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(Corrected Copy - 1/10/07)

**ORIGINAL**

STATE OF NEW YORK

EXECUTIVE DEPARTMENT: DIVISION OF PAROLE

MINUTES OF PAROLE BOARD HEARING

INMATE: [REDACTED]

DIN Number: [REDACTED]

NYSID Number: [REDACTED]

INSTITUTION: OTISVILLE CORRECTIONAL FACILITY

DATE: Wednesday, 1/25/06

BEFORE: COMMISSIONER DAIZZEE D. BOUEY
COMMISSIONER LIVIO LAZZARI
COMMISSIONER JAMES FERGUSON

FACILITY PAROLE OFFICER II: James Cassel

REPORTER: Eileen Feliciano

Leguire Shorthand Reporters

[REDACTED]

1 COMMISSIONER BOUEY: Good afternoon, sir.

2 THE INMATE: Good afternoon.

3 COMMISSIONER BOUEY: You are [REDACTED]

4 THE INMATE: Yes, ma'am.

5 COMMISSIONER BOUEY: I am Commissioner Bouey. With
6 me today is Commissioner Ferguson and Commissioner
7 Lazzari.

8 COMMISSIONER FERGUSON: Good afternoon.

9 COMMISSIONER LAZZARI: Good afternoon.

10 THE INMATE: Good afternoon.

11 COMMISSIONER BOUEY: We are seeing you today,

12 [REDACTED] for -- here today. This is a reappearance
13 for you. This is your sixth Parole Board appearance. Is
14 that right, sir?

15 THE INMATE: Yes, it is.

16 COMMISSIONER BOUEY: Okay. You are serving a
17 sentence of 15 years to life for a Murder second. Which
18 is an A1 Felony. We see that you pled guilty to the
19 charge.

20 THE INMATE: Yes.

21 COMMISSIONER BOUEY: The record says that on
22 March 16th of 1981, that a 28 year old male partner of a
23 junkyard warehouse was working late, along with a 27 year
24 old male driver and 66 year old male watchman. You, who
25 had been fired two days earlier because of alcohol use and

[REDACTED]

1 drug use. You came back to get your property from your
2 locker. The owner escorted you to your locker in the
3 warehouse. While the codefendant, [REDACTED] pulled a
4 gun on two employees and took their money. The record
5 says that you emerged from the warehouse waiving a gun.
6 You beckoned to the two employees. They were forced to
7 lie face down with their chin touching the ground. Brooks
8 then shot both of these people in head. Then the two of
9 you fled. The watchman survived. He managed to call the
10 police. He found the driver dead. The owner was also
11 killed in the same fashion. It says that all the victims
12 had their pockets taken out. Both died from repeated gun
13 shots to the head. The 66 year old driver was
14 hospitalized. He was seriously injured. An investigation
15 led to you in March of '81. [REDACTED] was arrested in April.

16 THE INMATE: Right.

17 COMMISSIONER BOUEY: Now, you have been through
18 this many times before. We know that this not first
19 appearance for you.

20 THE INMATE: Right.

21 COMMISSIONER BOUEY: You know that there are going
22 to be some things that we are going to have to go over
23 with you, and things that you may have discussed before.

24 THE INMATE: Right.

25 COMMISSIONER BOUEY: Understand, [REDACTED] this

[REDACTED]

1 is a new Parole Board. It is a new opportunity for you to
2 get released. Okay?

3 THE INMATE: Yes.

4 COMMISSIONER BOUEY: So this is part of the
5 process. Okay?

6 THE INMATE: Yes.

7 COMMISSIONER BOUEY: What would you like to tell us
8 about your involvement in this crime?

9 A I have had a lot of time to think about it. And
10 the more I think about it the crazier it gets.

11 Q The crime gets, or --

12 A Yes. Anything about it. The whole situation. I
13 was talking about it over and over in these small groups.
14 Large groups. Special groups.

15 Q You mean small groups within the prison system?

16 A Yes, within the prison system. Yes, the prison
17 system. Even with the professionals. The counselors.
18 And the psychiatrists. And I'm trying to find some way to
19 make some sense out of it. I'm trying to explain it to
20 you in an educational way, or in a rational way. It's
21 just that --

22 Q Well, clearly, without you even saying anything
23 here, what happened that day is irrational.

24 A Yes.

25 Q That goes without saying.

[REDACTED]

1 A Yes. There's no question about it.

2 Q So what would be helpful to us is, if you could
3 give us what your thoughts were back then, irrational
4 though they may have been. So that we could at least
5 understand what you were thinking back then that would
6 have allowed you at that time to do what you did. We
7 recognize that you may be a different individual today.
8 And that your thought process back then is not what your
9 thought process is now. However, we need to have some
10 understanding of what occurred back then.

