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PAROLE BOARD HEARING

STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF PAROLE

In the Matter of

DIN# [redacted]
NYSID# [redacted]

HELD AT: Woodbourne Correctional Facility
Woodbourne, New York
Parole Board Hearing
January 9, 2002

BEFORE: COMMISSIONER VANESSA A. CLARKE
COMMISSIONER DAIZZEE D. BOUEY

PRESENT: JOHN KEHOE, FPO II
RENEE SOMERS, APA

M&F REPORTING SERVICE
P.O. Box 4279
NEW WINDSOR, NEW YORK 12553
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INTERVIEW BY COMMISSIONER CLARKE:

Q. You're ______
A. Yes, I am.

Q. Good morning, ______
A. Good morning.

Q. I'm Commissioner Clarke. With me today is Commissioner Bouey.

COMMISSIONER BOUEY: Good morning, sir.

THE INMATE: Good morning.

Q. You're here today for your reappearance before the parole board?
A. Yes.

Q. Okay. This is your fourth appearance in front of a Parole Board?
A. Yes.

Q. Now you were initially eligible back in January of '96. You're serving 15 years to life for murder in the second degree, right, sir?
A. Yes, ma'am.

Q. You were convicted based upon a plea?
A. Yes.

Q. Now, this crime occurred back in '81. And you are subject to executive order of July 23rd of 1960. Therefore, you have to meet with psychiatric staff in order for an evaluation to be made. We know you met
with them in November of last year. So that was in preparation for today's interview?

A. Yes.

Q. Okay. All right. You're not currently receiving any medication for any mental health reasons?

A. No.

Q. You are not on the mental health case load and you are not in need of services. Okay. We've reviewed that information. Now, this crime happened 1981 and it involved you participating with a co-defendant in the shooting deaths of two people with a total of three people shot. This was at a junkyard was it or a salvage yard?

A. Yes.

Q. A salvage yard. That's a better word, salvage yard, where you had previously worked and recently been fired?

A. Yes.

Q. How old are you at this time, [Redacted]

A. I'll be 50 in October.

Q. You'll be 50. Okay. And you have 21 years in?

A. Yes.

Q. On this sentence?

A. Yes.

Q. We know that you met with the previous parole
boards before and discussed this case before. However, this is a new panel and we're here today to assess these facts and makes a decision about your release at this time. We're going to go over the particulars of the case. Basically the facts are fairly clear. It says that there were some people at the salvage yard, including one of the owners, [REDACTED] is it? Yes. There was a security guard by the name of [REDACTED] and another working there, a driver. You appeared on the scene and said that you were looking to retrieve some clothes from the locker. Is that what you told them?

A. Yes.

Q. You went back to the locker area and your co-defendant was also there. And he was in the vicinity of [REDACTED] and the other man that was shot. And he robbed them?

A. Yes.

Q. Okay. And they were ordered to the back. Everybody went to the back. That was where they were shot. They were ordered to lay down and then they were shot. I mean you're thinking about something. If I'm saying something that's not right --

A. Yes.

Q. All right. It's clear. It's right here in the
record. If there's anything I'm forgetting to say, you know, say it?
A. I don't think that -- I think that the co-defendant that had the two, he was in separate parts of the building.
Q. You say he was --
A. We were in separate parts of the building.
Q. You were in separate parts of the building. Okay.
This is exactly what it says. All right. You entered the yard and [redacted] one of the people that was shot, heard one of the owners, [redacted] who was also killed, ask you what you were doing there. And you said that you had to go and retrieve some clothes.
Okay. [redacted] and you went to the warehouse where the lockers were kept. So you went off that weigh.
A. Yes.
Q. [redacted] your co-defendant, had accompanied you there. He was standing at the entrance gate. You took out a gun on [redacted] the watchman, and someone by the name of [redacted] the other person who was killed?
A. Yes.
Q. He robbed both of them at gun-point. He took a sum total of fifty dollars, something around that small sum of money. And it says that you came back from the
office waiving a gun in your hand. You yelled to

You yelled to come on down here. He, being you co-defendant,
took and at gun-point towards

He took you co-defendant and towards the office. When you were close to office your

close to office your co-defendant ordered them to lay face down on the
ground with their chins touching the ground. And then

And then and were then shot. Now pretended he was dead. When he felt it was

pretended he was dead. When he felt it was

safe he got up and called 911. The police arrived and

The police arrived and found dead, dead and in serious condition, because he'd been shot

found dead, dead and in serious condition, because he'd been shot

in the head also, However, he managed to survive. So

in the head also, However, he managed to survive. So

In the subsequent investigation your name came up.

