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Parole Interview Transcript/Decision - FUSL000003 (2007-12-04)

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COPY

STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF PAROLE

In the Matter of

[REDACTED]

DIN#

[REDACTED]

NYSID#

[REDACTED]

INST.

MARCY C.F.

HELD AT:

Marcy Correctional Facility
Marcy, New York

Parole Board Hearing

Tuesday, December 4, 2007

BEFORE: COMMISSIONER G. KEVIN LUDLOW Z
COMMISSIONER LISA ELOVICH S

PRESENT: DAVE BLAIR, FPO II
MARK RECCHIO, FPO II
PHILIP SCHILLACI, FPO I

DIANA FREUND, HEARING REPORTER

DIVISION OF PAROLE
RECEIVED

DEC 24 2007

MARCY CORR. FACILITY

1 BY COMMISSIONER LUDLOW:

2 Q. You are [REDACTED]?

3 A. Yes.

4 Q. Good afternoon, sir.

5 A. Good afternoon.

6 Q. I'm Commissioner Ludlow. With me is Commissioner Elovich.

7 COMMISSIONER ELOVICH: Hello.

8 INMATE: Hello.

9 Q. This is your second appearance before the board, sir.
10 You're 41 years old?

11 A. Yeah.

12 Q. You pled to Robbery 1st, Criminal Use of a Firearm 1st,
13 Robbery 1st, Burglary 1st, Criminal Use of a Firearm 1st,
14 Robbery 2nd, Criminal Possession of a Weapon 2nd, Robbery 1st,
15 Robbery 1st, Criminal Use of a Firearm 1st, Robbery 2nd, and you
16 were found guilty by verdict to Murder 2nd, an A-1 felony and
17 sentenced 20 to life. Aggregate term is 22 to life. Is that
18 all correct?

19 A. Yes.

20 Q. Do you have any appeals pending on the Murder 2nd, or do
21 you anticipate filing any appeals?

22 A. No. Everything was shot down.

23 Q. Nonetheless, I call your attention to the fact that we're
24 taking a record, a stenographic record of the interview today.
25 Every word we discuss is being reduced to a written transcript.

1 It's possible that that transcript will find its way to other
2 public forums. We caution you about what you might say about
3 this crime so as not to compromise or jeopardize any future
4 opportunity you may have for an appeal. You may decline to
5 discuss the terms and circumstances of this crime, if you wish.
6 We will hold that against you. Do you understand that, sir?

7 A. Yes, I do.

8 Q. Are you maintaining your innocence as to the Murder 2nd
9 verdict?

10 A. Yes, I am.

11 Q. We respect that, sir.

12 Were you offered a plea bargain prior to trial on the
13 Murder 2nd?

14 A. They offered me 20 to life.

15 Q. 20 to life. So that didn't amount to any offer, really,
16 right?

17 A. Yeah.

18 Q. Offer in name only, right?

19 A. Yeah.

20 Q. The 20 to life is consecutive, giving you the aggregate of
21 22 to life. You've been in a long time, sir. We recognize
22 that. 24 years, is that right?

23 A. Yeah.

24 Q. Yes. You had codefendants, at least four that I can see.
25 What we're talking about here in October of '83 is what appears

[REDACTED]

1 to be four armed robberies with you and at least one other
2 accomplice, all in Brooklyn. On the fifth occasion, which
3 occurred in February of '84, the 40-year-old victim -- what I
4 assume was to be a robbery, actually was shot twice and died as
5 a result of those wounds inflicted in the course of the robbery,
6 is that right?

7 A. Uh-huh.

8 Q. You're maintaining total innocence?

9 A. Yes.

10 Q. Does that mean nowhere near the scene?

11 A. I was there. I wasn't the trigger man.

12 Q. You weren't the trigger man. Did you testify at your
13 trial?

14 A. No.

15 Q. Do you think you should have?

16 A. I made a video statement which really didn't help at all.

17 Q. Who was the trigger man? [REDACTED]?

18 A. No. [REDACTED] never was -- he was only part of the robberies.
19 He wasn't part of the murder.

20 Q. Who was? [REDACTED]?

21 A. No. None of those crimes I got there. The one that was
22 the trigger man was never arrested.

23 Q. Who was it?

24 A. (Inaudible.)

25 Q. Who?

1 A. [REDACTED].

2 Q. Did you testify at your trial, though?

3 A. No, I didn't. My lawyer advised me not to.

4 Q. What do you think now as you look back 24 years?

5 A. I should have.

6 Q. It would have been worth a shot.

7 A. I would have got less time, been home by now.

8 Q. Maybe. Maybe. What do you think of these incidents now as
9 we look back over 24, almost 25 years? 24 years anyway.

10 A. I should have finished school.

11 Q. You did the robberies, though?

12 A. Yeah, I did.

13 Q. You should have been home in bed, too.

14 A. I should have stayed in Puerto Rico.

15 Q. 2:35 a.m., 7:05 a.m., 2:40 a.m.

16 A. That was in the morning.

17 Q. What?

18 A. That was 2:00 in the morning.

19 Q. Yes, that's what the facts say. Was it or wasn't it?

20 A. To tell you the truth, I don't remember if it was that late
21 or not.

22 Q. These are your only felonies of record, right?

23 A. Uh-huh. Yes.

24 Q. Since your last board, you've worked in the commissary;
25 you've been involved with plumbing and heating, appliance

1 repair; you've completed ASAT.

