



The Commonwealth of Massachusetts
Executive Office of Public Safety



PAROLE BOARD

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DECISION

IN THE MATTER OF

JOHN ZWICKER

W49269

TYPE OF HEARING: Review Hearing

DATE OF HEARING: June 11, 2013

DATE OF DECISION: July 19, 2013

PARTICIPATING BOARD MEMBERS: Cesar Archilla, Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, 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 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

On three separate occasions in August of 1989, John Zwicker broke into the home of an elderly couple in Brockton. On two of those occasions, he tortured and violently assaulted its inhabitants, 79-year-old Samuel Green and his wife, 82-year-old Freda Green, both of whom were in poor health.

Zwicker first broke into the couple's home on August 11, 1989, entering the house through a window in the kitchen. Early that morning, Samuel noticed that the storm window was loose and that the outer window was on the lawn below, broken. During that break-in, Zwicker stole a .38 caliber snub nose Smith & Wesson revolver from a safe in Samuel's den. Ammunition was also missing.

Six days later, on August 17, a noise woke Freda at around 3:00 a.m. She nudged her husband to wake him up. Zwicker then appeared in their bedroom carrying Samuel's gun. He

held the gun to Samuel's face and demanded money and valuables. Samuel handed Zwicker his wallet. At this time, Freda began to shake. Her husband reached over to the nightstand to get her nitroglycerin pills, and Zwicker put the gun at Samuel's back and told him that he was not going to give her any medication. Samuel gave her the pills anyway. Zwicker then ordered Samuel to accompany him throughout the house to search for additional valuables. During this excursion, Zwicker brandished a knife and admitted to Samuel that he had stolen the gun. Zwicker then demanded that Samuel return to bed with his wife.

Zwicker continued to torment the couple by engaging in a version of Russian Roulette. He removed three bullets from Samuel's gun and placed the two remaining bullets in alternate chambers. He pointed the gun back and forth at the couple asking, "which one of you wants to die first?" When neither responded, he pointed the gun at Samuel and pulled the trigger not once, but twice. Both times, Samuel heard the hammer strike the empty chamber. Zwicker raised the gun a third time and said to Samuel, "guess what is coming next." Samuel turned to his wife and said, "Goodbye." Zwicker never pulled the trigger and, instead, prepared to leave the house. Before he did, he warned Samuel not to call the police and wished Freda a good day. Carrying a blue bag filled with items that he had stolen from the couple, Zwicker handed Samuel the newspaper on his way out the door. Samuel ignored Zwicker's warning and called the police. He also wrote down what had happened and kept his notes on the kitchen table.

Ten days later, on August 27, Zwicker returned to Samuel and Freda's home and appeared in their bedroom at around 5:00 a.m. He held a knife in one hand and Samuel's notes about the prior incidents in the other. He said that he had warned them about reporting what had happened and that now they were "both dead." He ordered Samuel from the bed and into a chair, secured him with a belt and, using electrical wire and tubing from Freda's oxygen tank, bound his hands behind his back. He did the same to Freda. When she tried to scream, he brandished a riding crop and beat her with it. Blood was seeping through her robe. Zwicker then went to the couple's bureau, took a bottle of liquid from it, and poured it over Freda's head. When Samuel pleaded with him to stop, Zwicker placed the knife at Freda's neck and threatened to slit both of their throats.

Zwicker then turned his attention to Samuel, jabbing him in the back, side, and stomach with the knife. He then beat Samuel with the now-broken riding crop. At one point during the torture, Zwicker left the room and returned with a whip. He proceeded to whip the bare-chested 79-year-old man approximately a dozen times. He then turned on the valves on the oxygen tank and lit a cigarette lighter. He stopped when Samuel reminded him that he, too, would perish in a fire.

Zwicker's sadistic torment continued. He took drapery cord and wrapped it around Freda's neck. He did the same to Samuel, wrapping it around his head and under his nose. As Zwicker pulled and tightened the cord around his neck, Samuel lost consciousness. As he regained consciousness, he saw his wife reaching for the knife. Zwicker threw her on the bed and then to the floor. Zwicker then rushed toward her with the knife, stabbing her in the leg. Zwicker then prepared to leave, again threatening to kill them if they reported the incident. Using the same blue bag from the August 17th incident, he took with him a number of items that he had stolen from the couple.

Zwicker was apprehended a short time later, and convicted of multiple crimes after trial on October 25, 1990. He received two concurrent life sentences for two counts of armed home invasion. He has completed concurrent sentences of 30 to 40 years on two counts of armed assault with intent to murder a person 65 or older, two counts of armed burglary, and two additional counts of armed home invasion. The Appeals Court affirmed the convictions in 1992. *Commonwealth v. Zwicker*, 33 Mass. App. Ct. 1119 (1992), *rev. denied*, 414 Mass. 1103 (1993).

