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December 2019

## Parole Interview Transcript/Decision - FUSL000017 (2017-05-23)

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1
  2 NYS DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
3 *
                   Parole Board Interview
    4
                       In the Matter
    5
                          -of-
    6
   7
                       DIN
                       NYSID
at 148. Same
     ************
   10 TYPE OF INTERVIEW: Reappearance
   11
      LOCATION:
                       Otisville Correctional Facility
                       Video-conferenced to NYS DOCCS
   12
                       20 Manchester Road
   13
                       Poughkeepsie, New York
   14 -
                       May 23, 2017
      DATE:
                       May 23, 2017
   15
     DECISION DATE:
   16
                       COMMISSIONER S. THOMPSON
      BEFORE:
                       COMMISSIONER J. SMITH
   17
                       COMMISSIONER O. CRUSE
   18
19 ALSO PRESENT:
                       SORC Glebocki
                       ORC Kadanthod
   20
     AT FACILITY:
                      ORC Raimondo
   21
   22
                      Lori Ciofalo, Hearing Reporter
   23
     REPORTER:
   24
   25
```

- 1 COMM. SMITH: Good evening. Would you
- 2 state your name for the record?
- 3 THE INMATE:
- 4 COMM. SMITH: Good evening,
- 5 I am Commissioner Smith, and I am joined today by
- 6 Commissioner Thompson and Commissioner Cruse.
- 7 COMM. THOMPSON: Hello.
- 8 COMM. CRUSE: How you doing?
- 9 THE INMATE: How you doing, sir? How you
- 10 doing?
- 11 INTERVIEW BY COMMISSIONER SMITH:
- 12 Q. Actually, Commissioner Cruse and I were part
- of your panel in February, at your de novo
- 14 interview, and I think I might have actually seen
- 15 you a few years back, but today is a new opportunity
- 16 for you. Okay, sir?
- 17 A. Okay.
- 18 Q. The record indicates you continue to serve a
- 19 sentence of fifteen to life, following a plea, in
- 20 the Bronx, to Murder Second; is that correct, sir?
- 21 A. That's correct.
- Q. We do have your Sentencing Minutes.
- The offense dates back to March of 1981, at a
- 24 junkyard, when you and your co-defendant shot three
- 25 victims, during the course of a robbery at that

- 1 junkyard. Two of these people died and one was
- 2 seriously injured.
- 3 Can you explain to us your involvement and
- 4 what transpired this day? I believe it was a place
- 5 you previously worked at; is that correct?
- 6 A. Yes, yes.
- 7 Q. Tell me what happened that day.
- 8 A. Well, that day I was just out of my mind, with
- 9 drugs, first of all. I remember getting up and
- 10 needing money, so I went and asked can I
- 11 borrow one of his guns. He asked me what for, and I
- 12 told him what for. I told him to try and get some
- money. He said he would come with me.
- So we rode around for a couple of hours trying
- to find some place to rob, but we couldn't find one.
- 16 I said, "Listen, I used to work in this place, so
- 17 help me rob this place."
- 18 So we went there. I got in there, and I said
- I said I came back to get
- 20 my clothes and some old property that I had there.
- He took me in the back, and then I pulled a
- 22 gun on him, and I robbed him, and he got killed, he
- 23 got murdered.
- Q. Did you shoot him?
- 25 A. Yes, ma'am.

- 1 Q. That's what you just missed saying. You said,
- 2 "He got killed."
- 3 A. Okay, I did. Yes, yes. I murdered him, yes.
- 4 Q. Who else got shot that day?
- 5 A.
- 6 Q. Were they all your former coworkers?
- 7 A. was a coworker, and was a
- 8 security guard.
- 9 Q. And was the one that was injured?
- 10 A. Yes.
- 11 Q. Was he an armed security guard or no?
- 12 A. No, he wasn't an armed security guard.
- Q. When you said that you went into the back, was
- 14 there a safe back there, or a cash drawer, or
- 15 something that you thought you could get money from?
- 16 A. There was a safe back there, yes.
- 17 Q. How much money was in that safe?
