



The Commonwealth of Massachusetts
Executive Office of Public Safety



PAROLE BOARD

12 Mercer Road
Natick, Massachusetts 01760

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

Deval L. Patrick
Governor

Timothy P. Murray
Lieutenant Governor

Mary Elizabeth Heffernan
Secretary

Josh Wall
Chairman

RECORD OF DECISION

IN THE MATTER OF
GARY PHILLIPS

W36959

TYPE OF HEARING: Review Hearing

DATE OF HEARING: April 14, 2011

DATE OF DECISION: October 3, 2011

PARTICIPATING BOARD MEMBERS: Cesar Archilla, John Bocon, Dr. Charlene Bonner, Ina Howard-Hogan, Roger Michel, Lucy Soto-Abbe, Josh Wall

DECISION OF THE BOARD: Gary Phillips murdered a 77-year-old woman by beating her to death with a mallet and a hammer. The victim's dress was pulled up and her nylon stockings were pulled down to her ankles. He seeks parole from a life sentence for second degree murder. He has served 33 years of the life sentence. His criminal history involves multiple violent offenses against women; he also committed an act of open and gross lewdness in 1993 while on day release from his life sentence commitment. He insists that he has no specific issues regarding women, has never committed a sexual offense, and needs no specific program or treatment addressing his violence against women or his sexual criminal thinking. He insists that he has never acted with a sexual motive, despite abundant evidence to the contrary. The Parole Board concludes that Mr. Phillips' rehabilitation is incomplete and his release would create an undue risk of another offense against a female victim. Mr. Phillips does not meet the legal requirements for parole; accordingly the Parole Board denies his request for parole and sets a review in four years. The decision is unanimous.

I. STATEMENT OF THE CASE

Gary Phillips committed an especially vicious murder by hammering to death his elderly neighbor, Daisy Loncrini, on May 21, 1978, in Agawam. Mrs. Loncrini was 77 years old. Gary Phillips was 19 years old and lived in an apartment with his mother and stepfather; Mrs.

Loncrini lived by herself in an apartment in the same small apartment building; she was friendly with Mr. Phillips' mother. Mr. Phillips spent the afternoon of May 21 drinking alcohol to excess; in the late afternoon he was in the basement of the apartment building. The basement was used by his stepfather as an upholstery workshop.

Mr. Phillips says that he was playing music loudly while he was drinking in the basement. He says that Mrs. Loncrini came to the basement shortly after 4:00 p.m. and asked him to turn down the music. Mr. Phillips responded by picking up an upholstery mallet and swinging it forcefully into Mrs. Loncrini's face multiple times. Mr. Phillips switched from the mallet to a hammer. He swung the hammer with force and hit Mrs. Loncrini in the head multiple times. Mr. Phillips admitted these facts – multiple blows with each weapon used – when he testified during the plea colloquy at the sentencing hearing in Hampden Superior Court on February 9, 1979. A transcript of the hearing was available for use by the Parole Board. The autopsy report is not available from the police, the district attorney, or the inmate. Police reports record the opinions of the medical examiner that, based on the shape of the wounds, two different weapons were used to cause blunt force trauma and Mrs. Loncrini was struck multiple times.

Mr. Phillips hid the body by covering Mrs. Loncrini under a plastic bag and placing her behind a pile of boxes in the basement. He put the mallet, a bloody towel, and the victim's eyeglasses in a paper bag and threw the bag in a dumpster behind the apartment building. Police found the bag in the dumpster; they also recovered the hammer from the workshop. Mr. Phillips' fingerprint was found on the eyeglasses.

There are several facts, which in combination, tend to show a prurient and sexually perverse motivation for the crime. The responding officer was Robert D. Campbell, who is currently the police chief in Agawam. Officer Campbell testified at the sentencing hearing on February 9, 1979. Photographs of the body cannot be located currently by the police, district attorney, or defense. Facts presented at the sentencing hearing do, however, document the condition of the body. The photographs of the body were in the courtroom and accepted as evidence at the hearing. Officer Campbell testified that the "nylon stockings had been pulled down around the ankles and the dress had been pulled up to the chest area." After that statement, a photograph was immediately introduced, apparently to show the body as it had been described. Defense counsel raised no objection or contention to that testimonial description; in cross-examining Officer Campbell, defense counsel did not contest the description of the dress or the nylon stockings, or the use of the word "pulled;" likewise Mr. Phillips offered no disagreement with those descriptions when he testified at the sentencing hearing. According to a police report, "the undergarments appeared partially torn." There was human hair located on the victim's bare leg; FBI analysis established that the hairs recovered from the victim's leg were microscopically similar to Mr. Phillips' hair. There is an additional fact, this one related to Mr. Phillips' clothing, that contributes to the evidence of perverse motive. In the Phillips apartment, police recovered from a hamper the clothing Gary Phillips wore during the murder. Predictably, his shirt worn during the murder and clean up contained stains of human blood. Disturbingly, his underwear worn during the murder and clean up contained stains of human blood. These facts are recorded in the transcript of the sentencing hearing.

