STATE OF NEW YORK
EXECUTIVE DEPARTMENT : DIVISION OF PAROLE

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MINUTES OF PAROLE BOARD HEARING

INITIAL APPEARANCE

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INSTITUTION: ORLEANS CORRECTIONAL FACILITY

(Taken by teleconference from 125 Main
   Street, Buffalo, New York)

DATE: Tuesday, December 6th, 2005

BEFORE: COMMISSIONER DAIZZEE D. BOUEY

COMMISSIONER WILLIAM CROWE

COMMISSIONER JOHN CAPACCI

HEARING REPORTER: Rebecca L. DiBello
BY COMMISSIONER CROWE:

Q. Are you [redacted]?
A. Yes.
Q. I'm Commissioner Crowe. Joining me on the panel to my left is Commissioner Bouey. And to her left is Commissioner Capacci. You are here making your initial appearance before the Board. You are here having been convicted by a number of -- having been convicted of a number of felonies by plea. That being robbery first four counts, criminal use of a firearm first, three counts, robbery second two counts, burglary first and criminal possession of a weapon second. Those were all by plea and then murder second for which you received a consecutive twenty to life sentence and that was by verdict, is that correct?
A. Yes.
Q. And your aggregate sentence is 22 to life. You've now served your 22 year minimum and I would just caution you that off camera we're making a record of the proceeding here and anything that you say will be taken down. The record indicates that you were -- when you were just a teenager, seventeen years old, participated in a series of armed hold-ups, break-ins, thefts and during the course of one of those back in 1984 your 40 year old male victim was shot twice and died as a result of his injuries. Do you want to talk about the crimes of conviction?
A. Which one?

Q. Well, did you commit a bunch of armed robberies?

A. Those I pled guilty to, yeah, I was guilty of those.

Q. But you say you're not guilty of the murder?

A. Well, I wasn't the trigger man, I was the lookout man.

Q. So you were present when this guy lost his life?

A. Yeah.

Q. Needless to say, it looks to me as I review your history that you were out of control back then, weren't you?

A. I was a stupid young kid.

Q. Well, you were a violent young kid. You were a bad kid. Absolutely, weren't you?

A. Yes, you could say that.

Q. And now here you are 39 years old. Over half your life has been spent in state prison?

A. Yes.

Q. So what do you think about all that?

A. I made a stupid mistake. I was young and stupid.

Q. You did some bad things. Now, as I look at your institutional history, its not good either, is it?

A. No.

Q. You come in from the box and you have approximately -- and I may be off one or two, 43 tickets. 28 of which are
at the Tier III level, is that about right?

A. Yes.

Q. Why so many tickets?

A. I don't even know. Four was for smoking marijuana.

Q. Yes, drugs in prison, weapons, violent conduct, a lot of drugs, a lot of drugs. So this is what it tells me -- and I need for you to either agree with me or disagree with me and if you disagree with me tell me why. You come into prison as a young man with a terrible history of violence. Armed robberies, a homicide, bad crimes. Then over 22 years you continue to be a bad guy. You use drugs, you possess weapons, you get in fights, so to me it looks like you still don't get it. Do you agree with that or do you disagree?

A. Well, I get it. I just am living a crazy world in here.

Q. But you know, you're right. Prison is a bad place. I don't disagree with you. I wouldn't want to spend five minutes in there, much less 22 years, but I will also tell you that in my experience as a commissioner, I have people come before me who have committed every bit as heinous and violent and vicious of crimes as you have and for 10, 15, 20, 25 years they don't get a ticket. And the point I'm trying to make to you is that it may be difficult, but it can be done. Do you see what I'm saying?

A. Yes.
Q. So you need to really take a look at yourself. You have to look inside and you have to do it. You have to make sure you don't commit violations of the rules in a serious way and you don't get tickets and I think that's your first step, don't you, toward becoming a better person?

A. Yes.

Q. Have you done anything positive in prison?

A. Well, the only job title I got was carpentry. That's the only thing I really liked.

Q. Okay. Have you been able to complete any therapeutic programs, ART or ASAT?

A. I tried to while I was here but they denied me. They denied me.

Q. Were you using drugs out on the outside?

A. Only smoking marijuana.

Q. You've continued to do that in prison as recently as January. Okay. What else would you like to say to us today?

A. Everything I have to say I wrote it on paper. It's in front of you in those letters I have there.

Q. And let's see what we have. We have a letter dated December 5th. I have got a letter that was received November 30th that was dated November 14th from Dr. Hussein. Okay. We've got everything in the file then and we'll certainly consider all these things. You wrote a letter to Chairman
Dennison which we've received and that was received November 15th. Is that what you're referring to?

A. Yes.

Q. Okay. We'll certainly consider all these things in our decision making.

Commissioners, any further questions?

COMMISSIONER BOUEY: Nothing else.

COMMISSIONER CAPACCI: No questions.