In the subsequent investigation your name came up.

You know, you had been observed there.

You know, you had been observed there.

A. Yes.

A. Yes.

Q. And so did your co-defendant. You were both

apprehended. All right.

apprehended. All right.

A. Yes.

A. Yes.

Q. So it was your motive to rob this place?

So it was your motive to rob this place?

A. To rob the place. When I came back I said let's

To rob the place. When I came back I said let's
go. Let's go. That's where I was going. I was going

and then the shots.

and then the shots.

Q. So your statement is that you wanted to do a

So your statement is that you wanted to do a

robbery. You did a robbery?

robbery. You did a robbery?

A. Yes.
Q. And you wanted to get out of there and you heard shots, meaning your co-defendant shot these people?
A. Yes.

Q. without your knowledge and/or participation, is that what you're trying to say?
A. I can't say I didn't have any knowledge of the whole thing. I'm not going to say that.

Q. Because you can't?
A. I can't.

Q. It would defy logic at this point.
A. Right.

Q. That wasn't necessary, was it?
A. Not at all.

Q. It was really totally way over the top. You got your money. You go on about your business. There's no reason for people to be shot execution style, because there's no other way for that to end other than people dying. The fact [REDACTED] survived is a sheer --
A. Miracle.

Q. Right, miracle. Being shot in the head is very scary. I don't have to say that.
A. Yes.

Q. I mean -- did you have weapons training at any point in your life or were you in the army or anything
like that?

A. I never shot a gun in my life.

Q. You know, your record certainly turns up a lot of guns.

A. That was back like in '73.

Q. Yeah. You know, we're going to consider your entire criminal record until back to the day you first decided to commit a crime?

A. It was a toy gun.

Q. I'm sure if you pulled it on someone they wouldn't know it was a toy gun. So you get the full benefit of having a real gun, even if you didn't have one.

You've been in prison before for having a gun?

A. Yes.

Q. There's at least two convictions for having a gun.

I think one was an attempt and one was full possession or were they both attempted? Attempted criminal possession of a weapon, sentenced three years. This was in '74. And then you maxed out in '76 on that.

So there were two attempted criminal possessions of a weapon that you received three years for?

A. Yes.

Q. What was going on? Why were you walking around with a gun?

A. That right there in '73 -- was it '73?
Q. '73 was the commission of the crime. '73 was the plea of guilty. I think you were paroled in '74, December 20th of '74 and max maxed out '76?

A. Yeah.

Q. Okay.

A. I can't come here and intelligently rationalize any of this.

Q. Don't rationalize it. Tell us what you were thinking. Were you trying to scare people? Were you trying to be tough? Were you using these guns to commit crimes?

A. I could say I was a drug addict. And I guess, you know, I was so drugged up that all rationale was just suspended. All rational thoughts was just suspended.

Q. All right.

A. There's no way I can come sit down in front of you--

Q. You have no motivation, no rationale for why you were walking around with a gun in 1973?

A. In '73, yes, that was a robbery.

Q. That was a robbery. All right, because we do note that the arrest charges that came with this possession of a loaded firearm was robbery first?

A. Yes.

Q. The robbery first went away and the gun possession
stuck?

A. Yes.

Q. All right. That was then. Let's talk about what's been going on in recent years. Now, you've participated extensively in some of the programs that are intended to help other inmates. Now you facilitated at the [Redacted] Program?

A. Yes.

Q. There's letters in here on your behalf, which you should know, from people you should know. [Redacted] you know him?

A. Yes.

Q. He worked with you at the New York Theological Seminary?

A. In Sing Sing.

Q. And he feels that you have done well in this program. And he feels that you've turned your life around. That's his perception of the situation regarding his dealings with you over the course of this program?

A. Yes.

Q. There's a letter from a [Redacted] She was affiliated with you through the [Redacted] program. All right. There is a letter from a [Redacted] All right. He recommends your release because he
feels that you've gotten some education and participated in the HIV/AIDS counseling program and you founded the Prisoner Program. Is that so?

A. Yes, that's true.

Q. How did that come about?

A. It was a lot of ignorance in Eastern -- it started really in Comstack. I was working in the hospital in Comstack. This is before the AIDS thing came about. When I transferred to Eastern, there were officers walking around with masks and gloves, scaring the population. It was me and another guy, you know, we just walked in the yard. And we just tried to find a way that we can battle the ignorance between the population and staff. And we contact AIDS agencies and they trained us.

