Parole Interview Transcript/Decision - FUSL000007 (2015-07-28)

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Parole Board Interview

In the Matter of

DIN [REDACTED]

LOCATION: (Video conference) Otisville Correctional Facility

DATE: July 28th, 2015

BEFORE: COMMISSIONER ELLEN ALEXANDER
            COMMISSIONER OTIS CRUSE

ALSO PRESENT: SORC Glebocki
              ORC Brooks
              ORC Goldsmith

REPORTER: Lori Ciofalo, Hearing Reporter

M & F Reporting Service (845) 562-5190
COMM. ALEXANDER: Good afternoon.
THE INMATE: Good afternoon.

COMM. ALEXANDER: Are you
THE INMATE: Yes, I am.

COMM. ALEXANDER: Hi, My name is
Commissioner Alexander. I am joined today by
Commissioner Cruse.

COMM. CRUSE: How are you?

THE INMATE: How are you?

BY COMMISSIONER ALEXANDER:

Q. We are your De novo Board; is that correct?
A. Yes.

Q. De novo really means a do over. We are going to go over the same issues that we had gone over last July 2014. We have not seen you, and it's important for us to assess how you are doing today.

On a positive note, you have no discipline since 2005.

I see you want to live with your cousin,
is that correct?
A. Correct.

Q. I also see that you have a letter of assurance, and that's with
A. Yes.

Q. What will you do for them?

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A. I'll be working with my brother. It's a family businesses, loading and unloading trucks.

Q. Now, is it true you earned a Master's Degree, while you have been in prison?

A. Yes.

Q. What's that in?

A. Religion.

Q. What do you think is the most powerful lesson you learned by completing your Master's Degree?

A. My most powerful lesson I learned here is your thoughts. When you change the way you think, you change the way you act and you change the way you feel. I got into religion because it grabs people. My aim is to try to deter people from doing some of the things I have done. Religion grabs them first, and I tell them the things I have done wrong in my life.

Q. Now, we will go back to that in a bit.

Out of everything that you have accomplished in prison, what is the most important to you?

I went to the Master's Degree, but that may not be the most important thing to you.

A. The most important thing to me was Aggression Replacement Training.

Q. Why so?

A. Because I have a problem with violence.
I was very violent. Again, you know, my thought pattern was twisted. I was demented, in a sense.

If you change the way you think, you change the way you act. ART made me change the way I see things.

I see life through a different set of eyes.

Q. Now, the crime which brought you to prison, a difficult crime; would you agree?

A. Yes.

Q. Now, my records indicate that in November of 1985, an older-male victim was shot during a robbery of the dispatch garage.

I guess you had three un-apprehended accomplices. You fled the scene. A sanitation worker took down the license plate.

You were convicted by verdict of Murder, Second; Manslaughter, First; Criminal Possession of a Weapon, Second; as well as Attempted Robbery, First.

I know other Commissioners have told you this, that we do not have your Sentencing Minutes.

A. Yes.

Q. Were you ever offered a plea, sir?

A. Yes. I was offered a plea of ten to twenty, to implicate the other perpetrators.

I didn't know all the perpetrators, so in a sense they forced me to trial.
Q. Did you take the stand in your own defense?
A. No.
Q. In your offender statement you talk about the fact that you had a gambling problem.
A. Yes.
Q. And that's, perhaps, why you participated in this robbery.
A. Yes. That day I went to work. I got off work. I went to an after-hours gambling spot. I lost maybe three hundred fifty dollars.
These three guys approached me and asked me, did I want to do a robbery? I said yes. We drove to the garage and committed the attempted robbery.
Q. So did you bring any weapon to this robbery?
A. No. They brought the weapons.
Q. Were you the shooter?
A. Yes. I shot the man in the stomach.
Q. So how did you end up with the pistol, if you didn't bring the pistol to the robbery?
A. When we got to the site they said, "Here, take the pistol." And the other guy took a pistol.
We went into the garage, and he told them to lay on the floor. The guy, he must have thought the gun was fake, because it was real small, it was a .22. He swung at me, and I shot him in the stomach.
Q. I saw the issue of whether the gun was real or fake. What you're saying is you thought the victim thought the gun was fake --
A. Yes.
Q. -- and that's why he would swing at it. Did you think the gun was fake?
A. No.
Q. So when you pulled the pistol, you knew it was real; is that correct?
A. Yes.
Q. You knew it could have caused harm, correct?
A. Yes.
Q. How many times had you fired a gun before?
A. Once.
Q. What were those circumstances?
A. Excuse me. I didn't fire a gun one time. I only fired once, at him.
Q. So how did you know how to use a gun, if you had never fired one before?
A. From when I was kid, shooting cap guns and stuff like that. It's the same premise.
Q. You didn't know whether the safety was on, you didn't know anything about it, correct?
A. No. The revolvers don't have no safety.
Q. So you did know something, right?
A. Right, from cap guns and stuff like that.