- 18 A. I don't know. Believe me, it wasn't enough.
- No money is enough for someone to lose their life,
- 20 ma'am. I don't know how much money was in there.
- 21 Q. Did you get any money?
- 22 A. A little bit, and I don't remember how much it
- 23 was.
- Q. So the gun belonged to
- 25 A. Yes,

- 1 Q. What type of gun was it?
- 2 A. A handgun.
- 3 Q. So why did you have to kill him?
- A. I think that when I went to get the money, and
- 5 I asked him for the money, he threw the money at me,
- 6 and then the gun just went off, and that's how he
- 7 actually got shot and died.
- 8 Q. Well, maybe that could explain for one person,
- 9 but how do you explain the two other people getting
- 10 shot?
- 11 A. I wasn't there for the other two. After
- got shot, I ran out. I told
- "Let's go." There was two exits. I thought he was
- 14 coming behind me. I wasn't there when the other two
- 15 gentlemen got shot.
- 16 Q. So who shot them?
- 17 A.
- Q. So you only admit to shooting
- 19 A. Yes.
- Q. Did you give the gun you had to
- 21 A. No. He had a gun, also. I ran out the exit.
- Q. So you ran out with the gun he had given you?
- 23 A. Yes.
- Q. How old were any of these people, especially
- 25 If you're taking responsibility for

- 1 shooting him, how old was he?
- A. I guess he was my age, twenty-eight,
- 3 twenty-seven, maybe twenty-nine.
- Q. Did you have any hard feelings with him?
- 5 A. No, ma'am, not at all.
- Q. It's too bad someone's life was snuffed out,
- 7 so senselessly.
- 8 A. Yes.
- 9 Q. Did his family speak at Sentencing?
- 10 A. No.
- 11 Q. Did any of the other victims' families speak?
- 12 A. No, ma'am, no.
- Q. As we look at your legal history, this is your
- 14 second time in New York State prison. It looks like
- 15 you had been off parole for about five years,
- 16 roughly, when this occurred.
- 17 A. Yes, roughly.
- 18 Q. Your prior bid was for a Class D felony, an
- 19 Attempted Robbery, also.
- 20 A. Yes, an Attempted Robbery.
- Q. Did you have a weapon in that one?
- 22 A. I had a toy gun.
- Q. The people you were robbing didn't know it was
- 24 a toy, though, did they?
- 25 A. No, they didn't know that. I can imagine them

- 1 being terrorized and traumatized.
- Q. What did you rob, was it a home or a business?
- 3 A. It was a train booth -- a token booth, at the
- 4 train station.
- 5 Q. You have been incarcerated, and we recognize
- 6 it is a number of years, you are approaching
- 7 thirty-six years; is that correct?
- 8 A. Yes.
- 9 Q. That's a long time. We do note the sentence
- 10 imposed was fifteen to life.
- 11 We note during your period of incarceration
- 12 you've completed all of your mandatory programs.
- 13 You have maintained volunteer membership in various
- 14 program organizations, including YAP. You've held
- outside clearance for a number of years. What
- 16 happened in 2015?
- 17 A. In 2015 they said I was in that position too
- long, nine years, so they wanted to put me in the
- 19 horse barn, and I didn't want to work in the horse
- 20 barn.
- 21 Q. Now you are in the
- 22 administrative clerk; is that correct?
- 23 A. Yes.
- Q. With respect to your discipline, you are to be
- 25 commended. You've only had four Tier II tickets, in

- 1 nearly thirty-six years of incarceration. You have
- 2 had almost fifteen years, since you've had any
- 3 tickets at all. You are to be commended for that.
- 4 That's not something we often see.
- 5 A. Thank you.
- 6 Q. We have your COMPAS Case Plan, and we are
- 7 going to be taking a look at that, and your COMPAS
- 8 Risk Assessment.
- 9 Your COMPAS Risk Assessment is largely
- 10 favorable for you. It shows you to have a low risk
- 11 of violence and arrest.
