



The Commonwealth of Massachusetts
Executive Office of Public Safety



PAROLE BOARD

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DECISION

IN THE MATTER OF

**TIMOTHY MERRELL
W37195**

TYPE OF HEARING: Revocation Review Hearing

DATE OF HEARING: August 6, 2013

DATE OF DECISION: August 14, 2013

PARTICIPATING BOARD MEMBERS: Charlene Bonner, Tonomey Coleman, Ina Howard-Hogan, Lucy Soto-Abbe, Josh Wall. Board Members Cesar Archilla and Sheila Dupre were unavailable for this case and, accordingly, did not attend the hearing or participate in the decision. G.L. c. 127, § 133A; 120 C.M.R. 301.06(1)(a).

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, conduct on parole, criminal record, institutional record, the inmate’s testimony at the hearing, 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 a suitable candidate for parole at this time. Mr. Merrell’s request for re-parole is allowed by a unanimous vote.

I. STATEMENT OF THE CASE

Timothy Merrell appeared before the Massachusetts Parole Board on August 6, 2013, for a revocation review hearing. On July 17, 1979, in Suffolk Superior Court, Mr. Merrell pleaded guilty to the second-degree murder of 53-year-old Leo Miller and was sentenced to serve life in prison. Related kidnapping, larceny of a motor vehicle, and possession of a firearm charges were placed on file. He was 18 years old at the time of the offense.

On October 25, 1978, Mr. Merrell, his girlfriend Karen Bonitz, his brother, and one other man, planned and executed an armed robbery on Mr. Miller. They targeted Mr. Miller because he was known to carry large amounts of money. Ms. Bonitz, who was 27 years old, set up a

date with Mr. Miller and lured him back to her apartment in Everett for a drink where Mr. Merrell and the two other men were waiting for them.

When Mr. Miller and Ms. Bonitz entered the apartment, the three men surrounded Mr. Miller. Mr. Merrell struck Mr. Miller, causing him to fall to the ground. All three men pounced on the now-prone Mr. Miller, bound and gagged him, and robbed him of approximately \$7,300.

The participants split the proceeds of the robbery, and Mr. Merrell and Ms. Bonitz drove to a field adjacent to a mall in Revere with Mr. Miller still bound in the backseat. At gunpoint, they released Mr. Miller into the field and instructed him to walk away and not turn around or he would be shot. As Mr. Miller was walking away, he turned back, and Mr. Merrell shot him in the face with a .22 caliber rifle. The bullet perforated his face and neck, resulting in a fracture of the cervical spine, and cerebral and spinal subarachnoid hemorrhaging.

In the wake of the murder, Merrell fled to Florida where he was stopped for drunk driving on March 2, 1979, arrested, and ultimately returned to Massachusetts where he pleaded guilty to the murder and testified against Ms. Bonitz.¹

II. PAROLE HISTORY

Merrell's initial hearing before the Board was on January 18, 1994. The Board denied parole, setting an 18 month review period. At his review hearing on October 2, 1995, the Board voted to parole Merrell following a period of time in lower security. He was ultimately paroled on October 16, 2000.

He remained in the community until May 31, 2006, when he was taken into custody after having tested positive for marijuana and being dishonest about it with his parole officer. Following revocation proceedings, Merrell was re-paroled on August 31, 2006. He was again returned to custody on July 5, 2007, following a new arrest and criminal complaint for assault with a dangerous weapon, a hatchet, and threats following an argument with neighbors who were having a loud party. After parole was provisionally revoked, Mr. Merrell postponed his final revocation hearing until the matter was resolved in court. Mr. Merrell was ultimately acquitted on January 31, 2008, after a responding police officer testified at trial that he had witnessed the argument and never saw Merrell with a hatchet. On April 9, 2008, the Board voted not to affirm the revocation, and Merrell was released from custody.

Almost three years later, the Peabody District Court issued a criminal complaint against Merrell for a motor vehicle infraction during which no one sustained injuries. Merrell was not in custody, nor was his parole revoked, while awaiting trial. He was convicted of reckless operation of a motor vehicle after trial on April 1, 2011, and sentenced to serve two years in the House of Correction. As a result of the conviction, Merrell's parole was revoked. The revocation was affirmed and, following the completion of the intervening sentence, Merrell was placed on the next available list for a hearing before the full Board.

