



The Commonwealth of Massachusetts
Executive Office of Public Safety



PAROLE BOARD

12 Mercer Road
Natick, Massachusetts 01760

Deval L. Patrick
Governor

Andrea J. Cabral
Secretary

Telephone # (508) 650-4500
Facsimile # (508) 650-4599

Charlene Bonner
Chairperson

Janis DiLoreto Smith
Executive Director

DECISION

IN THE MATTER OF

TROY TOON

W66612

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: May 6, 2014

DATE OF DECISION: November 21, 2014

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, Ina Howard-Hogan, Tina Hurley, 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, and 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 a suitable candidate for parole. Parole is granted to an approved home plan after completing one year in lower security at the Department of Correction (DOC) during which time Troy Toon must maintain good conduct and comply with all DOC expectations for programs, activities, and employment.

I. STATEMENT OF THE CASE

On June 7, 1999, in Dukes County Superior Court, Troy Toon was found guilty of second degree murder and received a life sentence. On July 11, 1998, Toon stabbed to death Gary Moreis, age 36, during a street fight. The facts are derived from *Commonwealth v. Troy Toon*, 55 Mass. App. Ct. 642, 2002.

At about 10:45 P.M. on Friday, July 10, Moreis, who lived on Martha's Vineyard, had a chance encounter with his cousin, Evelyn Larkin. They socialized for about two hours at the Atlantic Connection, a local bar.

Toon, who was twenty-four, had come to Martha's Vineyard to visit his father and his brother, Ducas Matthews. Prior to the fatal altercation, Toon, Matthews, and an acquaintance, Maria Gomes, had been together all evening at a private residence. At about 11:30 P.M., they proceeded to the Lamp Post, another local bar. Because, at nineteen, Matthews was underage, he could not accompany Toon and Gomes inside the Lamp Post. He remained outside where he encountered Megan Jennings, who joined their group.

As the bars began to close, each group headed off. Larkin set out to drive Moreis to a campground where he lived with his girlfriend, Andrea Hayden. En route, Moreis asked Larkin to stop briefly at Warwick Avenue, where he owned a garage. Coincidentally, Toon, Matthews, Jennings, and Gomes were headed toward Warwick Avenue to locate a man named "Robert," some marijuana, and a party.

According to Toon's companions, Moreis had encountered Toon, Matthews, Gomes, and Jennings around 1:00 A.M. on Warwick Avenue. Moreis approached the group and yelled epithets, directed particularly toward Toon, asking what Toon was doing on Moreis' street. Moreis, who was five feet seven inches tall, 190 pounds, and well built, was acting "crazy."

According to Jennings, a confrontation began when Moreis approached and, amidst a barrage of profanities, called Toon a "pretty boy." Toon responded that he wasn't looking for trouble, but for "Rob." Meanwhile, Matthews sought to defuse the situation. Ignoring Matthews's attempts at diplomacy, Moreis continued to yell and called Toon a "pretty boy" and told Toon that he would "whip [his] ass."

According to Jennings, Toon said, "If you want to fight, we fight, but I am not going to back off because you are an older man. Knock it off, or I'll doink [stab] you." Moreis told Toon to go ahead and "doink" him, "if that's going to make you a bigger man." Moreis struck the first blow, grabbed Toon by the shirt and pushed him back against a van, but Toon was able to push Moreis off him. Toon told Moreis to back off him, but Moreis did not and continued to call Toon a "punk" and a "pretty boy," and told Toon to leave the area.

Jennings stated that when Moreis stepped back, she saw blood on Moreis' shirt.

Jennings (and all the witnesses) testified that Moreis continued to fight with Toon even after he had been stabbed. Moreis ripped off his shirt, grabbed Toon by the throat, and threw him against a van. He pummeled Toon, who fell against a car and onto the ground, skinning his knees. At this point, Gomes and Matthews intervened and pulled the combatants apart. Moreis leaned against a black pickup truck and grabbed a lawn chair from its open cab. Seeing this, Matthews armed himself with a table leg. Before the combatants could inflict further damage, a neighbor appeared, took the chair from Moreis, and declared an end to the fight.