Q. So what do you think about this crime, so many years later?

A. I think it was a terrible, terrible crime. I wish I could right my wrong. I can't turn it back, but I try, as days unfold, to deter people from committing crimes like that.

Q. And do you think justice has been served?

A. Served? That's a difficult question.

Q. I ask you, because you are an educated man. You have a degree in religion, a Master's.

I think it's a difficult question. I don't know the answer. What do you think?

A. Even though I have almost thirty years in jail, I can't put a time limitation on life. Life is too precious to put a time limitation on it. I can't answer that question. It's a difficult question for me to answer. Very difficult.

Q. I understand. Do you know if the judge said anything to you during sentencing? As we discussed, we don't have them.

A. No, he didn't say anything, other than my sentence.

Q. Now, we also do have your COMPAS Risk Assessment. I see that you were rescreened back in 2015.
The scores are very good. Most things are at the lowest level, which is where you want to be.

It talks about a history of violence being medium. Prior to this crime I see a YO adjudication.

I think you would agree, this was a big escalation of your criminal history; is that correct?

A. Yes.

COMM. ALEXANDER: I am going to ask Commissioner Cruse, whether he has any questions for you?

COMM. CRUSE: I have no questions. Thank you.

BY COMMISSIONER ALEXANDER:

Q. I do see that in the file you had put together what's called a Quantitative Profile, back in 2010.

Is there anything out of that portfolio, or anything more recently, which speaks to your rehabilitation, that you want us to know about?

A. Yes. I got a letter from the gun buyback program.

Q. That's from... is that correct?

A. And another person, also.

Q. I also see you do have a letter of support from a He is a correctional officer; is that
correct?

A. She.

Q. She. I apologize.

A. They also have some other letters of support in here.

Q. Do you plan on using your Master's Degree?

I know you are working for a trucking company, if you are released. Is there any plans you have to use your religion degree in a different way?

A. Yes. I want to be a pillar to my community in terms of that, and go out to the community, in terms of gyms, and talk to the younger brothers and sisters about my experience in life and deter them from doing the bad things I have done.

The reason I got into religion is because it grabs and governs people. You can grab people with religion. It touches on the soul.

Q. Anything else we need to know, that we have not covered? We tried to cover a lot of ground this afternoon.

A. I want to cover that I have a deep-seated regret, remorse and sorrow for the things I have done.

Also, when God pushes my name in the computer, I hope that he gives me the opportunity to sit down and talk to to express my remorse, regret

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and sorrow.

COMM. ALEXANDER: I am not sure what will happen in the future in that regard.

We will let you know in writing, in a couple of days.

Thank you for coming in.

THE INMATE: Thank you.

(Interview concluded.)
DECISION

COMM. ALEXANDER: Parole is denied. Hold twenty-four months. Next appearance, 7/16.

After carefully reviewing your record and conducting your De novo interview, this panel commends your personal growth and productive use of time, but notes that discretionary release shall not be granted merely as a reward for good conduct or for efficient performance of duties while confined.

You stand convicted of Murder, Second; Criminal Possession of a Weapon, Second; Attempted Robbery, First, in connection with your actions with others, shooting a male victim during a robbery in a garage.

This is an escalation of your criminal history and record on community supervision, which dates back to a YO adjudication.

The panel makes note of your program goals and accomplishments; including your completion of your Master's Degree and ART, Risk and Needs Assessment, and your disciplinary record, which has been clean since 2005.

Also your release plans, and letters of support and assurance, have been reviewed and considered.

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After deliberating, reviewing your overall record, and statutory factors, discretionary release is not presently warranted, as your release would trivialize the gravity of the harm you inflicted on the victim, and his family.

And, furthermore, your release would be incompatible with the welfare of society, and would so deprecate the serious nature of your crimes as to undermine respect for the law.

(All Commissioners concur.)
CERTIFICATION

I, Lori Ciofalo, 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, and that the foregoing, consisting of 13 pages, is a true and correct copy of the same and whole thereof.

Lori Ciofalo
Lori Ciofalo, Court Reporter
Dated: July 28th, 2015