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1 NYS DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

2 *****

3 Parole Board Interview

4 In the Matter

5 -of-

6 [REDACTED]
7 DIN# [REDACTED]8 NYSID# [REDACTED]
9 *****

10 TYPE OF INTERVIEW: LCTI

11 LOCATION: Ulster Correctional Facility
12 Video-conferenced to
13 Poughkeepsie Area Office
30 Manchester Road
Poughkeepsie, New York 1260314
15 DATE: April 13, 2017
16 DECISION DATE: April 13, 201717 BEFORE: COMMISSIONER STANFORD
18 COMMISSIONER W. SMITH
19 COMMISSIONER COPPOLA20 ALSO PRESENT: C. Wright, APA
K. Tomlin, SORC21 AT FACILITY: J. DeJesus, ORC
22 B. Zoro, ORC23 HEARING REPORTER: Roberta O'Rourke
24
25

1 INTERVIEW BY COMMISSIONER W. SMITH:

2 Q Good afternoon. Will you tell us your name
3 for the record please?

4 A [REDACTED]

5 Q Very good. [REDACTED] I am Commissioner
6 Smith. I'm joined today by Chairwoman Stanford
7 and on the far side Commissioner Coppola.

8 COMMISSIONER STANFORD: Hello.

9 COMMISSIONER COPPOLA: Hello.

10 A Hello.

11 Q You are here today serving sentences of 25 to
12 life based on a plea of guilty to murder in the
13 second degree as well as a one to three year
14 sentence for an attempted criminal possession of
15 a weapon in the third degree, is that correct?

16 A Yes, sir.

17 Q You pled guilty to the attempted weapon
18 charge. On the murder you went to trial and were
19 found guilty by verdict. Do you have any appeals
20 outstanding in the matter?

21 A No, sir.

22 Q If you did I just want to caution you there
23 is a court reporter making a transcript of what
24 we talk about which could be used in any post
25 conviction proceeding. Do you understand that?

[REDACTED]

1 A Yes, sir.

2 Q I do note that you have discussed it in
3 documents that are submitted. As a matter of
4 fact I don't know if you have a copy but we've
5 got from the national lawyer's guild a nice
6 parole application package and in here you
7 actually begin with some information, some
8 statements. The first page at the bottom it
9 talks about the crime of conviction and your
10 remorse. You're described as shooting [REDACTED]
11 [REDACTED] multiple times in an altercation
12 described as a disagreement about a female, is
13 that right?

14 A Yes, sir.

15 Q So at this point do you have any hesitation
16 talking about the instant offense?

17 A No, sir, not at all.

18 Q The instant offense is actually only one of
19 many things that we look at. We have a risk and
20 needs assessment, some people call it a COMPAS.
21 Many of your risk areas are low risk. It's a
22 scale of one to 10. You want to have low
23 numbers, not high numbers. The highest number
24 you have is a seven out of 10, not surprisingly,
25 it's a history of violence. You scored as a

medium risk there. In other areas you've done well including your appearance today. Normally we would see you four months prior to your parole eligibility date, that's in February of next year. So you would be seen probably October, if my calendar counts are right. So we're seeing you six months early basically, do you understand that?

A Yes, sir.

Q Our choices today are to release you or if you were held you would come back approximately in that time frame that I've discussed. Your receipt of a limited credit time allowance is based on some significant educational accomplishments. I have the records in front of me. And in addition you've highlighted some of those in your packet. But why don't you tell me where you were at when you first came into the prison system which I think this occurred when you were about 21 years old? Where were you at educationally back then and where are you today?

A Well, back then I didn't have an education at all. You know, I grew up in the streets. I grew up in the streets selling drugs and I had a disregard for the law and life. So when I came

[REDACTED]

1 upstate I came to Clinton Correctional Facility
2 in 1994 and during my sentencing is when I
3 believe that, you know, things hit me as to me
4 making a transition in my life and wanting to do
5 better and do more and do right. So that's when
6 I decided to, you know, further my education
7 because when I came to prison I had a belief the
8 ninth grade I was in, and so I received my GED in
9 1995.

10 Q Right, so that was the first step which was
11 pretty important. Then what happened, what did
12 you do educationally?

