



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

Andrea J. Cabral
Secretary

Telephone # (508) 650-4500

Facsimile # (508) 650-4599

Josh Wall
Chairman

DECISION

IN THE MATTER OF

CHARLES PONTICELLI

W50338

TYPE OF HEARING: Revocation Review Hearing

DATE OF HEARING: January 24, 2012

DATE OF DECISION: May 2, 2013¹

PARTICIPATING BOARD MEMBERS: Cesar Archilla, 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, criminal record, institutional record, the inmate's testimony at the hearing, and the views of the public as expressed at the hearing or in writing, we conclude by unanimous vote that the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in five years from the date of the hearing.

I. STATEMENT OF THE CASE

Charles Ponticelli² appeared before the Parole Board as a two-time parole violator on January 24, 2012. In 2005, the Board voted to parole Mr. Ponticelli following the successful completion of six months in pre-release. His parole was provisionally rescinded in April 2007 after a Department of Correction investigation revealed that Mr. Ponticelli had delivered inappropriate correspondence to a female staff member. The rescission was not affirmed, however, and the Board amended its vote, paroling Mr. Ponticelli to a long-term residential program on June 23, 2008. Revocation proceedings began again in early October 2009 when he left a parole office without permission while awaiting the results of a drug test. His whereabouts were unknown for two days until he was apprehended by the Boston Police. The

¹ This decision was delayed because it had been assigned to an employee who left the agency without completing the decision. The Parole Board regrets the uncertainty and inconvenience that this delay caused to those involved.

² Mr. Ponticelli's given name was Charles Michael Carter. On January 21, 2004, the Norfolk County Probate and Family Court granted his request to legally change his name.

drug test confirmed Mr. Ponticelli's cocaine use. He was re-paroled on December 7, 2010, to the Hope House in Boston. On February 14, 2011, however, Hope House notified his parole officer that he had been discharged from the program after he had refused a drug test and admitted that he had used cocaine. Mr. Ponticelli left the program on February 13, failed to contact his parole officer, and was whereabouts unknown for ten days. He was taken into custody again on February 23, 2011, and revocation proceedings began. The revocation was affirmed on May 6, 2011.

Charles Ponticelli murdered 38-year-old Stephen Handrahan on September 1, 1990, in Boston. He pleaded guilty to second-degree murder on April 9, 1991, and was sentenced to serve life in prison. He also pleaded guilty to armed robbery and received a concurrent fifteen to twenty year prison sentence.

On Friday, August 31, 1990, the victim had been drinking with Ernest Manchester and Carlos Small at the Cabot Street Yard, an MBTA train storage facility. Mr. Small borrowed money from the victim and then left with Mr. Manchester. Mr. Small and Mr. Manchester met up with Mr. Ponticelli and another man and the four men drank more and smoked crack cocaine. Mr. Small and Mr. Manchester told the others that the victim had a large amount of money on him. Mr. Ponticelli expressed excitement about the prospect of robbing the victim.

At around 2:00 a.m., Mr. Ponticelli took a tire iron and returned to Cabot Yard with the others. The victim was still there, and the four men began to drink with him. Eventually, they left the victim and moved to an adjoining train car. Mr. Ponticelli kept talking about robbing the victim. He went back to the train car where the victim was now sleeping and beat him with the tire iron.³ An autopsy revealed that the victim suffered at least 30 blunt force injuries to the head, causing a skull fracture, bruising to the brain, and bleeding around the membranes of the brain. Mr. Ponticelli was arrested on October 3, 1990, and denied any involvement in the murder.

II. PAROLE HEARING ON JANUARY 24, 2012

Charles Ponticelli seeks a third parole after revocations in 2009 and 2011. Northeastern Student Attorney Heather Govern represented him at the hearing. She informed the Board in an opening statement that her client needs a highly structured situation because he has bi-polar disorder and a substance abuse addiction. After working for a time on parole, Mr. Ponticelli obtained disability benefits, due to his bipolar disorder, as his primary means of financial support. Mr. Ponticelli said he was "living on the street" at the time of the murder. He said he was alone in the train car with the victim, and struck him "six, eight, or ten times with a tire iron."

In discussing his parole violation in 2009, Mr. Ponticelli said, "I left the parole office because my urine would be dirty." Concerning the second parole violation in 2011, he said, "I went to see my wife; she gave me a cigarette with some cocaine; I did not know the cigarette had cocaine." Board Members did not accept that explanation as credible, and are still unsure of where Mr. Ponticelli went and what he did during the ten days that he was whereabouts unknown while parole officers and police officers searched for him.

³ Mr. Small and Mr. Manchester were not present during the beating. The other man, Mr. Kemski, went with Mr. Ponticelli to the train car where the victim was sleeping, but did not go inside. These men were not charged in connection with the murder.

A Board Member asked Mr. Ponticelli about relationships with women while he was on parole. He had serious relationships with four different women, all of whom had alcohol and drug issues. A Board Member commented that "You sought relationships with four women with addiction problems and relapses," which raises the issue of whether Mr. Ponticelli was also using.

Mr. Ponticelli has received two disciplinary reports since his return to custody. One of those reports was for fighting with another inmate. Mr. Ponticelli said that the other inmate attacked him. Mr. Ponticelli has a total of 16 disciplinary reports with two returns to higher custody. He has reports for fighting (1991, 1997, and 2011), threatening a corrections officer, sexual conduct with a visitor, attempt to incite a riot, threatening another inmate with a fork, possession of fermented juices, and sending an inappropriate letter to a female staff member.

Mr. Ponticelli was participating in the Beacon program at the time of the hearing. He has limited participation in rehabilitative programs. He has completed the Correctional Recovery Academy, Anger Management in 2003, and one phase of Alternatives to Violence in 2007. He has participated in AA and NA. He received his GED in 1999 and a welding certification in 2005.

Suffolk Assistant District Attorney Charles Bartoloni testified in opposition to parole. Mr. Ponticelli's brother and a friend testified in support of parole.

III. DECISION

Charles Ponticelli murdered Stephen Handrahan by means of an especially brutal and violent beating using a tire iron. Mr. Ponticelli continues to minimize the extent of the beating and the harm he caused. Most importantly, Mr. Ponticelli gave little indication at his hearing or in his program work that he recognizes his potential for similar violence or that he has identified the reasons he acted so violently. His two parole violations demonstrate that he is not ready for community supervision and that he is likely to re-offend if released. Mr. Ponticelli's lack of candor at the parole hearing further supports this conclusion. He fails to appreciate the issues he created when, as a murderer on parole, he disappeared for two days and ten days; those are very serious parole violations that show a lack of rehabilitation. A paroled murderer who absconds creates a very high risk to public safety.

The standard we apply in assessing candidates for parole is set out in 120 C.M.R. 300.04, which provides that, "Parole 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 Board finds that Mr. Ponticelli is not a suitable candidate for parole. Accordingly, parole is denied, with a review in five years. Mr. Ponticelli has a number of needs to address during this period: addiction, mental health, anger and violence, and lack of candor. At all future parole hearings, Mr. Ponticelli will have to address the fact that he disappeared twice while on parole for murder. His decisions created completely unacceptable levels of risk to the public safety.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing. This signature does not indicate authorship of the decision.

Josh Wall

Josh Wall, Chairman

May 2, 2013

Date