In attempting to conceal and distance himself from the crime, why would Mr. Phillips feel the need to change his underwear, and why would his underwear have blood, presumably Mrs. Loncrini's, on it? (There is no evidence and has never been any suggestion or claim that Mr. Phillips was bleeding.) These questions cannot be answered definitively 33 years later; but all of the most likely answers, in combination with other established facts, compel a conclusion of perversity and prurience as part of the motive. At this point, it is not necessary to know whether Mr. Phillips murdered solely for that sexual motive or that motive developed as the crime progressed; it is also not necessary to know how Mr. Phillips acted out the sexual aspect of the crime; it is only necessary to know, based on the facts, that Mr. Phillips acted at some point with that motive and his rehabilitation process must address that issue.

Parole has been previously denied in 1994, 1997, 2002, and 2006. (A review hearing in 2005 resulted in a tie vote as the Board had only six members at that time; because of the tie, the Board placed the review on the next available list, which led to the 2006 hearing and denial.) It is clear that Mr. Phillips had a very poor institutional record through 1993 (at least 27 disciplinary reports), and that his conduct improved considerably since 1993. He has not received another disciplinary report, and he has completed numerous programs, participated in AA, and been trained as a welder. According to the 2006 decision, the Board concluded that, even 28 years after the murder, Mr. Phillips "did not accept full responsibility."

II. OTHER CRIMINAL CONDUCT

Mr. Phillips has other conduct which resulted in criminal convictions; that conduct is of an alarming nature and pertains to issues of rehabilitation and public safety. Mr. Phillips was on bail for a series of robberies when he murdered Daisy Loncrini; he pleaded guilty to five unarmed robberies on July 7, 1978. In each of the robberies, Mr. Phillips and his step-brother selected a female victim carrying a purse, assaulted the victim, grabbed the purse, and fled. Police reports show that the amount of force used against the women varied, but that the incidents are accurately characterized as robberies; they were not "handbag snatches."

On August 30, 1993, Mr. Phillips committed an offense of open and gross lewdness while he was on a day release from state prison. A family of three, together in a car stopped at a stoplight near Metro West Medical Center in Framingham, observed Mr. Phillips on the sidewalk with his pants unzipped, his genitals exposed and visible to the family, in the act of fondling his genitals. As Mr. Phillips exposed and fondled himself, an elderly woman was on the same side of the street walking towards him. The family warned the woman and immediately reported the offense to police. Police stopped Mr. Phillips in the vicinity, and the family members identified him as the man they saw committing the lewd offense. All three family members (father, mother, and 13-year-old girl) gave detailed and consistent accounts to police on the day of the crime. Police interviewed Mr. Phillips on August 30 and he denied any exposure. He did not offer the explanation that he now provides (the current explanation is that he was innocently in the act of public urination).

Mr. Phillips admitted to the offense in pleading guilty to open and gross lewdness on October 12, 1993.

Mr. Phillips was charged with rape in October 1977 in Springfield District Court; the charge was dismissed in December 1977. The case concerned sexual conduct with a 16-year-

old female acquaintance. The girl initially reported to police that Mr. Phillips handcuffed her to a radiator and had forcible sex with her. She later recanted the allegation of force, and the case was dismissed. At his parole hearing, Mr. Phillips asserted that he handcuffed the girl to the radiator with her consent, they had consensual sexual activity, and the girl fabricated the allegation of force because she had a boyfriend. In a psychological evaluation in custody in 1982, Mr. Phillips gave a different version. He told Dr. Robert Morse that he was present when his cousin handcuffed the 16-year-old girl and that he and his cousin then left the apartment. In 1982, Mr. Phillips did not describe consensual sexual activity or any known motive for the girl's alleged fabrication. Concerning this incident, there is insufficient information currently available for resolving the factual disputes; therefore, it was not used in making the parole decision.