11 Q Were you in fact fired from this place because of
12 your behavior?

13 A Yes. I was fired. I was fired. I don't want this
14 to just sound like an excuse. You know, you talk about
15 your drug use. Your addiction. To me when I said that,
16 that's the thing.

17 Q You were a heavy drug user at that time?

18 A Yeah, but I don't want to use that as an excuse.
19 Because, I know that other people that use drugs don't do
20 crazy stuff like that.

21 Q Let me ask you this. When you went back to the
22 place just to get your things --

23 A No, it was to rob them.

24 Q -- and to let them know that they shouldn't have
25 treated you the way they did.

[REDACTED]

1 A No, it was to rob them. To rob them.

2 Q Okay. The weapons. Why the need for weapons for
3 these people to turn over their money and property?

4 A Yes.

5 Q Why the callus shooting. You guys clearly had the
6 benefit of surprise on your side. You had weapons. There
7 was no need to kill anyone. It was awful. Then in an
8 execution fashion.

9 A Well, listen, I don't understand it myself, you
10 know. When you go to rob somebody you knew; right. They
11 all knew me there.

12 Q How did up expect to get me away with it?

13 A I had a mask on.

14 Q You had a mask on.

15 A Yeah.

16 COMMISSIONER FERGUSON: Did they recognize your
17 face?

18 THE INMATE: No.

19 COMMISSIONER FERGUSON: Didn't you go in the back
20 to get your things?

21 THE INMATE: I didn't go in the back to get my
22 things.

23 COMMISSIONER FERGUSON: This says that you went
24 back to the locker --

25 THE INMATE: Yeah. My locker was in the back.

[REDACTED]

1 COMMISSIONER BOUEY: The record says that the owner
2 escorted you to the locker in the warehouse, while the
3 codefendant pulled a gun and took their money. And that
4 you emerged from the warehouse waiving a gun. You
5 beckoned to the codefendant to bring the two employees.
6 Who were then forced to lie down on the ground. This is
7 when the people were shot.

8 A That's what the record says. I didn't take him
9 back to empty my locker. I took him back to get the
10 money. Not to empty the locker.

11 COMMISSIONER LAZZARI: Well, your codefendant got
12 sentenced to 10 to 25 on Murder second. You weren't
13 convicted of Murder. You were convicted of Robbery first.
14 So who shot who?

15 A He had -- the reason why he got the 10 to 30, or 10
16 to 25. And I got what I got was because we both pled
17 guilty. I don't know if he pled guilty at trial.

18 COMMISSIONER LAZZARI: To robbery not to murder.

19 THE INMATE: Because he didn't have an adult
20 record. So, I had a record. So I had to get 15 to life
21 as the minimum. Since he didn't have an adult record. I
22 think that he might have had a juvenile record. But I'm
23 not sure.

24 COMMISSIONER BOUEY: So you were messing around
25 with drugs at the time. You had just gotten fired.

[REDACTED]

1 THE INMATE: Right.

2 COMMISSIONER BOUEY: You went back to this place
3 for the purpose of robbing it, to get money for more
4 drugs. Right?

5 THE INMATE: Yes.

6 COMMISSIONER BOUEY: You were how old back then?

7 THE INMATE: I was 28.

8 COMMISSIONER BOUEY: Prior to that you had a
9 conviction of Attempted Criminal Possession of a Weapon in
10 the third degree. Is that right?

11 THE INMATE: Yes.

12 COMMISSIONER BOUEY: You did some time in prison
13 for that; three years. Is that right?

14 THE INMATE: One year.

15 COMMISSIONER BOUEY: One year?

16 THE INMATE: Right.

17 COMMISSIONER BOUEY: You had been involved with the
18 law before, and you were no stranger to guns. You didn't
19 seem to be afraid of weapons.

20 THE INMATE: Well, that's the record. At that
21 time, I was 22 or 23.

22 COMMISSIONER BOUEY: All right. Had you done
23 anything at all at that time on your own to help you with
24 your drug problem?

