



The Commonwealth of Massachusetts
Executive Office of Public Safety



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DECISION

IN THE MATTER OF

LESTER YOUNG

T22678

TYPE OF HEARING: Review Hearing after Revocation

DATE OF HEARING: February 7, 2012

DATE OF DECISION: June 5, 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: Re-parole after nine months in lowest security classification for which he is eligible in the custody of the Department of Correction. Remainder of incarceration must be completed without disciplinary incident and in compliance with all recommendations by the Department of Correction for programs and activities. GPS monitoring is added as a parole condition to address the violation which resulted in revocation. The decision is by a vote of 4-3.

I. INTRODUCTION

Mr. Young appeared before the Massachusetts Parole Board on February 7, 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, a majority of the Board conclude that a positive vote is indicated in this case, subject to the conditions described below and such other conditions as may be imposed by the Board from time to time.

II. STATEMENT OF FACTS

The inmate, together with his friends Robert and Ben Buford, formed a plan to rob the victim, James Daniels, a reputed drug dealer. Robert had a gun that he gave to Ben. The three men then took a cab to the victim's apartment building, went inside and knocked on the victim's door. Once in the victim's home, the inmate and the Bufords demanded money and drugs from him. He gave them a small amount of each. When the men demanded more, Daniels demurred. Suddenly, from a bedroom, Daniel's fiancé, Lakisha Ruffin, appeared. She indicated that she was going to call the police. The Bufords and the inmate began to retreat.

At this point, the inmate asked for and received the gun from Ben. Almost immediately thereafter a scuffle ensued. As Daniels grappled with the inmate for control of the gun, the inmate fired a shot, striking Daniels in the chest. He slumped to the floor and died soon thereafter. The three robbers fled, but all were subsequently identified by witnesses. The inmate was arrested when he later appeared in court on unrelated charges. With respect to the murder – the governing offense for the purpose of these proceedings – he was tried as a juvenile and received a sentence of 15-20 years.

While incarcerated, the inmate's institutional adjustment was very good. He participated in a large number of rehabilitative programs, including those recommended by the Department of Correction in his risk reduction plan. He completed the CRA, all phases of Alternatives to Violence, Problem Solving, Cognitive Skills, Reentry, Health Awareness, and numerous substance abuse and educational programs. He regularly attended AA sessions. The inmate, especially in more recent years, has displayed good institutional decorum, incurring approximately 7 disciplinary reports. His last disciplinary report was approximately five years ago. 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 June 26, 2009.

After only two months on parole, the defendant was returned for violating, inter alia, the criminal association provisions of his parole permit. However, on October 22, 2009, the Board voted revocation not affirmed and re-released the inmate. In April 2011, the inmate's parole was provisionally revoked for another violation of the association proscription. The Board voted revocation affirmed this time, setting the stage for these proceedings. He now seeks a further opportunity to reside in the community on parole, which opportunity a majority of the Board is inclined to grant him.

III. DECISION

Several considerations underlie the majority's decision. First, the majority notes that while the inmate has a few other offenses on his juvenile record (he has no adult criminal record), there are no crimes of violence apart from the murder. Further, the inmate enjoys unusually strong community support, both from family members and friends. Also, as noted already, the inmate worked hard while in prison to further both his rehabilitation and his education. He also proved – especially in recent years – his ability to abide by the institutional rules. A major consideration for the majority was the inmate's age at the time of the offense: sixteen years. It is the majority's hope that the inmate has acquired significant incremental maturity and restraint as he has matured into adulthood. Finally, and perhaps most important, the majority points to the fact that the defendant is not being released from a life sentence; having received a determinate sentence, he will be released in May 2014 in any event. In the absence of any probation conditions, the majority believes that some period of community supervision is preferable to outright release.

The minority were troubled by the inmate's continuing association with persons who have committed serious offenses, including firearms offenses and manslaughter. Such ongoing conduct, in the minority's view, places the inmate at risk for reoffending. At the same time, the minority acknowledges the undesirability of releasing the defendant without any community supervision and the access to transitional resources that such supervision provides. Nonetheless, the minority would not extend a further parole to the inmate at this time. Ms. Soto-Abbe, Mr. Archilla, and Mr. Michel are in the minority.

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, the majority find the inmate deserving of a second opportunity on parole. We caution him, however, not to assume that such second chances are freely given. It is our expectation that he will consider carefully the circumstances that gave rise to his prior parole failure, making changes in his behavior as appropriate, to ensure a different outcome this time. To assist the inmate in developing the sort of pro-social habits that will facilitate parole success, we conclude that re-parole shall be contingent upon the inmate completing nine months in lowest security for which he is eligible with no disciplinary reports.

CONCURRING OPINION: I concur with the majority reasoning as described above. I also describe additional reasoning of the majority. The inmate had improper contacts with prior associates from his old neighborhood in Boston. He has been held accountable for that violation through incarceration; that period of incarceration will be at least 18 months; the majority considers 18 months incarceration sufficient to punish the violation and correct the behavior. Moreover, the Parole Board adds the condition of GPS monitoring; that extra level of monitoring will increase supervision and accountability.

With respect to risk, the inmate demonstrated through good conduct on parole that he is not a risk to re-offend. His parole officer provided his conclusion that Young was an especially productive and cooperative parolee who put considerable time and effort into working and pursuing his college education. At the parole hearing, supporters were especially helpful in describing Young's community success. His girlfriend, who works two jobs as a single mother of teenagers, gave detailed testimony about Young's activities and achievements. His employer testified about his reliability and personality; she will provide the same employment to the inmate when he returns to the community. Young described his work performance as an important part of his parole plan and stated that he would not apply for federal disability assistance if re-paroled. The Parole Board will not permit Young to obtain federal benefits by making contradictory assertions to government agencies about his ability to work. More specifically, if he applies for federal disability benefits, the Parole Board will inform the Social Security Administration that Young told the Parole Board that he is capable of maintaining a full-time schedule consisting of employment and college coursework. A letter from an administrator at Young's college attested to his efforts and accomplishments, and stated that he could return to classes when released.

Young spoke effectively at his hearing on the issues of conduct, motivations, goals, and plans. The majority concluded that Young spends nearly all of his time at work and school in New Bedford, and with his girlfriend (and her children) in a suburb north of Boston. Although he had phone contact with former friends in Boston who are felons, there is no evidence that they engaged in improper behavior or that Young associated with them regularly in Boston. The majority concluded that Young used the phone calls primarily for the purpose of keeping

the associations at a distance and not for the purpose of resuming frequent contact or meetings. The added condition of GPS is designed to address any unresolved questions concerning improper associations.

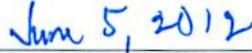
The majority concluded that Young is rehabilitated with respect to violence reduction, motivated to succeed, and was making solid contributions at home, work, and college. Many resources were available to Young through parole; he took advantage of those resources; making those resources available again is the best strategy for further success and public safety. Young's sentence expires May 3, 2014 and the majority seeks to avoid the situation where he is released into the community without supervision, assistance, and accountability. If he completes his sentence with the supervision, assistance, and accountability available on parole, the majority believes that Young's rehabilitation will be completed, he will receive the benefits of employment and education, his community will benefit from his contributions, and the public will be safe.

SPECIAL CONDITIONS: Re-parole after nine months in lowest security for which he is eligible without disciplinary incident and in compliance with all Department of Correction recommendations for programs and activities; no drug use; no alcohol use; AA or NA three times per week with sponsor; no contact with victim's family; GPS for six months minimum and thereafter at discretion of parole officer.

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



Josh Wall, Chairman



Date