Jennings related that later that night, Toon said to her: "I don't know why this even happened, because I don't know him and he came in my face was [sic] starting with me, and I warned him to back off and he wouldn't back off." Toon told her that when they started fighting "I didn't feel the knife come out. I only got him once."

There was no dispute that at the conclusion of the fight the injuries to Toon consisted of a skinned knee, a swollen eye, and bruised knuckles. Also undisputed was that Moreis had never displayed or threatened to use a dangerous weapon.

II. INSITUTIONAL HISTORY

Troy Toon has incurred only three¹ disciplinary reports during his incarceration. His most recent disciplinary report was on November 17, 2009 for taking clothes and other accessories from the property department where he worked. The prior two reports were for possession of unauthorized items in 2009 and misuse of the telephone in 2007.

Toon focused his early years of incarceration on his religious education and development. He completed more than 25 courses in theological studies during the first three years of incarceration. He participated in ten different Toastmasters courses over the years. He completed several rehabilitative programs including all three phases of Alternatives to Violence (having also participated as a facilitator or in the facilitators' support group for ATV multiple times), Active Listening in 2012, the Beacon program and Project Youth in 2011, the Correctional Recovery Academy (CRA) in 2009, multiple phases of Fathers' Group 2005-2006, Anger Management in 2005, Emotional Awareness in 2004 and two phases of the Second Thoughts Program in 2003. Additionally, Toon worked through the years bettering his education and learning vocational skills. He earned his GED in 2005, completed Training for Cadres in 2004, Law Clerk Training, Computers for Schools Program, Culinary Arts Program, ServSafe Certification, Money Smart Program, Basic Computer Skills, and a Construction Site Safety Course between 2005 and 2013.

III. PAROLE HEARING ON MAY 6, 2014

Troy Toon appeared for his initial parole hearing after having served 16 years on his life sentence. He postponed his first hearing awaiting legal representation. Northeastern University Law School student attorney, Samantha Lednicky, represented him. Toon made a brief, sincere apology to the victim's family and Ms. Lednicky gave an opening statement in which she informed the Board that Toon had participated in over 100 rehabilitative programs and incurred only three disciplinary reports during his incarceration. She noted that none of his discipline reports involved drugs or violence. Toon credited his ability to avoid drugs and alcohol in prison to his commitment to the Bible and his completion of the CRA, The Most Excellent Way Program, Introduction to Treatment and participation in Alcoholics Anonymous for two years.

To address his anger issues, again Toon mentioned his religious beliefs but also his participation in Fathers' Group, Menswork, Anger Management, and the several phases of Alternatives to Violence which he started in 2005 and graduated to a facilitator position in 2008. Other rehabilitative programs he completed include Emotional Awareness, Beacon, Active Listening, and Inmate Self Improvement. Toon earned his GED, received vocational training in computers, culinary arts, and clerical work, and actively participated in the Second Thoughts Program and Project Youth, which he went on to explain to the Board that "it really works for

¹ Department of Correction records reflect Toon received disciplinary reports dated May 29, 2007, February 22, 2009, and November 17, 2009, as described above. In Toon's Memorandum in Support of Parole, it is contended he had "only two disciplinary reports in his entire time incarcerated," Memorandum, page 6. Two of the reports had "guilty" dispositions, while the February 22, 2009 report had been "continued without a finding."

the right kind of person." He immersed himself very early in religious pursuits and has maintained a strong bond with religion. Toon seeks to live with his fiancé after a period of transition in lower security, pre-release and a short time at his mother's house.

