



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

STEPHEN E. SMITH

W37480

TYPE OF HEARING: Review Hearing after Revocation

DATE OF HEARING: May 15, 2012

DATE OF DECISION: September 17, 2012

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

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, institutional record, parole history, the views of the public as expressed at the hearing or in written submissions to the Board, we conclude by a unanimous vote that the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in five years.

I. STATEMENT OF THE CASE

A. MURDER

On November 4, 1978, Stephen Smith attended a party at the residence of William McArthur (age 34) in Waltham. Mr. Smith was made aware that Mr. McArthur had, what he considered to be, a large quantity of drugs and money. Another individual proposed he (Mr. McArthur) engage in a drug deal, to which Mr. McArthur declined. Mr. Smith was privy to this exchange and took offense. Mr. Smith left the party with five people. Among those individuals was a female who testified that Mr. Smith made several threatening statements, including, "I will get him. I'll blow him away." She assumed he was referring to Mr. McArthur.

The following day, November 5, 1978, Mr. Smith, who had been drinking and smoking PCP, colluded with his long-time friend, Frank Rice, to rob Mr. McArthur of his money and drugs. Both men included the following other individuals in their plan: Bruce Gorham, Richard

Fallavolitta, Rhonda Bennett and Steven Gorham. Taking separate vehicles, all the individuals agreed to a plan which included robbery with masks. According to testimony provided by Mr. Fallavolitta, he, Mr. Gorham and Mr. Smith went into the house through an unlocked door. Mr. Gorham had a knife, and Mr. Smith got a knife inside the residence. Mr. Gorham confronted Mr. McArthur in his bedroom concerning the location of the money and drugs. Mr. McArthur denied having what they wanted and Mr. Gorham responded by stabbing him during the confrontation. Mr. Smith joined the confrontation and also began stabbing Mr. McArthur. During the assault, Mr. Smith pulled his mask off and stated that Mr. McArthur had already recognized them so they had to kill him. Mr. McArthur was stabbed 32 times, and then his house was set on fire. The charred corpse was found in the bedroom. The medical examiner testified that the cause of death was stabbing.

B. ARMED ROBBERIES WHILE MASKED

On December 10, 1978, the owner of Forest Hills Cafe in Boston reported to police that at approximately 4:00 p.m. a white male with a paper bag over his head entered the cafe, went behind the bar and pushed a hard object into the owner's side stating "give it up." The owner gave him approximately \$300.00 from the safe and \$200.00 from the register and the assailant left on foot. Witnesses described the assailant, who was identified as Stephen Smith; Mr. Smith was arrested a short time later.

On July 2, 1978 at approximately 6:00 a.m., two white males, one armed with a hand gun and the other with a knife, entered the Roslindale Spa in Boston and demanded money from the owner, his son and a customer. The assailants were identified by witnesses as Raymond Trainor and Stephen Smith.

C. COURT PROCEEDINGS

On February 6, 1980, Mr. Smith was convicted of first degree murder and armed robbery in Middlesex Superior Court, for which he received a life sentence and Arson for which he received eighteen to twenty years to be served from and after the murder conviction.

On April 15, 1980 Mr. Smith plead guilty to five counts of armed robbery for the two Boston robberies. 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. On March 6, 1984 Mr. Smith pled guilty to second degree murder, arson and armed robbery. Mr. Smith received a life sentence for murder, a concurrent life sentence for armed robbery, and eighteen to twenty years for arson, to be served concurrently with his life sentences.

II. PAROLE HISTORY

Mr. Smith has had two parole failures. He was initially paroled on February 28, 1994 to an approved home plan with standard conditions related to lifetime parolees. In November 1996 Mr. Smith was arrested and charged with operating an unregistered motor vehicle and possession of a Class E substance. The case was dismissed and Mr. Smith was permitted to remain in the community under parole supervision. In October 1997, Mr. Smith failed to report to the parole office as instructed. Parole had learned that Mr. Smith had left the scene of an accident; however he lied to parole about his involvement and how the accident occurred. Mr. Smith also tested positive for marijuana and morphine. He was taken into custody, parole was revoked, and he was denied parole after a hearing in February of 1998.

Mr. Smith was paroled for the second time on March 3, 2000, but was returned to custody in 2004 on a 15 day detainer due to testing positive for marijuana. Mr. Smith received a warning from the parole board and increased conditions to address his addiction. He was re-paroled on October 7, 2004. Mr. Smith was returned to custody again on July 25, 2005 due to his continued drug use. Mr. Smith has since been denied parole in 2006 and in 2009. The Board noted his multiple parole failures, primarily due to his continued abuse of substances despite parole assistance and added conditions. Given Mr. Smith committed his governing offenses in the context of his addiction, the Board has noted particular concern for public safety due to his continued abuse of substances. In 2009, the Board also noted Mr. Smith's failure to engage in recommended programs as an indicator that Mr. Smith is not invested in his rehabilitation.

III. INSTITUTIONAL ADJUSTMENT

Mr. Smith has a history of incarceration that includes one return to higher custody in 1984 due to his inability to adjust to medium security. He has incurred 13 disciplinary reports that included possession of a shank, multiple infractions for being suspected of being under the influence, insolence toward staff, possession of marijuana and refusing direct orders. His most recent disciplinary report occurred in 2008 for a minor infraction. Mr. Smith has a moderate history of program attendance and completion. He has engaged in occupational and skills training programs including bookkeeping, maintenance, metal and cabinet shop participation, culinary arts, and is currently a food server on his unit. Following his most recent parole denial in 2009, Mr. Smith has re-engaged in recommended available programming. Mr. Smith gained his GED early in his incarceration. He has not engaged in further education.

IV. DECISION

Mr. Smith's criminal history commences at the age of 10 with an arraignment for breaking and entering. Mr. Smith continued to increase his criminal involvement which coincided with his abuse of substances. Mr. Smith reported that he first began to experiment with drugs and alcohol as early as age 8. He became a regular abuser of various substances, including hallucinogens, barbiturates, opiates, THC, alcohol, and by his adolescent years was abusing drugs on a daily basis. Mr. Smith dropped out of school around grade 9, and worked on a sporadic basis as a painter throughout his adult years, prior to his incarceration. Mr. Smith's ability to secure employment, housing and supports were unstable throughout his adolescent and adult life.

Mr. Smith has been provided all opportunities via the Department of Correction and Parole to stabilize his life, engage in treatment to remain drug and alcohol free, secure housing and employment and become a productive member of society. Mr. Smith has demonstrated throughout his numerous opportunities on parole that he is unable to maintain sobriety despite all available treatment interventions. In addition, Mr. Smith has not been forthcoming with his parole officer, which creates an increased concern that should he make a mistake, relapse, or need increased supports, he will not be pro-active and will wait until he is caught before accepting responsibility. Given that Mr. Smith committed numerous armed robberies, and a brutal murder in the context of his addiction, his failure to maintain sobriety presents a considerable risk to public safety. His failure to communicate honestly with his parole officer adds significantly to that risk.

The Board highly recommends that Mr. Smith continue to engage in all available self-help groups and programming that would enhance his rehabilitation. At this time, it is the unanimous decision of the Board that Mr. Smith's parole release is not compatible with the

welfare of society as he is likely to re-offend if released and his release is not compatible with the welfare of society.

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