.

The Parole Board took formal steps to hold Mr. Moore accountable and encourage parole compliance. He received a warning on January 19, 2010 at which time the curfew was imposed as a graduated sanction. He failed to abide by the curfew and he was placed on ELMO (electronic monitoring) that would permit parole to enforce the 10:00 p.m. curfew. He was given a Final Warning as a graduated sanction. Mr. Moore tested positive for opiates on March 24, 2010 and he was returned to custody for parole revocation. ELMO records documented ten curfew violations during March and the parole officer also learned that Mr. Moore failed to show up for work five days in March.

IV. PAROLE HEARING ON MAY 24, 2011

Karl Moore took an assertive approach at his parole hearing. He described no faults or mistakes that he made. He said his positive opiate test resulted from taking Tylenol 3. He said the ELMO device malfunctioned when it recorded multiple nights of curfew violations. He said he was not at fault for missing weeks of anger management because the counselor said he did not need to attend.

With respect to the murder of Christopher Bender, Mr. Moore said he never intended to shoot anyone and had no idea that a person was shot. Mr. Moore said that he and his co-defendants sought only to vandalize an automobile and that they believed the car was unoccupied. Parole Board Members pointed out the evidence that established an intent to kill but Mr. Moore continued his false assertion that vandalism was his only intentional act that night.

Parole Board Members asked Mr. Moore about his poor conduct in prison before he was paroled and his poor performance on parole. Mr. Moore did not describe how he would behave differently if re-paroled.

Plymouth District Attorney Timothy Cruz submitted a letter opposing parole. No one spoke in support of parole.

V. DECISION

Karl Moore received parole without ever admitting to the important facts of the murder and without ever behaving himself in prison. Not surprisingly, his parole was a quick and dismal failure. He was far from prepared to meet the requirements of parole or the standards of the community. He offered several explanations to minimize or excuse his several violations. The Parole Board finds his explanations unconvincing and improbable; some or most of them are undoubtedly false. His case is an example that an inmate's program participation must be evaluated in conjunction with his behavioral record. He is not rehabilitated and presents a considerable risk to the community if re-paroled. He would be very likely to re-offend if released and his release is not compatible with the welfare of society. Accordingly, parole is denied. Karl Moore has much work to do and it would therefore be counter-productive to shorten his review period from the statutory period of five years.

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



Josh Wall, Chairman



Date