



The Commonwealth of Massachusetts  
Executive Office of Public Safety



PAROLE BOARD

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**DECISION**

**IN THE MATTER OF**

**GARY MOODY**

**W36673**

**TYPE OF HEARING:** Review Hearing

**DATE OF HEARING:** March 4, 2014

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

**PARTICIPATING BOARD MEMBERS:** Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, 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**

Gary Moody seeks parole from a life sentence for rape. He is currently serving his sentence at the Massachusetts Treatment Center in Bridgewater. On July 20, 1978, a jury in Norfolk Superior Court convicted Moody of rape, robbery, assault to murder and assault and battery with a dangerous weapon. The judge sentenced Moody to a term of life for the rape, as well as concurrent sentences of fifteen to twenty years for the robbery, and nine to ten years for both the assault with intent to murder and assault and battery convictions. These concurrent sentences have expired.

Moody and three other people<sup>1</sup> were prosecuted for the attack: Denise Whitehead, Mary Connolly, and John James. Whitehead and Connolly were convicted of rape and robbery.<sup>2</sup> The Supreme Judicial Court upheld their convictions. See *Commonwealth v. Whitehead*, 379 Mass. 640 (1980). John James was found not guilty after a motion for a directed verdict.

The facts of the crime are derived principally from *Commonwealth v. Whitehead*, 379 Mass. 640 (1980).

On October 14, 1977, the victim, an 18-year-old mentally handicapped woman,<sup>3</sup> travelled from the Roslindale apartment she occupied with her father to their former apartment on Beacon Street, Boston. After retrieving some letters that had arrived there, she started walking in the direction of the "Combat Zone." She was carrying about \$60, a red pocket knife, and an identification card. Happening to meet John James, with whom she was slightly acquainted, she went with him to a lounge on Tremont Street. This was sometime after dark.

She was introduced at the lounge to Gary Moody, then age 31, Carl McQuade, Denise Whitehead, and Mary Connolly. These four were known to each other. Whitehead and Connolly were lovers. The victim spent most of the evening playing pool with McQuade, Moody, and Whitehead. Apparently there was heavy drinking by Moody and considerable drinking by McQuade and Connolly. At some point during the evening, James told Whitehead and Connolly that the victim had \$300 and "we could go partying."

When the lounge closed around 2:00 A.M., the group of six left together. Whitehead fetched her car, and the rest got in. Whitehead was driving, Connolly in the front passenger seat, the three men in the back section with the victim. In the back seat of the car, the victim was kissing James and fondling Moody and McQuade. Moody stated he had won a bet when playing pool with the victim and was entitled to sex with the victim. McQuade also told the victim that he wanted to have sex with her. He asked Whitehead to drive to a good place and Whitehead chose Franklin Park.

On the way to Franklin Park, McQuade or Moody beat the victim. At Franklin Park, McQuade and Moody left the car with the victim. She was seen there crying with her pants pulled down as Moody urinated on her. They returned shortly when a car nearby disturbed

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<sup>1</sup> A fourth person involved in the rape and attack was 16 years old and a juvenile. He testified for the Commonwealth and was never charged.

<sup>2</sup> Initially, Whitehead and Connolly were sentenced to life imprisonment, but their sentences were modified to 12-20 years. Whitehead was paroled in October 1993 and was returned to custody after violating parole in September 1996. She wrapped up her sentence in January 1997. Connolly was paroled in January 1991 and returned in January 1993 for parole violations. Her parole discharge date was November 20, 1997.

<sup>3</sup> The district attorney's office characterized the victim in this manner in its February 25, 2014 letter of opposition to Moody's parole. In addition, defense counsel for Whitehead moved for a hearing before trial on the question of the victim's competency. See *Commonwealth v. Whitehead*, 370 Mass. at 655. Moreover, "competency reports", so-called, concerning the victim, were reviewed by the Court, which ultimately denied the defense's related motion to strike the victim's testimony. See *Whitehead*, 370 Mass. at FN. 18.

their plan. As they left the park, McQuade was sitting in the front seat and Connolly was on the console which separated that seat from the driver's.