13 A I started to take many self therapeutic
14 classes that they had in Clinton. They didn't
15 have a lot of programs but the programs that they
16 had I took an out-program and it was like a
17 pre-release and I just wanted to be in something
18 positive and so I started to do that. And I
19 learned, I actually received my legal research in
20 management certificate. And upon getting my GED
21 the teacher that I was in class with, she
22 actually hired me to be her teacher's assistant
23 and I received my IPA as well thereafter. There
24 wasn't many programs in Clinton. And so, you
25 know, I found out about college. I heard that

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1 they had college and I did want to further my
2 education and so I had enrolled for college but
3 they had taken it out of the state. And then I
4 heard about Sing Sing and Eastern which I pursued
5 to try to get to. And I finally made it there in
6 2006, I made it to Sing Sing where they had
7 college courses that I can take.

8 Q Now, I know that you got your Associate's and
9 Bachelor's from Mercy. And then at Sing Sing is
10 where the Master's of professional studies from
11 New York Theological Seminary is, is that right?

12 A Yes, sir.

13 Q One of the things that I'll note is they've
14 actually, it's been a long time, but they
15 actually did a presentation at a Parole Board, I
16 think it might have preceded my colleagues but
17 they also helped ex-offenders after they get
18 released. It's a pretty substantial program, has
19 been for a long time. So you know that is,
20 that's important. I know that you've submitted
21 some certificates and we have certificates in
22 your folder and we also have copies of printouts
23 of where you've been involved, the programs that
24 you've participated in. In addition to the
25 COMPAS we also look at your case plan which is

[REDACTED]

1 where your counselor sits down. Sometimes it's
2 called a quarterly and goes over information.
3 Your case plan currently talks about writing to
4 some societies like Exodus, Osbourne, which we
5 have those, we've read, they're in your packet
6 here. So you've also worked on your personal
7 statement, I touched a little bit on that. And
8 then again working on setting aside time for
9 activities. Working on some vocational titles
10 and also being involved a little bit with the
11 ART. Now because I mentioned the medium score,
12 the seven out of 10 score for violence I note
13 that you have been able to enter and complete the
14 ART program, is that right?

15 A That's right.

16 Q You know one of the things that we look at as
17 I look at the instant offenses you know we have
18 the presentence investigation reports, we have
19 the sentencing minutes. You actually were
20 sentenced by the Honorable Thomas Breslin, is
21 that right?

22 A Yes, sir.

23 Q And you had, that was in, let me see here,
24 there's sentencing minutes we have from Judge
25 Breslin. We have sentencing minutes also for

[REDACTED]

1 Judge John G. Turner. Your instant offenses
2 involved two separate crimes, one was the
3 attempted criminal possession of a weapon. What
4 was that handgun, what was it?

5 A Well, initially it was for attempted murder.
6 Q Well I understand but what was the handgun?
7 A It was a tech nine.
8 Q So 9-millimeter?
9 A A 9-millimeter, sir, yes.
10 Q That arrest happened first, correct?
11 A Yes, sir.
12 Q Then the second arrest which was the murder
13 second that was a totally separate handgun,
14 right? What was that handgun?

15 A That was a 45 handgun.
16 Q You had the 45?
17 A Yes, sir.
18 Q What did your co-defendant have?
19 A [REDACTED] had had the 380.
20 Q And you both shot, right? You both fired at
21 the victim, right?

22 A Yes, sir.
23 Q And then when I go back I look at your
24 history, your criminal record in New York. Again
25 at that time you were 21 but when I review even

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[REDACTED]

1 further back you had a couple misdemeanors.

2 A Yes, sir.

3 Q One was criminal sale of marijuana. These
4 really you got limited sanctions. You had in '88
5 a criminal possession of a weapon fourth that
6 began as a criminal possession of a weapon in the
7 third degree. That was another handgun?

8 A Yes, sir.

9 Q Now, just from those counts it looks like
10 you've had at least three handguns, right?

11 A Yes, sir.

12 Q And you had been on probation for a youthful
13 offender criminal possession of controlled
14 substance. I went through the dates on that,
15 actually you had probation, probation was
16 revoked. You were ultimately sent to state
17 prison back in '89, right?

18 A Yes, sir.

19 Q So I mean you've got probation, you've got
20 these arrests. You have the nightmare of state
21 prison. Why then ever pick up on this case? You
22 know, you picked up the handguns again. Are you
23 a violent person? Did you have some kind of
24 fascination with guns back then?

25 A Well I believe, I believe, you know, I had a
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[REDACTED]

1 distorted value system because, you know, when I
2 began to grow and develop since being
3 incarcerated on this charge I had to reflect and
4 take and do a self introspection of myself. And
5 I began to notice that, you know, in my youth
6 that, you know, I never, I never even tried to
7 guide myself to doing right because I was in the
8 situation I was in growing up I just felt that,
9 you know, this was the norm.