2 A. (Nodded head.)

3 Q. That's to your credit. That's positive. Wait listed for

4 ART?

5 A. I'm in there.

6 Q. How long have you been in it?

7 A. Since the 19th of last month.

8 Q. November 19th?

9 A. Yeah.

10 Q. That's a six-month program?

11 A. Yes.

12 Q. Do you think you should take ART?

13 A. Yeah. They say I need it.

14 Q. What do you think?

15 A. I believe everything I need to change is done within

16 myself.

17 Q. You've aged?

18 A. Yeah, I definitely did.

19 Q. No tickets since your last board, is that right?

20 A. Yes.

21 Q. What about GED, have you acquired that over the last

22 24 years?

23 A. I tried and tried and I go up and down, up and down. I go

24 to the top and it shoots me back down. I don't know what it is.

25 My math (indicating).

1 Q. The math tripped you up?

2 A. The math just (indicating). Any time I tried it, I just
3 fall back down.

4 Q. It's very important. We hope that you can try again. Did
5 you come close or not?

6 A. (Gesturing.)

7 Q. Yes? No? Close?

8 A. Yeah.

9 Q. Now, you'd actually like to go to Puerto Rico, is that
10 right?

11 A. Yes.

12 Q. Why Puerto Rico?

13 A. I feel if I stay in New York, I'm going to get in trouble.
14 I want to go back home.

15 Q. Why not to Brooklyn with mother?

16 A. Once I leave to Puerto Rico, she's going to follow right
17 behind me.

18 Q. She is?

19 A. Yeah.

20 Q. We have a very nice letter from mother here. She's still
21 out there for you.

22 A. Yes. She's been there for me for the whole 24 years.

23 Q. We have a letter from [REDACTED]. Am I pronouncing
24 that right?

25 A. [REDACTED].

1 Q. [REDACTED].

2 A. Uh-huh.

3 Q. It's a very nice letter. She talks about her own
4 situation, and her mother, your grandmother's situation.

5 A. Yes.

6 Q. She gives a list of the medicine she's on, a whole page of
7 different medications. There's another letter from
8 [REDACTED]. We've got a certificate in appliance repair,
9 tool repair, vacuum cleaner repair, inventory clerk, appliance
10 repair. You've used your time in a productive way.

11 A. Uh-huh.

12 Q. Are you a threat to society today?

13 A. I don't believe so.

14 Q. The world has changed in 24 years, sir. You know that from
15 watching television, I assume, and reading a newspaper, right?

16 A. Yeah.

17 Q. Are you prepared to go out into a different world today?

18 A. I hope so.

19 COMMISSIONER LUDLOW: Commissioner Elovich?

20 COMMISSIONER ELOVICH: No. I've listened carefully. I
21 have no questions. Thank you.

22 BY COMMISSIONER LUDLOW:

23 Q. We have a letter from -- who is [REDACTED]? What's the
24 first name?

25 A. [REDACTED], my niece.

1 Q. [REDACTED], 11 years old?

2 A. Yeah. Yeah.

3 Q. I have a nice letter from her. She wants to go to
4 Puerto Rico with you. Are you aware of that?

5 A. Uh-huh.

6 Q. There's hope. Is there hope for [REDACTED].

7 A. There should be.

8 Q. There's still hope.

9 What else should we be aware of, Mr. [REDACTED]?

10 A. As far as?

11 Q. Anything else that we should know that's material and
12 relevant to parole consideration.

13 A. I don't believe so.

14 Q. Anything we should cover that perhaps we have not covered.

15 A. I believe there's a letter in there somewhere from the
16 mayor of Puerto Rico, the town I'm going to. Once I'm released,
17 they're going to give me work and everything over there. My
18 last Parole Board he mailed it. It should still be in there.

19 Q. The mayor?

20 A. Yeah. The mayor.

21 Q. [REDACTED] [REDACTED]. What is alcalde?

22 A. That means mayor.

23 Q. [REDACTED], from -- what's the name of the town,

24 [REDACTED]

25 A. [REDACTED]

1 Q. [REDACTED] Puerto Rico. What part of the country is that in?

2 A. That's like around 20 or 15 minutes away from San Juan.

3 Q. You've been there?

4 A. I was born and raised there.

5 Q. Were you?

6 A. Uh-huh. I came to this country in '78.

7 Q. There's no snow down there, is there?

8 A. None of that. It's sunny.

9 Q. We've tried to give you a full, fair and accurate interview
10 today, sir. In your opinion, have you received that?

11 A. I believe so.

12 COMMISSIONER LUDLOW: Thank you, sir. We'll consider the
13 file and the interview. We will advise you in writing.

14 [REDACTED], at 41, there's a better life out there, sir.