As the car proceeded to Columbia Point, Moody beat the victim again, punching her in the face. Bleeding from her mouth, the victim begged, "Please don't kill me." Moody responded by repeatedly beating the victim and demanding money. Moody then stripped off what remained of the victim's clothes, forced her to commit a sexual act, and then demanded intercourse. The victim responded, "I'll do anything. Just don't hurt me." Moody then had forced sexual intercourse with the victim.

At Columbia Point the car stopped and McQuade left to relieve himself. At this point, apparently, Whitehead watched Moody have another round of forced intercourse with the victim. Naked, the victim was passed by Moody and James to the front seat where Connolly and Whitehead each committed a sexual act on her. Connolly and Whitehead then passed the victim back to the men.

As the car departed Columbia Point, Moody demanded the victim's money. She said she had none. Connolly reached back from her perch on the console and said, "Where's your money, bitch?" and "Give up the money." Moody punched the victim in the face. Connolly took or was passed \$38 from the pocket of the victim's pants and, at Whitehead's suggestion, put the money on the dashboard. Moody continued to talk money -- James had promised \$300 at the lounge -- but then demanded a sexual act and the victim complied.

Whitehead was driving without a set destination, but as the car became overheated she began to look for an all-night gas station. She knew one in Quincy and headed the car there. At some point she stopped to ask directions. Meanwhile the victim was pushed to the floor in the back of the car by Moody, McQuade, and James and held in that position.

Moody said he "had to get rid of her." At this time, too, Connolly said, "Shut up, bitch, I'll kill you." Whitehead added, "She knows us. You have to kill the lousy white trash." The car then headed toward the gas station but was diverted when McQuade spotted the entrance to Mount Wollaston cemetery. Whitehead drove in and stopped at Moody's request.

Moody and McQuade were wielding knives and Moody said, "I have to get rid of her." Moody and McQuade dragged the victim into the cemetery behind the car. McQuade kicked the victim to the ground and Moody, using the victim's red pocket knife, slit her throat. Meanwhile James used the victim's clothes to try to wipe her blood from the interior of the car, then tossed them out the window.

Connolly saw that Moody's shirt was covered with blood when he and McQuade returned to the car, and she exclaimed, "My God, what did you do?", and Moody said he had stabbed the victim in the throat. He told them all to shut up and not to talk of the incident.

As Whitehead turned the car around to leave, Moody told Whitehead to stop. Moody left the car with McQuade. Approaching the victim lying on the ground, they kicked her "numerous" times with the others watching. They returned to the car. Moody repeated threateningly that all should keep quiet. They stopped at a gas station, and there was an effort to wipe off more of the blood with paper towels. Marijuana not previously disclosed was

produced and used. Whitehead then drove back to Boston dropping Moody and McQuade on Beacon Hill and James on Cambridge Street. The time was now after 3:30 A.M. Whitehead and Connolly drove to Brockton.

Meanwhile, the victim, who somehow survived the attack, stumbled to a house nearby and was found by the occupant. She was taken to Quincy Hospital and released some five and a half weeks later. As a result of the beatings and the stabbings, the victim suffered two black eyes, a broken nose, laceration of the throat which pierced her esophagus and windpipe, and multiple bruises and lacerations about her face and head.

In 1985, a Superior Court judge allowed the Commonwealth's motion to dismiss Moody's appeal of his 1978 convictions. In October 2000, a judge denied Moody's motion for a new trial. In 2002, in a consolidated appeal of both of those decisions, the Court affirmed the dismissal of the appeal and denial of the motion. In 2007, a Superior Court judge dismissed his civil suit, rejecting his claims that the trial judge should have obtained a sexually dangerous person evaluation before sentencing. Also in 2007, the Appellate Division of the Superior Court denied his appeal of his sentences and ordered them to stand. In 2011, Moody withdrew his 2010 motion for a new trial.

## **II. CRIMINAL & INSTITUTIONAL HISTORY**

In June 1964, Gary Moody, then 18 years old, was charged with contributing to the delinquency of a minor, who was a female. Records indicate that he was released by the court on that charge. Moody reports that that case involved him drinking too much at a party and passing out. He claims that a fifteen year old girl stayed with him all night to make sure he would be okay.