25 THE INMATE: Back then?

[REDACTED]

1 COMMISSIONER BOUEY: Yes.

2 THE INMATE: No. You don't thing that you have a
3 problem.

4 COMMISSIONER BOUEY: Okay. In spite of the fact
5 that you were living the kind of life that you were
6 living, you thought that was normal?

7 THE INMATE: Nobody could tell me that I had
8 problem. Even, when I first came to prison.

9 COMMISSIONER BOUEY: It was normal for people to
10 come to prison.

11 THE INMATE: I don't understand.

12 COMMISSIONER BOUEY: You know what I'm saying, if
13 you wind up in a place that is not normal for most people.

14 THE INMATE: Right.

15 COMMISSIONER BOUEY: And you're there. You would
16 think the next thing that you would say to yourself is,
17 gee, maybe there was something that I did that made me
18 wind up in an abnormal place.

19 THE INMATE: Of course, but you don't do that right
20 away. I mean it took me a few, maybe three years to own
21 up to the problem.

22 COMMISSIONER BOUEY: All right. Since the last
23 Board you were in programing. You were a porter. You
24 also were volunteered at A.B.E. To your credit,

25 [REDACTED] there are no tickets in your record since

[REDACTED]

1 2002. You want to revamp your life totally and go to
2 California.

3 THE INMATE: Yes.

4 COMMISSIONER BOUEY: Have you ever lived in
5 California before?

6 THE INMATE: No.

7 COMMISSIONER BOUEY: Do you understand that
8 arrangements have to be made for your parole to
9 transferred to California. Then California has to be
10 willing to take you. If they are not willing to take you,
11 then you have to stay in New York. Do you understand
12 that, sir?

13 THE INMATE: Yes.

14 COMMISSIONER BOUEY: Do you have a potential
15 residence in New York if you're released?

16 THE INMATE: Yes.

17 COMMISSIONER BOUEY: Have you thought about what
18 kind of work you might want to do if you are released?

19 THE INMATE: Well I would like to do work with deaf
20 mutes.

21 COMMISSIONER BOUEY: The deaf?

22 THE INMATE: Yes.

23 COMMISSIONER BOUEY: Do you know sign language?

24 THE INMATE: Yes.

25 COMMISSIONER BOUEY: There is also a reasonable

[REDACTED]

1 assurance letter from the [REDACTED]

2 [REDACTED] How did you find out about that, sir?

3 THE INMATE: Well I used to be in the Program.
4 Actually I started, in the Program when I was at Eastern,
5 in this Program. The guy took some grant money, and he
6 created that Program.

7 COMMISSIONER BOUEY: Okay.

8 THE INMATE: And most of the guys that were in the
9 program came from the masters program.

10 Q Okay. Also to the credit, we have a letter here
11 from a [REDACTED] She says here that she has
12 known you for 13 years. She has been a coordinator. She
13 says that she received a letter from you. That she would
14 counsel you. She says that she doesn't understand the
15 rational for keeping you in prison. The there is the
16 A.C.V.P. Program on the outside. She speaks very highly
17 of you. There is also a letter here that was written for
18 you from a coordinator, [REDACTED] at A.D.P. at
19 Woodbourne. She talks about the fine arts program there.
20 She is very sincere, and hopes that you will be granted
21 parole. Then, this is an older letter that was here from
22 your prior appearance a letter from your sister-in-law,

23 [REDACTED]

24 A Yes.

25 Q [REDACTED] had written you a letter. She was

[REDACTED]

1 little at the time.

2 A Yes.

3 Q I just want you to know that we were in possession
4 of all of these letters. A letter from [REDACTED]
5 [REDACTED] She is also one that worked with the A.D.P.
6 Program. All of these people want us to know that they
7 are in support of you. That they will make themselves
8 available for you to. You are very lucky that you have so
9 much support on the outside.

10 THE INMATE: Yes.

11 COMMISSIONER BOUEY: Is there anything else that
12 you would like this panel that would help us in making our
13 decision?