15 We want you to achieve it. We wish you good luck in that
16 regard.

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D E C I S I O N

(After due deliberation by the Parole Board Panel, the following Decision was rendered:)

Parole denied, hold 24 months. Next appearance is December 2009. Following a careful review and deliberation of your record and interview, this panel concludes that discretionary release is not presently warranted due to concern for the public's safety and welfare. The following factors were properly weighed and considered: Your instant offenses in Brooklyn in October 1983 involved multiple armed in-concert robberies. In February 1984, also in Brooklyn, you and an accomplice shot a male victim, resulting in his death. Your criminal history indicates the instant offenses to be your only felonies of record. Your institutional programming indicates some progress. You, however, have yet to complete Aggression Replacement Therapy. Your disciplinary record appears clean since your last board appearance. You need to continue to therapeutically program. Your discretionary release at this time would thus not be compatible with the welfare of society at large and would tend to deprecate the seriousness of the instant offenses and undermine respect for the law.

(Commissioner Elovich concurs.)

C E R T I F I C A T I O N

I, DIANA FREUND, a Shorthand Reporter and Notary Public in
and for the State of New York, do hereby certify that the
foregoing transcript in the above-entitled matter is a true and
accurate transcript, to the best of my knowledge and belief.


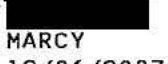
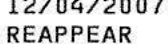


DIANA FREUND

DATE: December 8, 2007

INMATE COPY
FORM 9026State of New York - Division of Parole
Parole Board Release Decision Notice

Date: 03/25/09

Name: 
DIN: 
Nysid: 
Facility: MARCY
Interview Date: 12/04/2007
Interview Type: REAPPEAR

ME Date: LIFE
CR Date: NONE
Prev Hold: 24

CONTROLLING CONVICTION(s)	ATTEMPT	FLCL	MIN SENT (YY-MM)	MAX SENT (YY-MM)
ROBBERY-1 >78*	NO	B	02-00	06-00
CRM USE F/ARM1*	NO	B	02-00	06-00
ROBBERY-1 >78*	NO	B	02-00	06-00
BURGLARY-1 >78*	NO	B	02-00	06-00
CRM USE F/ARM1*	NO	B	02-00	06-00
ROBBERY-2 >78*	NO	C	02-00	06-00
CPW-2 >78*	NO	C	02-00	06-00
ROBBERY-1 >78*	NO	B	02-00	06-00
ROBBERY-1 >78*	NO	B	02-00	06-00
CRM USE F/ARM1*	NO	B	02-00	06-00
ROBBERY-2 >78*	NO	C	02-00	06-00
MURDER-2*	NO	A	20-00	LIFE

Sentencing Counties: KINGS

Jail Time in Days: 0335

Prison Time in Months: 275

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

Name:
DIN:
Nysid:



Facility: MARCY
Interview Date: 12/04/2007
Interview Type: REAPPEAR

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

Parole Decision:

DENIED - HOLD FOR 24 MONTHS, NEXT APPEARANCE DATE: 12/2009

Conditions of Release/Staff Instructions/Reasons for Denial:

FOLLOWING CAREFUL REVIEW AND DELIBERATION OF YOUR RECORD AND
INTERVIEW, THIS PANEL CONCLUDES THAT DISCRETIONARY RELEASE IS NOT
PRESENTLY WARRANTED DUE TO CONCERN FOR THE PUBLIC SAFETY AND WELFARE.

THE FOLLOWING FACTORS WERE PROPERLY WEIGHED AND CONSIDERED. YOUR
INSTANT OFFENSES IN BROOKLYN, IN OCTOBER 1983, INVOLVED MULTIPLE
ARMED IN CONCERT ROBBERIES. IN FEBRUARY 1984, ALSO IN BROOKLYN, YOU
AND AN ACCOMPLICE SHOT A MALE VICTIM RESULTING IN HIS DEATH. YOUR
CRIMINAL HISTORY INDICATES THE IO'S TO BE YOUR ONLY FELONIES OF
RECORD. YOUR INSTITUTIONAL PROGRAMMING INDICATES SOME PROGRESS. YOU,
HOWEVER, HAVE YET TO COMPLETE ART. YOUR DISCIPLINARY RECORD APPEARS
CLEAN SINCE YOUR LAST BOARD APPEARANCE. YOU NEED TO CONTINUE TO
THERAPEUTICALLY PROGRAM.

YOUR DISCRETIONARY RELEASE, AT THIS TIME, WOULD THUS NOT BE COMPATIBLE
WITH THE WELFARE OF SOCIETY AT LARGE, AND WOULD TEND TO DEPRECATE THE
SERIOUSNESS OF THE INSTANT OFFENSES, AND UNDERMINE RESPECT FOR THE
LAW.

* * * * *

I N M A T E C O P Y

* * * * *

INMATE COPY
FORM 9026

State of New York - Division of Parole
Parole Board Release Decision Notice

FUSL000003
Date: 03/25/09

Name: [REDACTED]
DIN: [REDACTED]
Nysid: [REDACTED]

Facility: MARCY
Interview Date: 12/04/2007
Interview Type: REAPPEAR

Comments:

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

FPOII : D. BLAIR

I N M A T E C O P Y