Q. Okay. Inmates and staff?

A. They trained inmates. We actually trained the rest of the population and some of the staff.

Q. Let's see. Some of these are repeated. There's a letter from a coordinator of the And she feels you've been very helpful and been very positive during that program experience. Someone by the name of He says has dealt with you through the
program and also the program. He says he can
arrange for suitable housing for you, help you find
employment. Right? And he hopes you be granted
parole. [name] has attached her name to a
petition signed by some of the people already
mentioned requesting that you be considered for
positive release consideration. You've reached out to
the A Letter of reasonable assurance is forthcoming from them.
There's [name] from the New York State Theological Seminary. There's also letters from
family, a sister [name] There's a [name]
A. That's my mother.
Q. And she's stating that her and your father are
going to provide support for you, should you be
released. So you know, we know from that, that you've
been keeping yourself busy by participating in
programs, that you're interested in helping other
inmates. Is this something you'd be interested in
pursuing once you get out in the community?
A. Yes.
Q: All right. Let's look at the program summary.
Right now you're a program aid in volunteer services.
Is that still going on?
A. Yes.

Q. You've been a clerk/typist for them. You've been a teacher's aid, computer repair student, other things. Is there anything that we're missing here?

A. As far as programs?

Q. Yes?

A. Hospital assistant.

Q. Hospital attendant at Eastern. You were a dental assistant, X-ray aid?

A. Yes.

Q. There's also been porter work. you've been an administrative clerk in the library?

A. Yes.

Q. So you've been keeping yourself very busy. All right. You have a disciplinary record that the last incident we note was a tier-2 for direct order violation back in July of '99. It doesn't appear there's been anything since. What else would you like to talk about?

A. I'd say that the day I stood in front of the judge and got sentenced I made a commitment. And that commitment was to take full responsibility for my actions, which I have done. I have for the past 21 years thought about it and dreamt about it and cried about the senselessness of the crime I committed.
Q. Someone -- you know, several someones lost their family member?
A. Yes.
Q. In a horrible way?
A. In a horrible way.
Q. Can you imagine what these folks' families must have felt when police called them or whoever called them and said, you know, your loved one has been shot to death execution style over nothing?
A. I truly am sorry for the hurt and damage I done for the victim, the victims' families and friends. My heart goes out to them.
Q. All right.
A. My heart hurts. I know the victims' families' and friends' pains most deeply, much deeper than mines and I know that I wish I could do something to undo their pain. But I can't do that. But what I can do and I think I have done is to take steps to make sure that this type of behavior will never transpire in my life again.
Q. I actually hope not. That would be awful. It would mean you haven't changed. You haven't grown. You have learned a thing.
A. Yes, during my incarceration, like you said, I've taken programs that's actually geared towards changing
a person. You know, and for me that change was both tangible and intangible. The educational change, the moral change and the virtual change I see in myself. I am now in a position where I can actually help other people change their lives. For the past fourteen years I've been an facilitator and for nine years of the fourteen years I've been an coordinator. philosophy is that everyone has the power to change. We give them the tools. We show them that and try to work with them on it. I also teach the old and new testament in the certificate program in ministry in human services. And I facilitate crime awareness program.

Q. All right. Now, let me go back to something for a second. I was looking at your disciplinary summary, an older one. You are in special housing and the box.

So I did misspeak about the last incident being in July of '99.

A. I was going to speak about that.

Q. We're going to get to that. So let me let you finish what you're saying with respect to what you were doing with the programs?

A. Right. I said -- I think the last thing I said I was working --

Q. Spiritually?
A. -- with the Crime Awareness Program.
Q. Right.
A. Now I'm not saying any of this to undermine or
downplay the seriousness, the senselessness or
stupidity of the crime I committed. I am really
saying this to let the commissioner -- no, to let
everyone in the room know that people change and they
do change. I think I'm living proof of that change.
I'm here today, you know, to ask to have a chance at
parole and give me a chance to prove myself that
people can change, people do change. If paroled, I
would never do anything to embarrass, shame or bring
any negative publicity to the parole commissioners or
the board.
Q. All right. You've been on parole before in the
past?
A. Yes.
Q. Going way back?
A. Yes.
Q. And I don't see any listing of any violations at
that time; is that correct?
A. That is correct, yes.
Q. All right. So let's get to your current
disciplinary problems. You went for awhile without
having too many problems, but right now at this point
in time you are in special housing based upon a tier-3
for loss of damage to property and property in an
unauthorized location. That sounds like something
that could have been resolved with something other
than a tier-3. But the fact that it's a tier-3 level
makes us question what was going on?
A. I shouldn't even -- I shouldn't even have been
written up. Like you said, I'm a typist. I type. We
have a computer downstairs. I type the
superintendent's memos. I do everybody's memo except
for hospital and parole. My supervisor gave me
permission to type a letter to my family thanking them
for coming up for christmas, my mother. They locked
me up for that. That's what I'm in S.H.U. for.
That's what I got 30 days for, for a letter I wrote to
my mother.
Q. Okay. Were you -- did you do this in some way that
you violated their rules?
A. He testified -- ma'am, the rule is you get
permission. He testified yesterday he gave me
permission. He testified to that fact that he gave me
permission.
Q. All righty. Have you started your box time then?
Well, you started. It's about to be completed
February 2nd?
A. Yes.