II. PAROLE HEARING ON JUNE 11, 2013

John Zwicker appeared for his second parole hearing on the two life sentences he is serving for armed home invasions. In his opening statement, Zwicker told the Board that his first parole hearing was "an unjust hearing" because the previous Board was not impartial. He said that, "I have no true memory of the crimes, just shadowy images; I have tried to recall." He did, however, remember Samuel Green's victim impact statement at sentencing. Zwicker said, "Samuel was angry at trial; I've had nightmares of him."

After being asked to describe his upbringing, Zwicker said, "I had a rough life but not extremely harsh; I was very forgetful as a child and when that happened I was beaten, locked in a closet, or made to do military calisthenics." He said he cannot recall "70% of my childhood." He said that "as a kid I was a smart ass punk; when my father hit me I would laugh at him; I was there at the beginning of the beating but not at the end," which appears to describe aspects of a dissociative state.

Zwicker became involved with the criminal justice system at age 16 when he committed arson and was sentenced to DYS. DYS sent him to Taunton State Hospital where, according to Zwicker, he was diagnosed with "pyromania, depression, adjustment disorder, and mixed personality disorder; they put me on three medications." Upon release from custody, he lived with his parents in Brockton, continued with group therapy, and was given a job as a custodian at a museum. After three months with those supports, he was civilly committed to Arbor Hospital. According to Zwicker, he was diagnosed at Arbor with borderline personality disorder and major depression. Upon release from Arbor Hospital, he lived at home for a short time before he began living on his own. This arrangement included periods of homelessness. At the time of the crimes for which he now seeks parole, he was living in a rooming house.

Zwicker said that, "I had no control whatsoever; I would provoke fights and arguments for no reason whatsoever, with anybody." He said that he had periods of blackout and that "it happened quite a few times that I woke up somewhere" with no memory of recent events. Apparently, in Zwicker's mind, those episodes were similar to his inability to recall his criminal activity against the Greens. He provided the following information about August 1989, including the days he committed the crimes (August 11, August 17, and August 27): "I remember nothing about August 11; on August 16, I had a big blowout with my girlfriend; I remember nothing from August 17; on August 21 or 22, I woke up on the train tracks; I was filthy dirty with no belongings; my son was born on August 22 and I went to the hospital; Kelly and her mom denied me access to my son; I went to the train tracks and played chicken with the train three times; I was on the bridge when the train came and I had to jump off the bridge; I did this too many times to count; I remember nothing between August 22 and August 28; I woke up in a cell at the police station on August 28." When asked what he was taking responsibility

for, Zwicker said, "I have no vivid memory of what happened but there is plenty of evidence that it was me."

Zwicker has accrued 25 disciplinary reports. He works currently as a unit runner. He has little participation in rehabilitative programs, but he is involved in creative writing workshops. He completed one phase of Alternatives to Violence, and said he completed anger management at three institutions but "some of the certificates are missing" from his file. He said that, "I have taken all the programs that are relevant for me; I have done what I can; the rest of the programs are for drugs and alcohol which are not my issues."

Concerning his current status, Zwicker reported that his mental health case "is closed; the therapist officially said there is nothing more they could do for me." He is not currently on medication. He said that "I still have anger issues; the therapist recommended meditation and I meditate four times a day; I need to continue therapy in the community; I am not still a violent person." He said that he had about 20 memory lapses in prison and "too many to count in the community," but has not had such an episode since 1992. He reported that he knows when an episode is coming because "of a dull pain near my left ear," and that he begins meditation to prevent the episode. He believes that he was helped by a therapist who "hypnotized me in the mid-1990s and planted several suggestions to help." He said he was hypnotized weekly for six months. He mentioned that when angry he has a "dead look; they tell me I have it; they say it's like I disappear and nobody is home." He said that he has not had the "dead look" since 2009. He acknowledged that he is "combative; my social skills suck; I have a problem with authority; I will challenge authority if I believe it is incorrect."

There were no supporters of parole present. Zwicker does not receive visits; he said he asked his family not to visit him after he was sentenced. If paroled, he would "prefer to live with my sister, obtain work, continue with education, and give back to the community." He is a practicing Wiccan.

III. DECISION

John Zwicker committed a series of terrifying and sadistic crimes against an elderly couple. He has maintained that he has no memory of the events and he offered no explanation for them at his parole hearing. A Board Member said at the hearing, "parole would be a huge leap of faith if we don't know what happened and why it happened." The Board concludes that Zwicker is not rehabilitated. Zwicker has a complicated and mysterious psychological history that involves violence, sadism, self-destruction, anger, dissociation, self-described "blackouts" lasting days and weeks, depression, antisocial thinking and behavior, and an early diagnosis of antisocial personality disorder. Given that psychological history and the crimes committed, John Zwicker's parole would involve a high risk to public safety.

The standard 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 an 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, the Parole Board concludes that Mr. Zwicker is not currently suitable for parole. The review will be in five years during which time

Mr. Zwicker should continue with his improved behavior and seek program participation to address the issues related to his extraordinarily violent and sadistic criminal behavior.

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

Josh Wall, Chairman

July 19, 2013

Date