



The Commonwealth of Massachusetts
Executive Office of Public Safety



PAROLE BOARD

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DECISION

IN THE MATTER OF

BRIAN PIRES

W38016

TYPE OF HEARING: Revocation Review Hearing

DATE OF HEARING: May 13, 2014

DATE OF DECISION: October 2, 2014

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Shelia Dupre, Ina Howard-Hogan, Tina Hurley, 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 a 5-2 vote that the inmate is a suitable candidate for re-parole. Re-parole is to a long term residential program with other conditions and supports in place.

I. STATEMENT OF THE CASE

Brian Pires, at age 25, stabbed John Silva, age 28, to death just after 1:00 a.m. on August 9, 1980 in Plymouth. A dispute that began in the White Cliffs lounge resulted in Brian Pires, his brother Patrick Pires, and the victim going outside of the bar to fight. During the fight, Brian Pires pulled a knife and stabbed the victim in the chest. Brian Pires was arrested the following day.

At trial, Pires was convicted of second-degree murder. The Supreme Judicial Court affirmed the conviction in 1983.

Pires' criminal record includes several prior offenses. Pires has prior convictions for assault and battery on a police officer, breaking and entering in the nighttime, and disturbing the peace. Most problematic, while under parole supervision on this life sentence, Pires was twice convicted for operating under the influence (in 2004 and 2011).

II. PAROLE HISTORY

On October 17, 1997, Pires was paroled and remained in the community working in the area of construction. In November 2000, he was placed in protective custody for drinking and received a final warning and the added conditions of substance abuse counseling and a curfew. Pires' response to these new conditions was a request to the Board for the conditions not to be imposed as he was only a "social drinker." Two years after the addition of these conditions, Pires was arrested for operating under the influence and returned to custody for five months before he was paroled again. Eight months after his return to the community, Pires was observed by a parole officer at a festival visibly intoxicated. He was returned to custody and was paroled to a long term residential program after a year in custody. He completed the program.

Pires remained in the community for an additional four years working odd jobs until January 29, 2011, when he was arrested for operating under the influence and negligent operation of a vehicle. This arrest resulted in Pires' third parole violation, return to custody, and parole revocation.

III. PAROLE HEARING ON MAY 13, 2014

Brian Pires, age 59, continues to maintain that his brother Patrick stabbed Mr. Silva and that he only punched the victim. Members of the Pires family also testified to this belief and added that the family never thought that Pires would end up serving life in prison for something he did not do. Pires and his family described the reasons for his prior refusal to name his brother Patrick in the offense, even at his own expense. Such reasons include the family's concern at the time for Patrick's mental state and vulnerability. Patrick has since died of throat cancer. Pires has also stated that he understands he has to live with the jury's verdict and that he takes responsibility for having made the decision not to implicate his brother.

Pires focused on having been given the opportunity for parole on numerous occasions, and how his continued relapses have resulted in his re-incarceration. The Parole Board explored the precipitants to his relapses at length and the concerns for public safety when he drinks and drives. Pires and his family members testified as to the changes they all have agreed to make. Pires invested in further rehabilitation in prison and stated he re-evaluated his life. Pires said, "I didn't take it that seriously and now I do. I see on the news how people are affected [by drinking and driving] and I don't want to be a part of it." Pires discussed his specific triggers to drinking and identified ways he can address them if released. Pires specifically described that his family and friends enabled him, rather than helped him, maintain sobriety. One of Pires' family members said that family members felt sorry for him having served so long in prison for something he did not do and thought he deserved a beer once in a while. Pires also identified the need for transition to a sober living environment and investment in AA as areas where he can bolster his support system and commitment to sobriety.

Since his return to custody in January 2011, he increased his program involvement and he described the value of having not only completed such programs, but how he will apply what he has learned to his own life. Pires presented as tearful during the hearing, and expressed significant remorse for the time he has lost due to his drinking, and the people who have been affected by his drinking.

Five people testified in support of parole. Included in his list of supporters was his nephew, Christopher Pires who works for the Department of Mental Health and his friend John Gonsalves who has worked as a treatment provider. His supporters appeared to have an understanding of addiction, his needs and are willing to assist him. Plymouth Assistant District Attorney Tim Kenny spoke in opposition to parole and emphasized Pires' continued alcohol abuse and the nature and circumstances of the offense.

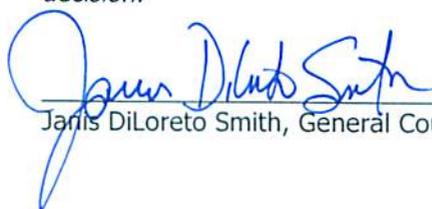
IV. DECISION

Brian Pires has been back in custody since January 2011 for violations related to his drinking. Pires received a three year denial from the Parole Board in 2012 and was encouraged to continue to address his alcohol addiction. Pires has committed himself to his rehabilitation and appears to have benefitted from such rehabilitation. In addition, Pires' support system now appears to understand the gravity of his alcoholism and his need for support and vigilance to maintain sobriety. Pires presents as having addressed the crucial elements necessary to continue his successful sobriety and citizenship, and he has established a release plan that will enable him to continue his positive path.

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, by a vote of 5 to 2 that Pires is a suitable candidate for parole. Board Members Howard-Hogan and Dupre voted to deny parole with a two year review citing concerns for his continued relapses and serious violations of parole as a result of his drinking.

SPECIAL CONDITIONS: Parole on or after October 20, 2014 to a long-term residential program; no drug use; no alcohol use; AA (90 meetings in 90 days, then three times weekly); counseling for substance abuse 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.



Janis DiLoreto Smith, General Counsel

10/2/14

Date