Q. So you just started really?

A. I spoke to the superintendent yesterday. He said -- I showed him the evidence. I showed him the letter. I said this is what they locked me up for.

Q. All right. There's a lot of rules in the jail.

You know that?

A. The rule is you go through the chains of command. You go to your supervisor, ask him or her if it's all right. If they say it's all right then you do it.

Q. Are you programming in the box or you're just doing your time?

A. There's no programs. I'm just reading the novels. I want to say one more thing.

Q. We know that. We know there's no technical programs per say, but I mean you're involved in a lot of things. So we don't know if you're continuing that or not when you're in there?

A. I can't. All I can do is read.

A. Can I say one more thing?

Q. Sure.

A. I lost me. I lost me through the streets, through drugs many, many, many years ago. I was lost. I think during this incarceration I was able to find me. And in the interim of finding me I found out a lot of
things about me. You know, I found that I am a very compassionate person, full of empathy and now a spiritual person. I think that with those three characteristic traits or elements, whatever they are, those three elements, if they stay in my life, I will -- you know, it can't help me to be attuned to other people's needs. I don't want to lose me again.

Q. We hope not. The consequences could be dire. What drugs did you use on the streets? Was it heroin?

A. Yes.

Q. Have you ever been in the armed services?

A. No.

Q. You have worked in the past. You worked for these unfortunate victims. You have plans to get a job when you're out there, possibly a job counseling?

A. Yes.

Q. You're going to live with your parents too?

A. I was offered a job opportunity. I don't know if parole will allow me to, you know, be parole to up-state New York. But I was offered a job opportunity to help them to create a program, transitional program. I spoke to my mother on it. She was on a visit and my sister. You know, your mother wants you to come back home and be close to her.
Q. Okay. So you're not sure. All right.

A. Right.

Q. Okay. We're going to consider your case very carefully. We heard what you said about your current S.H.U. status. We'll consider that. We've discussed this very serious crime, your criminal record, your institutional adjustment, your program participation. Is there anything you think we have not discussed?

A. No.

Q. Do you have any questions for us?

A. I guess one. If I'm not deemed paroleable at this time, what could I do in the next two years or whatever to enhance my paroleability?

Q. As I tell most people that ask, it's not a formula. It's not a game. It's a weighing of all factors that we're required to consider. Some which change like your S.H.U. status or your disciplinary record. Some which don't change, like your criminal history and the crime of offense. And you know, we'll consider all that with your plans and try to make the best decision possible. Okay?

A. Okay.

COMMISSIONER BOUEY: Any further questions, Commissioner Bouey?

COMMISSIONER BOUEY: I have nothing further.
I listened closely and I'm ready to proceed.

Q. All right, we'll consider everything, make a decision and let you know.

(The inmate was excused.)

(Whereupon, the Commissioners conferred.)
DECISION

Parole is denied, hold 24 months, next appearance 1/04. Parole is denied. You continue to serve 15 years to life upon your conviction for the crime of murder in the second degree. This crime involved you and a co-defendant going to your former place of employment for the purpose of robbery and while there shooting three people in the head execution style. Two of the victims were killed. This extreme violence was a severe escalation in your previous criminal conduct, which included prior weapons possession. All factors considered, including your program participation, the panel concludes that due to the extremely serious nature of the offense your release would be inappropriate at this time. The panel further notes that you appear before the board in S.H.U. status. The guidelines are unspecified.

(THE COMMISSIONERS CONCURRED)
REPORTER'S CERTIFICATION

I, Malkie Finer, a Shorthand Reporter in the State of New York, do hereby CERTIFY that the foregoing record taken by me at the time and place noted in the heading hereof is a true and accurate transcript of the same, to the best of my knowledge and belief.

MALKIE FINER