10 Q Where did you grow up in Albany?

11 A I grew up in the Bronx, New York City.

12 Q Okay. You didn't grow up in Albany?

13 A No, sir. No, I was in Albany again, you
14 know, showing disregard for society and the law
15 by selling drugs. And that was one of, you know,
16 many places I've been in other than where I grew
17 up at. And, you know, I believe that it was a
18 distorted value system that I started to
19 recognize and understand that, you know, this was
20 what had me showing no disregard, showing total
21 disregard for everything that I should have been
22 doing right because I believe that I realize I
23 knew back then when I was doing right from wrong.
24 However, I still chose to do wrong. And so I had
25 to, you know, go through that self introspection

1 within myself and grow and develop into realizing
2 that.

3 Q Now it looks like as far as your current
4 involvement we have a listing that you're a group
5 leader in maintenance. You've been doing that
6 since it looks like September. You've done
7 porter work, industry worker, sign shop. And
8 that's of course in addition to your educational
9 involvement. We have your last misbehavior
10 report was a disciplinary violation Tier III
11 which is the more serious ones. That was at Sing
12 Sing back in June of 2013. You have I think I
13 counted about eight Tier IIs and three Tier IIIs,
14 does that sound about right to you?

15 A Yes, sir.

16 Q In terms of your re-entry financial
17 employment and family support low scores there
18 and you've got highlighted a number of letters
19 that have been written on your behalf and I don't
20 mean to downplay necessarily any one, you have
21 individuals that are in the community,
22 individuals who are in politics, you have some
23 that are in programs that help ex-offenders and
24 they can actually offer you some good guidance.
25 You have, probably more important than any of

1 those, than those that are close to you including
2 those who would be in contact with you as far as
3 living with you and your spouse, her name is
4 [REDACTED] is that right?

5 A Yes, sir.

6 Q You've a son and the son has written as well.
7 Why don't you tell me -- well, first of all are
8 you intending to live with your wife?

9 A Yes, sir.

10 Q Okay. And when did you get married to her?

11 A We got married in 2013.

12 Q And how long have you known her?

13 A Well, that's 2012, sorry. 2012. And I've
14 known her since 1990.

15 Q All right. Do you know what day of the year
16 your anniversary is?

17 A Yes.

18 Q I know you stumbled a little and you might be
19 nervous. I'm telling you this sort of as to
20 lighten it up a little. Don't forget that date,
21 that's an important date, all right?

22 A Yes, sir.

23 Q All right.

24 A Yes, sir.

25 Q And she must be a remarkable woman if she's

[REDACTED]

1 willing to help you and certainly we consider
2 that, again as well as others that have written
3 family members as well. What about specific job
4 prospects, I know you've got letters in here, but
5 why don't you tell me what you think you might be
6 doing because if you're out there you can't be,
7 you know, misbehaving and having too much idle
8 time. So what are your plans on work?

9 A Well, I believe that, you know, the first
10 thing that I do plan to do because I've learned
11 how to create my own resume and wrote my own
12 resumes so I know I will be, you know, putting my
13 resume out and trying to get any employment that
14 I can. While doing that I also have [REDACTED]
15 [REDACTED] who is the cofounder of Osbourne
16 Association.

17 Q Yes.

18 A And she has been willing to help me in that
19 area where I will be living and to seek
20 employment on my behalf. So, you know, I do plan
21 to, you know, follow anywhere I can with my
22 resume to seek employment.

23 Q And in your release plans you talk a little
24 bit about their catering and culinary training
25 program. And one thing about that is it's easily

1 transferable. So well even I haven't looked back
2 here, I guess I probably should, your current
3 assignment, do you know how much you make an
4 hour?

5 A Where I work right now, sir?

6 Q Yes.

7 A I make seven -- no, I know I make 7.50 a
8 week.

9 Q It's 25.83 cents. And the reason that I
10 mention that is if you're released minimum wage
11 looks pretty sweet. If you're making I don't
12 even know what it is now 10, 11 it's going to be
13 15 in the not too distant future so that's sweet
14 compared to what you're doing. There's a lot to
15 look at. We just don't look at the record, we
16 don't just look at your submissions, we also take
17 into account your comments. So I've asked you a
18 lot of questions, but I want to see if my
19 colleagues have any questions.