Q. Thank you. We'll let you know in a few days.
(After due deliberation by the Parole Board Panel, the following Decision was rendered:)

**DECISION**

Denied 24 months. Next appearance 12/07.

Upon a review of the record, personal interview and due deliberation, it is the determination of the panel that parole is denied. You are presently incarcerated upon your conviction of robbery first four counts, criminal use of a firearm first, three counts, robbery second, two counts, burglary first and criminal possession of a weapon second, all by plea and murder second by verdict. You committed a series of in concert armed hold-ups during the course of one of which your male victim was shot twice resulting in his death.

Your overall institutional performance can best be described as poor. You have incurred approximately 15 Tier II and 28 Tier III infractions. Discretionary release is inappropriate at this time. The vicious and violent pattern of your criminal conduct, coupled with your poor institutional behavior make your release at this time incompatible with the public safety and welfare. Your continued incarceration is therefore warranted.

Guidelines unspecified.

(All Commissioners concur.)
RE: AT: Orleans Correctional Facility

(Taken by teleconference at 125 Main Street, Buffalo, New York)

ON: Tuesday, December 6th, 2005

CERTIFICATION

I, Rebecca L. DiBello, Notary Public, in and for the State of New York, do hereby certify that the foregoing is a true and accurate transcription of the proceedings reported stenographically by me in the matter herein at the time and place as set forth in the caption hereof.

Rebecca L. DiBello

Rebecca L. DiBello

Qualified in Erie County

My Commission Expires May 11, 2007
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**State of New York - Division of Parole**

**FORM 9026**

**Parole Board Release Decision Notice**

**Date:** 03/25/09

**Name:** [Redacted]  
**DIN:** [Redacted]  
**Nysid:** [Redacted]  
**Facility:** ORLEANS  
**Interview Date:** 12/06/2005  
**Interview Type:** INITIAL

**ME Date:** LIFE  
**CR Date:** NONE  
**Prev Hold:**

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**Sentencing Counties:** KINGS

**Jail Time in Days:** 0335  
**Prison Time in Months:** 253

**OFFENSE SCORE**

**Felony Class:** A  
**Weapon Involvement:** YES  
**Forcible Contact:** DEATH

**PRIOR CRIMINAL HISTORY SCORE**

**Misdemeanor Convictions:** 0 THRU 2  
**Jail Terms:** 0 THRU 1  
**Felony Convictions:** 1  
**Prison Terms:** 0  
**Probation/Parole Revocations:** NO  
**On Probation/Parole:** YES  
**Guideline Ranges:** UNSPECIFIED

*= INMATE COPY*
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State of New York - Division of Parole
Parole Board Release Decision Notice

Name: INELIGIBLE
DIN:
Nysid:

Facility: ORLEANS
Interview Date: 12/06/2005
Interview Type: INITIAL

Earned Eligibility Certificate: INELIGIBLE
Supervision Fee: ELIGIBLE
Certificate of Relief from Disability: INELIGIBLE

Parole Decision:
DENIED - HOLD FOR 24 MONTHS, NEXT APPEARANCE DATE: 12/2007

Conditions of Release/Staff Instructions/Reasons for Denial:

UPON A REVIEW OF THE RECORD, PERSONAL INTERVIEW AND DUE DELIBERATION, IT IS THE DETERMINATION OF THE PANEL THAT PAROLE IS DENIED. YOU ARE PRESENTLY INCARCERATED UPON YOUR CONVICTION OF ROBBERY 1ST (4 COUNTS), CRIMINAL USE FIREARM 1ST (3 COUNTS), ROBBERY 2ND (2 COUNTS), BURGLARY 1ST AND CRIMINAL POSSESSION OF WEAPON 2ND, ALL BY PLEA, AND MURDER 2ND, BY VERDICT. YOU COMMITTED A SERIES OF IN CONCERT ARMED HOLD-UPS DURING THE COURSE OF ONE OF WHICH, YOUR MALE VICTIM WAS SHOT TWICE, RESULTING IN HIS DEATH. YOUR OVERALL INSTITUTIONAL PERFORMANCE CAN BEST BE DESCRIBED AS POOR. YOU HAVE INCURRED APPROXIMATELY 15 TIER II AND 28 TIER III INFRACTIONS. DISCRETIONARY RELEASE IS INAPPROPRIATE AT THIS TIME. THE VIOLENT AND VIOLENT PATTERN OF CRIMINAL CONDUCT COUPLED WITH YOUR POOR INSTITUTIONAL BEHAVIOR MAKE YOUR RELEASE AT THIS TIME INCOMPATIBLE WITH THE PUBLIC SAFETY AND WELFARE. YOUR CONTINUED INCARCERATION IS, THEREFORE, WARRANTED.

Comments:

FOLLOWING DELIBERATION, THIS DECISION IS BASED ON REVIEW OF THE CASE RECORD AS WELL AS THE INTERVIEW WITH PAROLE BOARD MEMBERS.

F.P.O. II : JOHN L. HUNTZINGER

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