Troy Toon provided some information about his upbringing and what his life was like just prior to the crime. "I was raised by my Mom with my brother and sister. My Mom worked at a family owned beauty shop in Boston. I grew up in Boston almost my entire life. I was always trying to be the man of the house and always had the responsibility of taking care of my siblings. I always had odd jobs like snow shoveling; I always worked. I went to elementary school and middle school in Roxbury. When I was around 15 years old my mother moved us out of the city to Canton because she thought we were going down the wrong path and I resented her for that. I was still going into the city to hang out with my friends. I was mad at her because I did not see the value in moving away from my friends. I did not take school seriously because I was working. I had a one year old son at the time and was desperate to support him any way I could. I was working at Harvard University in the Nynex division on campus where I worked for two and a half years before dropping out of Madison Park High School in the eleventh grade and working at a recreation facility at MIT. I would get up in the morning, go to work, go home after work, smoke pot with my two roommates I was living with in Roxbury and go to clubs at night with friends where I would get into trouble and be promiscuous. I was basically making bad decisions." Toon admitted that he tried selling marijuana at one point but he "liked smoking it too much."

Troy Toon described the crime. "I was 24 years old and I had just gone to Martha's Vineyard for Fourth of July with friends and ran into my half-brother who told me my father had a construction/landscape business which I didn't know about. Since I had just lost my job of two years at MIT, I started working with my father. I had only been on the Island for three days prior to the incident, but my father had promised that I would get paid at the end of each day. I wasn't happy with the fact that he hadn't paid me and I decided I would return to Boston. On the night of the murder, my brother and I went to a club with two girls that my brother knew. My brother couldn't get into the club, so I went in with one of the girls for about a half hour."

Toon continued, stating, "After that I suggested we try to find some marijuana. The girls found someone that could get some so we went to meet them at a particular street. Once we got there, we got out of the car and started walking toward the girls and I noticed one of them sort of looking passed me in a panicked way. I turned around and saw a man that appeared very irate about us being on that street. Being the oldest, I felt it was my duty to diffuse the situation and told the man, Mr. Moreis, that we did not want trouble and that we were looking for someone else. Instead, the situation escalated. I did not want to back down, I was the oldest of our group and I had a weapon."

Toon explained that he had gotten the 5-inch folding pocket knife while applying for a job that his Uncle had lined up for him at the Boston Harbor Cruise. Although he did not take the job, he continued to carry the knife, not using it until the night he stabbed Mr. Moreis. Toon continued, "I could have walked away and I was hoping that maybe something I said would make him back down. I said things like, 'I'm not a punk' and 'I'm not a little boy'. Mr. Moreis became more angry with everything I said and finally I said that if he didn't stop, I would "doink" him, meaning stab him. This made him even angrier, he punched me and we

began to fight. He had me pinned against a car and was winning the fight when I decided to do the cowardly thing and stab him. I reached in my pocket as we were face to face, opened the knife and stabbed him once in the side. After he was stabbed we continued to fight until some neighbors came and told everyone to leave. We got in our cars, went back to the house where I cleaned up, as I was covered in blood, and I went to sleep. The next day, I went to work the last day with my father, heard that Mr. Moreis was seriously injured and I hoped he would be alright. I found out a little later that he had died. Later that afternoon, State Troopers came to the house and I went outside and told them that I was the one that stabbed Mr. Moreis. I have been incarcerated ever since."

Toon described his institutional adjustment by starting to tell the Board that he had never been to jail before and it was very hard on him. He further stated that "I didn't get into any trouble while awaiting trial on the Island. It was just so lonely and it was a difficult transition. After being sentenced, I went to Souza Baranowski for three years where I immediately began to work on improving myself. I worked as a unit runner and in the property department. I had a lot to change especially about how I dealt with things. I never wanted to be mad enough to kill someone."

