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PAROLE BOARD

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Josh Wall  
Chairman

**DECISION**

**IN THE MATTER OF**

**JOSEPH MESSERE**

**W38304**

**TYPE OF HEARING:** Review Hearing

**DATE OF HEARING:** October 1, 2013

**DATE OF DECISION:** August 5, 2014

**PARTICIPATING BOARD MEMBERS:** Dr. 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, institutional record, the views of the public as expressed at the hearing or in written submissions to the board, and the inmate's testimony, 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**

Joseph Messere appeared before the Parole Board for a Review Hearing concerning his life sentence for second degree murder. This is Messere's fifth appearance before the Board, following four denials. At Messere's first hearing in 1995, the Board denied parole citing the brutal nature of the offense, the fact that the crime was committed on parole and his limited acceptance of responsibility. In 1998, the Board denied his parole noting his lack of programming and accumulation of disciplinary reports. Again, citing Messere's failure to take responsibility for his crime, the Board denied his parole in 2004. When denying parole in 2008, the Board expressed serious concerns with the fact that Messere refused to accept responsibility for his crime and instead portrayed himself to be a Good Samaritan that happened upon the victim that night.

On October 3, 1980, Messere spent the day drinking with friends and relatives at various bars in Stoughton, Brockton and Randolph. Messere and Ronald Voda, the victim, were seen at the Randolph Country Club later that night.

About 4:00 am on October 4, 1980, the victim was found in his automobile in a secluded area in Canton dying of multiple stab wounds. Ronald Voda was dead by 4:30 am. Shortly before the victim was found by the police, Messere went to the home of a friend, Ronald Cerasulo, where he cleaned a blood stain from his pants. According to Cerasulo, Messere appeared to be drunken, unshaven and nervous. Messere told Cerasulo that he had stabbed a guy down the street after the guy had reached under the seat for a gun; and he thought he might have killed him." Messere also told Cerasulo that, after the incident, his girlfriend ran across the street. He asked whether he "should throw his knife in the pond on his way home."

Messere was arrested twelve days later, at his apartment in Gardner. At that time, he made incriminating statements to the police. He first gave the detectives a lengthy account of his movements on the night of October 3, and the early morning hours of October 4, in which he denied seeing the victim at any time. After the interview, while being placed back into the holding cell, Messere said, "Well, I'll tell you this, that guy was alive when I left."

During the investigation, the police discovered that bloodstained pieces of upholstery had been removed from Messere's vehicle and that another piece of upholstery taken from Messere's vehicle indicated a probable blood type match between the victim's blood and the blood found in that vehicle.

Prior to trial, Messere told Cerasulo to talk to his attorney to "set up a defense of self-defense for him." Still later, Messere asked a second friend, Doris Souris, "to go to court and say that she was with him at the time of the crime, that a fight started and a knife was pulled on him," after which she "was supposed to have run across the highway." Messere offered to pay Souris \$1,000 for this false testimony.

On June 17, 1981, after a trial by jury in Norfolk Superior Court, Messere was found guilty of second degree murder and sentenced to life in prison.

## **II. CRIMINAL HISTORY**

Joseph Messere has an extensive criminal history consisting of 78 Massachusetts arraignments, seven prior incarcerations including a five year sentence for robbery in Florida in 1975, and two convictions related to escape. Messere's criminal career started in 1969 when he was given a three month committed sentence for use without authority. He committed this murder while on parole for an assault and battery on a Gardner police officer.

In 1970, Messere received a one year committed sentence for aiding a child escape from custody and being in possession of burglarious tools. In 1973, he received a committed sentence of ninety days for operating to endanger and ten days concurrent for operating after suspension. Later that same year, Messere received a committed sentence for one year for operating after suspension, assault and battery with a dangerous weapon, and assault and battery on a police officer. In 1974, he received a six month committed sentence for operating under the influence of alcohol and a concurrent ninety day committed sentence for an insurance

violation. Also in 1974, Messere received a two and a half year committed sentence for assault and battery. In 1977, he was convicted of another assault and battery and given a two and a half year suspended sentence and five years probation, the conditions of which he violated and was committed for the two and a half year term. In 1978, he received a six month committed sentence for operating under the influence of alcohol. In 1980, Messere was on parole from a six month sentence for assault and battery on a police officer when he committed the murder of Ronald Voda.

### **III. PAROLE HEARING ON OCTOBER 1, 2013**

Joseph Messere appeared before the Board for his fifth hearing, having been denied on his previous four appearances. At his review hearing, Board members focused on questioning Messere about his institutional programming since his last hearing, his parole plan including what issues he might need to work on upon release and his memory of the crime. Messere appeared disinterested, unmotivated and, at times, defiant.

Board Members specifically asked Messere about the programs he participated in since his last hearing. He indicated that he completed Jericho Circle, Alternatives to Violence (Level 1), and Computer Skills. He stated that he received his GED and attends Alcoholics Anonymous every Wednesday. When pressed on why he did not participate in the second and third levels of Alternatives to Violence, Messere replied simply, "I didn't like the program" and then added, "It's for young people." He indicated that he prefers vocational training and is currently wait-listed for the culinary program. He is not enrolled in or wait-listed for any rehabilitative programming. Messere could not identify other programming that might benefit him. He also failed to identify what problems or issues he should address in order to receive a positive parole vote.

When Messere was faced with questions regarding his parole plans, he was dismissive. He stated that he was "fully recovered." He informed the Board that there were no challenges whatsoever that he would face in the community if granted parole, stating, "I'm ready."