III. PAROLE HEARING ON APRIL 14, 2011

Gary Phillips opened the hearing with an apology. Student attorney Liza Hirsch made an opening statement for Mr. Phillips. She described the positive aspects of Mr. Phillips' institutional behavior. She acknowledged Mr. Phillips severe drinking problem and stated he had been involved in AA since the beginning of his sentence. Mr. Phillips' parole plan includes living with his adult daughter and seeking employment as a welder.

Gary Phillips was adamant and unyielding on the following points: (a) he had no sexual motive at or near the time of the murder; (b) the victim's clothes were misplaced as he dragged the body and for no other reason; (c) he did not intentionally expose himself in 1993; instead, he was urinating due to urgency and he had no intent that anyone see him; he was therefore innocent of a criminal offense, but he pleaded guilty based on mistaken advice from his lawyer; and (d) he does not need sex offender treatment because he has never committed a crime with a sexual motive. Mr. Phillips acknowledged that he has never received counseling or programming that specifically addresses his criminal pattern of victimizing women.

Shana Phillips spoke in support of her father; she also read a letter of support from her son. Mr. Phillips' student attorney read a letter of support from the inmate's sister, who resides in Springfield. Dr. Leonard Bard, a licensed psychologist, testified in support and submitted a written psychological evaluation. Dr. Bard is of the opinion that Mr. Phillips does not need sexual offender treatment and that he presents a low risk of committing a sexual offense if paroled. Dr. Bard stated at the hearing that there is no evidence that the murder involved a sexual assault. He said that he accepts Mr. Phillips' explanation that the victim's clothing was displaced when Mr. Phillips dragged the victim. Dr. Bard's report attaches little or no significance to Mr. Phillips' conviction for open and gross lewdness in 1993. At the hearing, Dr. Bard said that he accepts Mr. Phillips' explanation that he was viewed in the act of public urination and had no intent to expose himself to another person. Because Dr. Bard based his conclusions on the inmate's denials without performing objective analysis of independent facts, the value of his report and opinions is greatly diminished.

Assistant District Attorney Diane Dillon opposed parole, and submitted police reports for use by the Parole Board. At the hearing, there was discussion about whether Mr. Phillips might have murdered the victim in her own apartment rather than the basement, or might have entered the victim's apartment immediately after the murder. After reviewing all reports and the sentencing transcript, the Parole Board concludes that no activity connected to the crime

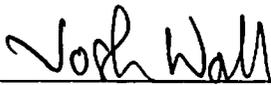
took place in the Loncrini apartment. The apartment referenced in reports where blood was found was the Phillips apartment.

As previously described in the Statement of the Case, the Board does conclude that facts show that Mr. Phillips acted, at least in part, with a sexual motive at or near the time of the murder. The Board also concludes, as previously stated in Other Criminal Conduct, that Mr. Phillips did intentionally expose and fondle himself in public during a prison release in 1993, and that he made false statements concerning the incident to the Board during the hearing. The false statements create a serious credibility issue that will need to be addressed at his next parole hearing. The Board also concludes that Mr. Phillips' criminal motives and thinking led him to target females as victims, and he has not recognized or rehabilitated that aspect of his criminal character.

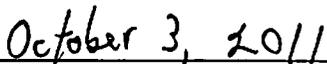
IV. DECISION

Mr. Phillips comes before the Parole Board with a very disturbing history. He brutally murdered a 77-year-old woman. Mr. Phillips disputes a sexual motive, but the facts introduced in evidence at the sentencing hearing show otherwise. In addition, Mr. Phillips exposed and fondled himself in public during a day release from prison in 1993. The accounts of the three witnesses are clear, definitive, and trustworthy. Mr. Phillips pleaded guilty to the criminal offense of open and gross lewdness. Mr. Phillips also committed a series of robberies against women; he was on bail on those charges when he murdered Daisy Loncrini. Mr. Phillips denies certain facts about his past conduct and he does not recognize his specific needs. As a result, he has not used program opportunities to address his conduct and criminal thinking that concern women and sexual motivation. Mr. Phillips has taken the position that he does not need any specific treatment to address either sexual deviation or violence against women. Given the facts of the murder and the facts of Mr. Phillips' other criminal conduct, that position of rejecting additional treatment is not compatible with the welfare of the public and does not give the Parole Board a basis to conclude that it is reasonably probable that he would not re-offend if released. Mr. Phillips denies he needs additional treatment to address specific aspects of his criminal thinking; the Parole Board, therefore, denies his request for parole. His release would create an undue risk of another offense against a female victim. The review will be in four years.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing.



Josh Wall, Chairman



Date