Toon had difficulty speaking at this point and was helped by a Board Member to explain his feelings. Toon said that he hated that he was "putting everybody through this." He continued, "I had problems with anger, pride and ego and I wanted to change that. I turned to the Bible. I had gone to church a few times in my life, but never really studied the Bible. Twenty-three hour lock-down and visits with a volunteer who was a friend of the Moreis family is what really brought me close with the Bible. It became a part of my life and I have tried throughout my incarceration to bring it with me to every prison I have been to by starting or participating in Bible studies." Toon continued to talk of his religious convictions and commitments telling the Board about his attendance at Protestant services before becoming a Jehovah's Witness.

Toon talked about his time at MCI-Shirley explaining that, "I was there for seven years and was impressed with the programs that were available like Alternatives to Violence (ATV). Before taking that program, I did not know that there were alternatives to violence. I learned a lot from Emotional Awareness and Anger Management. I learned how to not be so prideful and egotistical. I got my GED, became the school clerk, learned some computer programming and participated in the Computers for Schools Program, where we would refurbish computers and donate them to kids that could not afford them. I did the culinary arts program and worked as a unit runner, a clerk at the barbershop, and in the property department. To address my previous drug and alcohol issues, I completed a Christian based substance abuse program called the Most Excellent Way, the CRA, Alternatives to Violence and studied the Bible. I have never drank 'homebrew', smoked marijuana or did any other drugs since being incarcerated."

Toon was transferred to Concord in 2010, after spending five months in segregation and explained to the Board that "I made a really bad decision at Shirley while I was working in the property department when I circumvented procedures and kept clothing that was supposed to be returned. I felt awful about violating the trust of so many officers there, that I wanted to be transferred so I could get a fresh start. Now, I work as a library clerk. I helped start the ATV program and ATV support program and I still participate today. I became the second person ever to get baptized as a Jehovah Witness and attend meetings once a week."

Concerning his parole plan, Troy Toon told the Board that he plans on continuing with his study of the Bible and helping spread the word of Jehovah. "I have a lot of employment opportunities including working for a limousine company as a dispatcher, working in retail at a cellular phone store and a restaurant. I have reached out to the SPAN program because I think they would be a good organization to get involved with as they have support groups, job readiness and mentor programs. I have learned the value of mentor programs because they have helped me very much."

Troy Toon's mother, fiancée and two friends spoke in support of his release. Russell Martin explained that he has known Toon since he was 14 years of age, lives in Florida now, and has used his Boston connections to make sure Toon has employment upon his release. His fiancé, Monet Foxx, spoke about their relationship that started at the age of sixteen. She told the Board about Toon describing him as her best friend, a great and patient listener with a remorseful spirit. She believes that they have talked about the future and actively plan for a hopeful release and a chance to build on their strong foundation. Three members of Gary Moreis' family spoke in opposition to Toon's parole, suggesting that he has not sufficiently addressed his anger issues and needs some mental health treatment.

Ms. Lednicky gave a closing statement on behalf of Toon and emphasized her client's efforts to rehabilitate himself and the strong support system in place should he be released.

IV. DECISION

Troy Toon has served 16 years of his life sentence for the murder of Gary Moreis. Toon has made significant efforts to improve his conduct during his period of incarceration. He earned his GED in 2005 and started rehabilitative programming to address issues of violence, anger, and substance abuse. Those efforts succeeded, as he has only three disciplinary reports in prison. He has considerable programming addressing his issues with violence and anger. He has remained a father to a daughter and a son, who are in their 20's, and he successfully completed fatherhood programming. He presents no current risk for violence.

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 Troy Toon is a suitable candidate for parole. Parole is granted to an approved home plan after completing one year in lower security at the Department of Correction.

SPECIAL CONDITIONS: Parole to an approved home plan after one year in lower security; supervise for drugs, testing in accordance with agency policy; supervise for liquor abstinence, testing in accordance with agency policy; report to assigned Massachusetts Parole Office on day of release; counseling for adjustment 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.


Caitlin E. Casey, Chief of Staff

11/21/14
Date