



The Commonwealth of Massachusetts
Executive Office of Public Safety



PAROLE BOARD

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DECISION

IN THE MATTER OF

**DEMITRIAS SALLEY
W57534**

TYPE OF HEARING: Review Hearing

DATE OF HEARING: December 10, 2013

DATE OF DECISION: August 1, 2014

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, 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 testimony of the inmate at the hearing, 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 December 10, 2013, Demitrias Salley appeared before the Parole Board for a review hearing on a life sentence he is currently serving at MCI-Norfolk. In 2008, the Board denied parole to Salley following his initial parole hearing with a five year review date.

On November 22, 1994, in Norfolk Superior Court, Salley pleaded guilty to murder in the second degree and attempted armed robbery for which he received two concurrent life sentences.

On March 10, 1995, Salley's co-defendant, Samuel Michael Caze, was convicted by jury of murder in the first degree and attempted armed robbery. He is currently incarcerated at the Old Colony Correctional Center. On appeal, his conviction was upheld. *Commonwealth vs. Samuel M. Caze, 426 Mass. 309, 1997.* The facts of Salley's crime are recounted in the SJC's decision.

In May 1993, Caze, Salley's co-defendant, applied for a job at the McDonald's in Walpole, began working the closing shift on May 19, and quit on May 21. While he was employed there, Caze learned where the safe was located and how to gain access to the building from the rear. The clean-up and closing employees would routinely prop open the back door while they took out the trash at night.

A few days after Caze resigned, he and Salley planned to rob the McDonald's late at night, after closing. Late in the evening on May 31, Scott Down, a 19-year-old employee of the McDonald's, propped open the back door and took the trash out. Salley and Caze, both wearing masks, were hiding in the area. Salley, who was armed with a gun, grabbed Mr. Down. After a brief struggle, Salley shot Mr. Down in the shoulder. Mr. Down bled to death within one hour. Demitrias Salley was 20 years old when he committed the murder.

II. INSTITUTIONAL HISTORY

Overall, Demitrias Salley's institutional behavior has been poor. While awaiting trial at the Dedham House of Correction, Salley incurred three disciplinary reports, two of which were for threatening staff and the other was for fighting another inmate. In May 2001, Salley was returned from MCI-Shirley to the Souza Baranowski Correctional Center for failure to provide a urine sample, and was required to complete five weeks in the Interdiction Unit. Prior to his 2008 parole hearing, Salley incurred 13 disciplinary reports for several infractions including being out of place, insolence towards staff, use of disrespectful and obscene language, and engaging in a verbal argument causing a work stoppage despite receiving prior related warnings.

In its 2008 decision denying parole, the Board noted that it "remained troubled with Mr. Salley's disciplinary record. His actions, and the attitude he conveyed at the hearing, demonstrate continued criminal thinking and behavior." That Board noted Salley should "have a more positive institutional adjustment." Despite this clear instruction, Salley incurred several disciplinary reports since his 2008 denial. In 2010, Salley received a disciplinary report for disobeying a direct order and four for contraband-related offenses, which included his possession of 15 razors. As a result of his 2010 disciplinary reports, Salley was placed in the Special Management Unit for approximately 9 days. In addition, a 2010 Classification report stated Salley has been described by his housing officers as being very difficult and uncooperative.

While he has engaged in institutional programming, Salley last finished a program in 2010, having completed ABLE Minds and three phases of Alternatives to Violence. Salley received a Bachelor's degree in Liberal Studies from Boston University in May of 2010. He has also participated in a drafting class and obtained his welding license. Salley reported that he currently works five days a week in the Clothing Shop, and otherwise spends his time reading and writing.

III. PAROLE HEARING ON DECEMBER 10, 2013

Demitrias Salley appeared for his second parole hearing after being denied in 2008 with a five-year review. About the denial, Salley said, "I agree I didn't deserve parole. I pronounced the victim's name wrong; I was belligerent. I would never have given me parole; I wasn't ready." The Parole Board decision recorded not that Salley mispronounced the victim's name, but that he "was unable to recall the victim's name." The decision also emphasized a poor disciplinary record in prison.

Salley's record of program participation is mixed and leads to the conclusion that he is not committed to reform. He completed no programs between January 2000 and June 2009. A gap of nearly ten years is remarkable and shows a person who is not actively pursuing rehabilitation. The 2008 parole decision cited the lack of program participation which led Salley to complete several programs. In 2009 he completed Active Listening and Problem Solving. In 2010, he completed ABLE Minds and three phases of Alternatives to Violence. He was not enrolled in any program or activity at the time of this hearing, and his last program participation was in August 2010. He does have educational achievements. He graduated from Norwood High School and in prison obtained a Bachelor's degree in 2010 through the Boston University program. He obtained a welding certificate in 2006. When asked about his lack of active program work, Salley said, "I can't take no more programs, I'm maxed out." Salley is housed at MCI Norfolk and it is disingenuous to suggest there are not more programs and productive activities available to him.

The lack of effective program work was apparent in Salley's performance at the hearing. After misrepresenting the programs available to him at MCI Norfolk, he went on to provide more misinformation. Salley said that he pleaded guilty to spare the Down family "because I had put the family through so much." He denied that there was any self-interest involved in pleading guilty to second degree murder rather than going to trial for first degree murder. When asked about a motion for new trial he filed in 1999, Salley said, "That's not my motion for new trial; there's another Salley in the system; I never tried to withdraw the guilty plea." A Board member provided information to Salley that made it clear that the Board Members had information on the motion that definitively identified the motion as having been filed by Demitrias Salley seeking to withdraw his guilty plea for the murder of Scott Down. Confronted with solid information, Salley said, "As a matter of fact, now that you give me more information, I do remember it; a jail house lawyer did it; I didn't even read it." In the motion, Salley denied that he committed the murder. Board Members concluded that he was misleading when he said he pleaded guilty only due to his concern for the victim's family and was dishonest when he denied he did not file a post-conviction motion.

Lack of candor continued when a Board Member asked Salley about statements he made to a friend in Alabama, where he fled after the murder, in which he admitted the crime and showed a .25 caliber handgun (presumably the murder weapon) to the friend. Salley disparaged the witness as a "heavy gang member who was lying." All the facts in the investigative file, however, including the fact that the witness was a college student at Auburn, led Board members to conclude that Salley did make incriminating statements and display the murder weapon to the witness. This lack of candor is no longer necessary: for years Salley falsely maintained his innocence; now that he admits he shot Scott Down, he no longer needs

to discredit the Alabama witness. The unnecessary dishonesty, therefore, was apparently a reflexive lack of candor.

Scott Down's brother, sister, and aunt spoke in opposition to parole. Letters of opposition from Down's mother and father were read. Norfolk Assistant District Attorney Marguerite Grant spoke in opposition to parole. Salley's sister spoke in support of parole. She said, "I told him to tell the truth; he finally told the truth; our parents sent us in the right direction and he went in another direction; I feel he has changed."

IV. DECISION

Demitrias Salley shot Scott Down during a robbery and then spent many years denying or obfuscating his role in the murder. He was the shooter and he fired without provocation. Salley has not made an earnest commitment to reform. His program participation has been poor, with the exception of good activity in 2009 and 2010. He has not participated in a rehabilitative program since 2010. His lack of rehabilitation was clearly displayed at the hearing as he made serious misrepresentations to the Parole Board.

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. Salley does not merit parole because he is not rehabilitated. The period of review will be 5 years, during which Mr. Salley should invest in rehabilitation to address issues of criminal thinking, lack of candor, and empathy.

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 E. Casey, Chief of Staff


Date