¹ Following Mr. Merrell's testimony at her trial, Ms. Bonitz decided to plead guilty to manslaughter and kidnapping. She was sentenced to serve 12 to 15 years in prison.

III. PAROLE HEARING ON AUGUST 6, 2013

Timothy Merrell, now 53, appeared for a review hearing after serving a two year sentence for reckless driving. Merrell gave a credible description of his conduct that resulted in the conviction. He was driving in downtown Peabody at mid-day when he failed to stop for a crosswalk. A police officer was in the crosswalk. After Merrell pulled over and parked, he returned to the crosswalk. The officer told Merrell that he would receive a ticket. It was only later that the police department decided to pursue a criminal charge. The conduct did not involve violence, deceit, or repetitive dangerous activity. Consequently, the Board concluded the driving infractions did not indicate an ongoing public safety risk or create an impediment to re-parole. Board Members, therefore, focused much of the hearing on Merrell's life on parole before re-incarceration and what he would do in the community if re-paroled.

While on parole, Merrell lived with a woman in a long-term relationship in a single family house. His girlfriend works full-time as a nurse. Merrell became unemployed after a period of good employment at a manufacturing company. He made some efforts to find another job, but did not actively avail himself of all possible employment opportunities suggested by his parole officer. He described a slight depression that likely affected his efforts to find work. He attended AA regularly and participated in one-on-one counseling. He reported that both activities were helpful and important to his success. He described a productive counseling relationship and meaningful friendships formed through AA. He said that he did not drink on parole.

Despite being unemployed, Merrell stayed busy with various interests and commitments. He performed most of the chores and upkeep for his own home, spent considerable time with his mother (who has Alzheimer's), did substantial rehab work on his mother's house, and used his carpentry and handyman skills to do odd jobs and assist neighbors and friends.

Merrell described himself as a musician who "worked on music my whole incarceration." He learned how to play many instruments, and spends considerable time playing the guitar and piano. While on parole, he frequently gave music lessons to friends and their children. He displayed considerable passion for music and it has been a meaningful support for his rehabilitation.

Since being reincarcerated, Merrell obtained his barber's license. He trained as a barber earlier in his sentence but had not achieved his license. He works in the institution as a barber. He actively sought other employment and has recently been asked to work at the canteen, a position that prison administrators bestow to a trustworthy inmate. He has no new disciplinary reports in prison.

Merrell reported that he would resume living with his girlfriend if re-paroled. He is optimistic about his chances at employment. He said he has some job offers from friends and that his barber's license might lead to work with a barber who "is used to hiring barbers from the system." Most importantly, Merrell acknowledged that he "is better off when working" and would therefore have a greater commitment to finding steady employment.

Several friends, including his girlfriend, attended the hearing in support of Merrell's parole. His girlfriend's mother spoke in support of parole and described a valued member of the family who is "honest and sincere." She said he was a talented musician who taught her granddaughter how to play the guitar. His girlfriend's son also testified and said that Merrell is "a DOC success story." Two neighbors testified and described that Merrell was a very positive contributor in the neighborhood who frequently helped others with his handyman skills.

IV. DECISION

Timothy Merrell had a successful parole in which he developed positive relationships and made meaningful contributions to the community. He worked to maintain sobriety and is not prone to anger or impulsive behavior. He was cooperative with parole and compliant with parole conditions. He is rehabilitated and presents no risk for violence or intentional criminal behavior. He committed a driving infraction for which he served his punishment. There is no reason for additional incarceration.

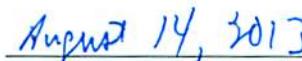
Timothy Merrell is unlikely to commit a new offense if released and his release is compatible with the welfare of the community. Accordingly, re-parole is granted. Because of his previous success in the community on parole, there is no need for a transitional period in lower security. The Board encourages Mr. Merrell to find employment. He has many skills and many traits of a valuable employee, so there should be no insurmountable barrier to employment success and financial stability if he is committed and resourceful in his job search.

SPECIAL CONDITIONS: Re-parole to approved home plan on or after August 23, 2013. No drug use. No alcohol use. Attend AA meeting at least once per week. Mental health counseling to address adjustment issues.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing. Pursuant to G.L. c. 127, § 130, I further certify that all voting Board Members have reviewed the applicant's entire criminal record. This signature does not indicate authorship of the decision.



Josh Wall, Chairman



Date