In October 1968, Moody received an undesirable discharge from the Army for inappropriate touching of a civilian woman. Moody claims that he was caught with a prostitute while stationed in Georgia. In December 1968, Moody, then 22, was convicted of assault with intent to rape, indecent exposure and rape in Coventry, Rhode Island and received suspended sentences seven months and five years suspended.

Moody was 31 years old at the time of the crime for which he is now incarcerated. He has had a total of six adult arraignments in Massachusetts. His record of Massachusetts convictions, besides the rape and related charges, include a 1973 arraignment for possession of a dangerous weapon resulting in a guilty finding and a fine; a 1973 arraignment for malicious destruction of property resulting in a guilty finding and a suspended sentence of one year in the house of correction; a 1976 arraignment for assault with intent to rape, and assault and battery resulting in a guilty finding and a five year state sentence, with two of these years suspended.

Following his conviction for rape, Moody has served 35 years of the life sentence and accrued eight disciplinary reports the last of which was issued in 1995. Disciplinary infractions include possession of marijuana, fighting, and stealing. There are four returns to higher custody on record.

Moody has been actively involved in Narcotics Anonymous and Alcoholics Anonymous throughout his incarceration and currently co-chairs the Spanish Alcoholics Anonymous meeting. In 2004, after 26 years of incarceration, Moody began to participate in the Sex Offender Treatment Program. He progressed slowly through treatment and in 2010 was classified for transfer to the Massachusetts Treatment Center. In 2012, he entered the Therapeutic Community (formerly known as Core Treatment) to address his impulsivity, hostility towards women, lack of empathy, and problems with empathy. His other programming involves: Understanding Empathy, Pathways to Offending I and II, Sexual Interests I and Roots of Aggression. He is currently enrolled in Boundaries. He earned his General Equivalency Diploma in 1983 and completed Anger Management Programming in 2008.

During his incarceration, Moody has held various jobs, including biohazard clean-up team, gardener/horticulturist, porter and facility maintenance man, unit runner, optical worker, and canteen clerk. He is currently employed in the industries. He has also earned a certificate in Occupational Safety and Health Administration.

### **III. PAROLE HEARING ON MARCH 4, 2014**

On March 4, 2014, Gary Moody appeared before the Massachusetts Parole Board for a review hearing. This is Moody's sixth appearance before the Parole Board, having been denied in 1993, 1996, 1999, 2004 and 2009. Previous Boards based their denials on Moody's criminal history, specifically his assaults against women, failure to engage in rehabilitative program, and limited responsibility for his criminal behavior. In the most recent decision, the Board noted that Moody had not begun to admit some of the details of his crimes until recently, and lacked remorse for the profound effects of his criminal behavior. He continued to blame his co-defendants for stabbing the victim, and did not show insight into his violent behavior or the causative factors leading up to the offense. The Board also found that Moody's inability to be honest about the circumstances of his crimes, recognizing their seriousness, and ultimately take responsibility for them, made him a risk to reoffend.

Moody is requesting a parole to Pittsfield, where he has made arrangements with Daniel Landry. Mr. Landry runs a property management business and has offered Moody an opportunity to live in a one bedroom apartment at a building that is under his management in exchange for Moody performing lawn care, clean-up and whatever else is needed at the building. He has also identified the Brien Center in Pittsfield as the place where he would receive the majority of his substance abuse counseling and continued sex offender treatment.

Moody was represented by Kimberly Newberry and Ryan Kurtz, student attorneys, Harvard Law School. Mr. Kurtz provided an opening statement outlining Moody's criminal history, institutional adjustment, and his triggers that led to past behavior, to include drug and alcohol abuse. He said that Moody has been "clean and sober since 1986." Mr. Kurtz told the Board that Moody "truly does not believe he stabbed her and that he was not holding the knife at the time of the stabbing. Parole should not be denied on that basis. He does feel responsible."

Board Members asked Moody about his sex offender treatment and why he waited decades to enter treatment. He said, "I truly thought I didn't need it until I took the program. I took the program because the Parole Board said I should do it. I've learned a lot. I want to

be a different person. Looking back now, it's hard to believe how terrible I was. I don't want to hurt nobody. I want to be honest and trustworthy. I know now that women are to be respected. I didn't care what they thought. I only cared about my own needs and pleasures."