20 COMMISSIONER COPPOLA: Sir, what happened in
21 that bar to start this fight?

22 A Well, initially I wasn't there because my
23 co-defendant [REDACTED] and [REDACTED]
24 [REDACTED] they were having a fight with the
25 gentleman that we knew. It really stemmed from I

[REDACTED]

1 believe just us being, you know, in the streets
2 and on their block and so no one really liked
3 each other and that's what it initially started.
4 They had got jumped and they told me and I went
5 down there to see, you know.

6 COMMISSIONER COPPOLA: So when you guys, when
7 you guys went to the second bar, found the
8 victim, told him to come outside and he wouldn't
9 come outside that's what it says here, that he
10 wouldn't leave with you guys then you left and
11 then later on driving around in a cab or
12 something you saw him and some friends on a
13 corner, is that right?

14 A Well, they come out and we had a fight, that
15 second fight. I was in the second fight.

16 COMMISSIONER COPPOLA: You were in the second
17 fight?

18 A But I wasn't in the first one.

19 COMMISSIONER COPPOLA: It was later on, it
20 was after the fact later on that they were on a
21 corner when you and your co-defendant, [REDACTED]
22 saw him with some other people, you waited until
23 everybody left and when he was alone it says that
24 you went approached him and you guys pulled out
25 the guns and opened fire.

[REDACTED]

1 A After that the second initial altercation
2 that we had with them we did go, when we left
3 because the police were coming and everybody ran
4 and then we left and then we had came back in the
5 cab and we seen him, he was the only one on the
6 block. And jumped out of the cab and we just
7 started shooting at them.

8 COMMISSIONER COPPOLA: All right, okay, thank
9 you.

10 COMMISSIONER W. SMITH: Thank you. Thank
11 you, Commissioner. Chair, any questions?

12 COMMISSIONER STANFORD: No, thank you.

13 Q All right, [REDACTED] we appreciate your
14 comments. We will discuss the matter and give
15 you a decision in writing. Did I miss anything?
16 Is there anything else you want to say, sir?

17 A Well, yes. The first thing I would like to
18 say to you and the Commissioners is that I
19 apologize for coming before you all today because
20 you know when I grew and developed since I've
21 been in here incarcerated, you know, I never, I
22 never wanted to take [REDACTED] or no one
23 else's life. I had no right to take anyone's
24 life. I had no right to carry any illegal guns.
25 I had no right to do what I did to our community

[REDACTED]

1 and to society as a whole. I would like to
2 apologize to you. I feel ashamed for coming
3 before you all today and having to discuss the
4 person that I was and, you know, I know nothing
5 can change that. However, I put a sentence on
6 myself and that is for me to do right in life
7 period. I don't have no room to do any wrong in
8 life. I took [REDACTED] life and he
9 didn't deserve to die. Nobody deserved to die
10 from what I did, sir, I mean Commissioner. And I
11 apologize for that. And I apologize for coming
12 before you all and for the history of my life and
13 me not realizing that all of the chances that I
14 had and didn't realize that the road that I was
15 going down and it took, you know, 25 years to
16 life, you know. I can't change what I did,
17 however I will continue to stay positive and do
18 right by my community and right by society as a
19 whole as well as my family.

20 Q Well, I think, you know, we certainly
21 appreciate you coming in. I think that, you
22 know, there's much that we look at that that
23 you've made some of those changes. None of us
24 are the same that we were 25 years ago. And
25 you've embarked on a path that's certainly more

1 productive than what you were traveling in the
2 past. So we thank you for coming in and we'll
3 let you know in writing, sir.

4 A Thank you.

5 Q Have a good day.

6 A You too, sir.

7 (After due deliberation by the Parole Board
8 panel, the following Decision was rendered:)