Messere said he had very little ability to remember exactly what happened that night. He stated that he "can't admit to the crime because I have never known if I actually did it." He then added nonchalantly, "But, I was the only one there, so I take full responsibility." When asked to describe the crime, Messere told the story of being a Good Samaritan and how he was woken up from his drunken sleep in his car parked outside his grandfather's house and that he saw the victim's car up against the highway fence of Route 24 South. He said it was pouring rain and that he went to the car, saw the victim leaning over into the passenger seat and spoke with him, telling him "lay still, I am going to get help." Evidence at trial indicated that the passenger side door could not have been opened due to it being pinned against the highway fence. Messere explained that "no one seems to remember the fact that the car was in gear and it was running and it was up against a post so I could open the door. But when I shut the car off, it rolled back and you couldn't open the door no more."

Before leaving the scene, Messere explained that he then went to the driver's side, shut the car off, turned the lights down to parking lights only and left the window down a bit. He described driving down the street but "couldn't go very far" because he was so drunk and stopped at his friend, Ronald Cerasulo's house. He then stated that "Ronnie called the Stoughton Police Department instead of the Randolph Fire Department and, that was it." When

asked why he did not call for help himself he said that he was "so drunk that I couldn't make it up the street, so I went to a friend's house." When pressed further on the issue, he stated that "Ronnie called and not me, because it was his house." Messere told the Board that he had grease on his pants from trying to start his car, and used some cleaner to get the stain out. Messere explained that he left after Cerasulo made the phone call and that he drove across the highway to his cousin's house where he fell asleep in the car.

When asked what he has said in the past about the murder, Messere said he did not remember. When reminded that he had given varying statements about the crime over the years, he simply stated that his memory has been getting worse, especially the last five or six years.

Messere answered questions concerning his criminal history and its connection to alcohol. He said that he has no recollection of being arrested for the assault and battery on the police officer in 1973 because he was "black out drunk." He described being "pretty intoxicated, on rum," when he received a two and a half year sentence for the assault and battery on his foreman at the Quincy shipyard in 1974. He said he "doesn't remember" exactly what happened in the Florida robbery, just that he "was blind drunk." He further explained that there were many incidents of violence that occurred while he was "blackout drunk" and only learned of what he had done when someone told him about it after the fact. One such incident was when his ex-wife came to him to talk about terminating a pregnancy and he beat her up, knocking her out and causing injuries.

Messere did not provide any detailed information about his proposed parole plan which included living with either his cousin in Randolph or his ex-wife in Marshfield. He could not identify what outside programming would be beneficial to him, stating instead that, "It's been 33 years. I'm not the same guy. I don't have any problems to work on." He indicated that he would continue attending AA meetings, remain active with his church and "stay away from the things that get me in trouble."

Messere explained that he has been granted single cell status and is adamant against what he calls, "double-celling," which requires two inmates to share a cell. He said after questioning that he was screened for the single cell and that because of his psychological make-up, he would not do well living with another cellmate. When directly asked why he would not live in a cell with somebody, he shrugged his shoulders and stated simply, "because I'm not gonna do it. I am not living with another man. I am just not gonna do it." One Board Member suggested that his defiance suggests that he has a social disorder. Messer tried to explain that there is a constitutional mandate against double-celling and that he absolutely refuses to live with another person. He said that it was hard enough living in the cell by himself and that one of the things that would bother him about having a cellmate was the cellmate potentially flushing the toilet in the middle of the night.

Board Members asked about his trial defense and Messere suggested that the defense of self-defense was not his idea, it was his attorney's. His unconvincingly told the Board that he tried to get rid of his attorney for that reason and that the judge refused and he was stuck with who he had and the defense that was being put to the jury. He claims he had no choice and "just let it go" adding that he "was just hoping for the best on appeal."

Ronald Voda's sister, Paula Atkins, spoke in opposition to parole. Norfolk Assistant District Attorney Marguerite Grant spoke in opposition to Messere's parole. Attorney Grant questioned Messere's overall credibility, and his long history of violence and alcohol abuse.

#### **IV. DECISION**

In 2008, the Board expressed serious concerns with the fact that Messere refused to accept responsibility for his crime and instead portrayed himself to be a Good Samaritan who happened upon the victim that night, rendered assistance, and was wrongfully convicted. He maintained that position this time before the Board, adding that he doesn't remember what happened that night but accepts responsibility for the crime, but only because he was the only one there. Joseph Messere stabbed and killed 35-year-old Ronald Voda and has denied his involvement from the beginning. He continues to refuse to take responsibility for the crime, despite his admissions to a life-long friend on the night of the murder. He cannot consistently and accurately describe his own actions that night.

Messere has made minimal attempts to address his issues of violence and substance abuse. He has failed to immerse himself in rehabilitative programming, choosing instead to participate in a few programs at a minimal level. He is not currently involved in any vocational or educational programs and spends most of the time by himself in his single cell. He presented in a nonchalant, cavalier manner showing no empathy or remorse and no insight into the crime and his involvement in it.

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 Joseph Messere is not suitable for parole because he needs additional time for rehabilitation. The period of review will be five years from the date of the hearing. During this time, Messere should invest in rehabilitation to address issues of substance abuse, violence reduction, criminal thinking and lack of candor.

*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.*

  
Caitlin Casey, Chief of Staff

8/5/14  
Date