A Board Member asked Moody to describe his other sex offenses. He gave the following information. In the Georgia incident, "I grabbed a woman's breast. It happened in a bar and she was a prostitute. In Coventry, Rhode Island [in 1968], I raped a woman from a club that I worked at. She was a stripper and I knew her, so I thought it didn't matter what I did. I took her clothes off and raped her. I used force. The force was severe but I didn't beat her and I didn't use a weapon. I did threaten her but I don't remember what I said. In 1973, I met a female in the Combat Zone in Boston. I attempted to rape her. I passed out. I took her necklace. There was no weapon or threats. I may have inappropriately touched other females. I worked in clubs. Most of the women I touched, they laughed. There was no other forced sex."

Moody provided his version of the governing offense. "I was in a club that night. I joked with the victim at the club. We went to Roxbury to get weed and then went to a cemetery in Quincy. The female driver got in the back seat and raped her, and then the other woman raped her. I sat in the front seat watching. Then some of the others did it. I raped her once myself. After we raped her, the female driver pulled her out of the car and beat her. The driver was a real good friend of mine. I knew if I said something, they wouldn't listen. I may have slapped the victim in the car; I don't remember all of it. Only one female had a knife and stabbed her. I did nothing outside the car." Moody agreed with Board Members that he had given many different versions of the crime at his parole hearings.

It remained apparent to the Board that Moody refuses to this day to accept full culpability for his criminal behavior. His version of events minimizes his conduct and is in conflict with the evidence that shows him as an active participant in repetitive forced sexual activity and the stabbing. While he is currently engaged in the Sex Offender Treatment Program with an anticipated completion in the next few months, he has not progressed to the point where he can admit his violent acts and address them through rehabilitation efforts. The lack of rehabilitation was evident in his letter to the Governor in 2009, where he states that the only people opposed to his release are members of the Parole Board, which is a distorted view of his circumstances. The letter was extremely misleading in describing his parole situation. Moody, although more forthright during this hearing than in years past, still has yet to admit all his actions that night. He acknowledged he did not have a moral compass and felt no empathy or compassion for the victim at the time. He states the delay in accepting any responsibility for his actions was his perception of self: he did not want to be perceived as a monster. Instead, he wanted to be a good person so he blocked the atrocities out to make himself feel better.

A Board Member asked Moody why he thought it was permissible to victimize women. He said, "I grew up in Maine. I started drinking alcohol at a young age. I hung out with older kids and I looked up to these guys. They had girlfriends and they beat them and slapped them around. These guys were like heroes to me and role models."

Concerning substance abuse, Moody said, "in 1985 or something, I quit. A counselor helped me in 1985 or 1986. I drank a lot of homebrew; I was still an alcoholic. I was still smoking weed in prison and I got meds whenever I could."

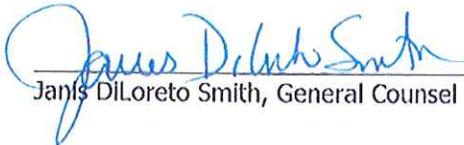
Norfolk Assistant District Attorney Marguerite Grant strongly opposed Moody's petition for parole. There was no one present at the hearing to speak in support of Moody's petition for parole.

#### IV. DECISION

Gary Moody significantly improved his performance at this parole hearing. He shows, through some increase in candor and insight, that sex offender treatment is giving him some help. Moody, however, resisted rehabilitation for 30 years as he avoided programming and continued with a pattern of denials and misleading statements. He has an extraordinary history of violence against women and failed for three decades to commit to reform. Rehabilitation will take a long and concerted effort with more candor and more programs.

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, it is the unanimous opinion of the Board that Mr. Moody is not a suitable candidate for parole because he is not rehabilitated. The period of review will be in five years, during which time Mr. Moody should make an active commitment to his rehabilitation, continue with sex offender treatment, and address issues of violence against women, anger, anti-social behavior, lack of empathy, and lack of candor about the governing offense.

*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.*

  
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Janis DiLoreto Smith, General Counsel

9/5/19  
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Date