14 THE INMATE: Yes. You know it's mandated that I
15 go in front of the Parole -- I apologize for taking your
16 time.

17 COMMISSIONER BOUEY: That's okay. Take your time.

18 THE INMATE: I have been in front of you on six
19 occasions. And on each of these occasions -- the last
20 time when I had a chance to talk to you. You know, I
21 purposely stayed late so I could be the last one, that I
22 could have some time to talk to you. And I did that
23 because I felt that she could help me to understand what
24 was know going on. And when she told me something that
25 took me back a little. Because I asked her could you be

[REDACTED]

1 crazy one minute then sane the next, and crazy again. You
2 know, could you flip back and forth. And she said that
3 she didn't know the specifics of the crime. So I told
4 her. And she said that sometimes things go on in your
5 life, and that you need to get to a point in your life.
6 And I'm saying that, because it was kind of strange that
7 and she didn't have my -- and when I'm sitting in front my
8 psychiatrist, and she didn't have my record in front her
9 -- and she didn't have my presentation at that time.

10 COMMISSIONER BOUEY: Okay.

11 THE INMATE: And another thing that I want to say
12 too, is that, I don't know if job is a good job. I mean,
13 it's a good job. I know that it is important job. Since
14 you make the decision which is to make sure that people
15 that should be locked up stay locked up you know so that
16 society is safe. I understand that. I also understand
17 that you don't have a crystal ball claiming to, you know,
18 predict the future. I understand that. And every time
19 that you let somebody go, sometimes it turns out bad and
20 sometimes it turns out good. I guess you know you take
21 everything into consideration. And I think that the
22 biggest thing probably is your intuition. You know, your
23 intuition. You know most people make a decision on
24 intuition. So I guess what I'm trying to ask you
25 Commissioners, is that if you think that I am a good

[REDACTED]

1 candidate for release on your intuition, if you determine
2 that. I know that I would never go out there and
3 embarrass or shame or do any kind of negative thing to the
4 Commissioners of the Board of Parole or the Department of
5 the Board of Parole if I'm released. That would never
6 happen. And again I know that it is a hard decision to
7 make. And I know it's a difficult decision. All day and
8 all year long.

9 COMMISSIONER BOUEY: All right. We do have copies
10 of your mental health exam.

11 THE INMATE: And what she said, that I was crazy --

12 COMMISSIONER BOUEY: Stop. If you have any mental
13 health issue, it doesn't mean that you're crazy. There
14 are all different types of mental health issues. So that
15 doesn't mean that you are crazy, sir. But, in reference
16 to the information in these letters. We do have them in
17 your file. We also keep them in your records. Then those
18 letters are submitted to judges and the district
19 attorneys. Then they are reviewed by them, then it will
20 be determined whether or not they are either for or
21 against your release. That potentially could be a good
22 thing for us to take into consideration. Okay?

23 THE INMATE: Yes.

24 COMMISSIONER BOUEY: Commissioners, do you have any
25 questions?

[REDACTED]

1 COMMISSIONER FERGUSON: No.

2 COMMISSIONER LAZZARI: No.

3 COMMISSIONER BOUEY: All right. [REDACTED] we
4 thank you very much.

5 THE INMATE: Thank you.

6 COMMISSIONER BOUEY: We will discuss everything
7 that was said at this interview as well as what's in your
8 record. We will make a decision. You will be notified in
9 a couple of days.

10 THE INMATE: Thank you.

11 (The Inmate left the room.)

12 (After due deliberation by the Parole Board panel,
13 the following decision was rendered:)

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1 DECISION

2 COMMISSIONER BOUEY: Parole denied. A hold of 24
3 months. Next appearance January 2004.

4 After a review of the record, and this interview
5 parole is denied.

6 You continue to serve a controlling term of 15
7 years to life for Murder, second.

8 In the Instant Offense you had participated in a
9 shooting of three male victims during a robbery. Two of
10 the male victims died, and the third was seriously
11 injured.

12 Your history includes prior convictions for weapon
13 usage.

14 The Board notes your institutional achievements and
15 positive disciplinary record.

16 Your contempt for human life and the victims that
17 were involved, leads this panel to determine that your
18 release is inappropriate, as it would deprecate the
19 seriousness of the crime and serve to undermine respect
20 for the law.

21 Guidelines unspecified.

22 (The Commissioners concurred.)

23 (Whereupon, the proceedings were concluded.)
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CERTIFICATION

I, Eileen Feliciano, a Shorthand Reporter and Notary Public 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 same, to the best of my knowledge and ability.

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Eileen Feliciano

January 31, 2006