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1 D E C I S I O N

2 BY COMMISSIONER W. SMITH:

3 Denied, hold to parole eligibility date.

4 This panel has concluded that your release to
5 supervision is not compatible with the welfare of
6 society and therefore parole is denied. This
7 finding is made following a personal interview,
8 record review and deliberation. Of significant
9 concern is the escalation of unlawful actions your
10 instant offenses of murder second and attempted
11 criminal possession of a weapon third represent.
12 Your history began with a 1988 youthful offender
13 adjudication which you later violated. The factors
14 considered include additional misdemeanor and then a
15 state sentence. Despite these prior sanctions you
16 committed the instant offenses where you indicate
17 you attempted to possess a loaded handgun, and on a
18 later date you and a co-defendant shot and killed a
19 known male. This is reflected in your COMPAS medium
20 history of violence score. Positive factors
21 considered include your other COMPAS scores, case
22 plan and receipt of the limited credit time
23 allowance for excellent educational accomplishments.
24 Required statutory factors have been considered
25 including your risk to the community, rehabilitation

efforts, and your needs for successful community
reintegration. We have noted your COMPAS, low
prison misconduct score, but aggravating factors
include approximately 10 misbehavior reports during
this term. This marginal record includes a Tier III
violation most recently in June 2013. To grant your
release at this time would so deprecate the
seriousness of your offenses as to undermine respect
for the law. Your document submissions show
significant community support and are likewise
noted.

(Commissioner Stanford dissents.)

CERTIFICATION

I, ROBERTA O'ROURKE, Court Reporter and Notary Public in and for the State of New York, do hereby certify that I attended the foregoing proceedings, took stenographic notes of the same, that the foregoing, consisting of 21 pages, is a true and correct copy of same and the whole thereof.

Dated: April 24, 2017

Roberta O'Rourke

Roberta O'Rourke, Court Reporter

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

Facility: ULSTER
Interview Date: 04/13/2017
Interview Type: LCTI

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

Parole Decision:
NOT GRANTED

Conditions of Release/Staff Instructions/Reasons for Denial:

THIS PANEL HAS CONCLUDED THAT YOUR RELEASE TO SUPERVISION IS NOT
COMPATIBLE WITH THE WELFARE OF SOCIETY AND THEREFORE PAROLE IS DENIED.

THIS FINDING IS MADE FOLLOWING A PERSONAL INTERVIEW, RECORD REVIEW,
AND DELIBERATION.

OF SIGNIFICANT CONCERN IS THE ESCALATION OF UNLAWFUL ACTIONS YOUR
INSTANT OFFENSES OF MURDER 2ND AND ATT: CRIMINAL POSSESSION OF A
WEAPON 3RD REPRESENTS. YOUR HISTORY BEGAN WITH A 1988 YOUTHFUL
OFFENDER ADJUDICATION WHICH YOU LATER VIOLATED. THE FACTORS
CONSIDERED INCLUDE ADDITIONAL MISDEMEANORS AND THEN A STATE SENTENCE.
DESPITE THESE PRIOR SANCTIONS YOU COMMITTED THE INSTANT OFFENSES
WHERE YOU INDICATE YOU ATTEMPTED TO POSSESS A LOADED HANDGUN AND ON A
LATER DATE YOU AND A CO-DEFENDANT SHOT AND KILLED A KNOWN MALE.
THIS IS REFLECTED IN YOUR COMPAS MEDIUM HISTORY OF VIOLENCE SCORE.
POSITIVE FACTORS INCLUDE YOUR OTHER COMPAS SCORES, CASE PLAN AND
RECEIPT OF THE LIMITED CREDIT TIME ALLOWANCE FOR EXCELLENT
EDUCATIONAL ACCOMPLISHMENTS.

REQUIRED STATUTORY FACTORS HAVE BEEN CONSIDERED, INCLUDING YOUR RISK
TO THE COMMUNITY, REHABILITATION EFFORTS, AND YOUR NEEDS FOR
SUCCESSFUL COMMUNITY REINTEGRATION. WE HAVE NOTED YOUR COMPAS LOW
PRISON MISCONDUCT SCORE BUT AGGRAVATING FACTORS INCLUDE APPROXIMATELY
(continued)

* * * * *

I N M A T E C O P Y

* * * * *

Name:
DIN:
Nysid:



Facility: ULSTER
Interview Date: 04/13/2017
Interview Type: LCTI

10 MISBEHAVIOR REPORTS DURING THIS TERM. THIS MARGINAL RECORD
INCLUDES A TIER III VIOLATION MOST RECENTLY IN JUNE 2013. TO GRANT
YOUR RELEASE AT THIS TIME WOULD SO DEPRECATE THE SERIOUSNESS OF YOUR
OFFENSES AS TO UNDERMINE RESPECT FOR THE LAW.
YOUR DOCUMENTED SUBMISSIONS SHOW SIGNIFICANT COMMUNITY SUPPORT AND
ARE LIKEWISE NOTED.

Comments:

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

SORC : K. TOMLIN

* * * * *

I N M A T E C O P Y

* * * * *