- Despite the nature of the crime, it says you
- 13 have a low history of violence. I know you said you
- 14 were on drugs or looking for money for drugs when
- 15 this occurred, but it says that re-entry substance
- 16 abuse is unlikely.
- So the drugs are out of your life, sir?
- 18 A. Yes, ma'am, completely, forever, thank God.
- 19 Q. After you shot and you left, what
- 20 happened after that?
- 21 A. We got into a cab, and we went back to the
- 22 Bronx, and we split the little bit of money, and
- 23 then I left, and he left, and I haven't seen him
- 24 since.
- Q. How soon thereafter were you arrested?

- 1 A. A week, maybe.
- Q. How did they tie it to you?
- 3 A. I don't know how they tied it to me. Well, I
- 4 worked there and was the security
- 5 guard.
- 6 Q. I read somewhere that the victims were shot,
- 7 basically, execution style; is that true?
- 8 A. was.
- 9 Q. So you shot him in the back of the head?
- 10 A. Yes.
- 11 Q. We have contacted the Judge, the District
- 12 Attorney and the defense attorney, that presided
- 13 over your case. We asked them to comment on your
- 14 parole eligibility. We did receive a response from
- 15 the District Attorney, which we will take into
- 16 consideration.
- We also have, on your behalf, a number of
- 18 letters of support, multiple, too many to read into
- 19 the record. I think you could probably see from the
- 20 screen, there, the large volume that we have.
- You are fortunate that there are people out
- 22 there willing to support you after two things; after
- 23 the length of time you have been in and, also, based
- 24 on the crime you committed.
- There are a lot of people who are putting

- 1 their name on the line to say you are a good person,
- 2 including Correctional staff, who have written in
- 3 commendable behavior reports for you.
- 4 We also have your parole packets. We have a
- 5 number of them here, from years in the past, and
- 6 your most recent one for this appearance in May.
- What is your greatest accomplishment, since
- 8 you have been incarcerated?
- 9 A. I guess the greatest would be education; and
- 10 that's because when I was working at the job with
- 11 the mentally retarded, they actually offered to pay
- 12 for my education, and I just walked away from the
- 13 opportunity. I walked away.
- 14 So education, for me, is one of the biggest
- 15 accomplishments, and then the PACE program.
- 16 Starting the PACE program was another big one.
- 17 Q. We have your personal statement contained
- 18 within your parole plan, also your release plans.
- 19 You want to work with
- 20 You can live with your sister in the Bronx,
- 21 correct?
- 22 A. Yes, ma'am.
- 23 Q. You spoke here about that you owe a debt to
- 24 and family.
- 25 A. Yes.

- Q. You also said, "I am truly self-stricken for
- 2 the killing of and
- 3 I ask that you forgive me. I take full
- 4 responsibility for the senseless murders that I
- 5 committed." So there it sounds like two.
- A. Well, I was responsible for two. If it wasn't
- 7 for me going to ask to give me a gun, and him
- 8 coming with me, they wouldn't have gotten murdered,
- 9 so I am responsible for two. Although, I didn't
- 10 pull the trigger on two, I asked him to come with
- 11 me.
- 12 Q. Again, there are numerous letters of support
- 13 here.
- 14 A. Yes.
- 15 COMM. SMITH: Commissioners, any
- 16 questions?
- 17 COMM. CRUSE: No questions, thank you.
- 18 BY COMMISSIONER THOMPSON:
- 19 Q. How long did you work for the victim?
- 20 A. For about a year.
- Q. What did you do there?
- 22 A. I was a driver.
- Q. And you always worked as a driver?
- 24 A. That's what I did. I was hired as a driver.
- 25 Sometimes I stayed inside and helped out. When

- 1 there was no work to go out, I stayed inside and
- 2 helped out.
- Q. On this day, did you know that the victim
- 4 would have been in there working alone? Did you
- 5 know the operation?
- 6 A. Yes, but I didn't know if he was still going
- 7 to be there. We was driving around trying to find a
- 8 place to rob, so I didn't know. I think it was late
- 9 at night, in the late evening.
- 10 Q. Did you know he would have money at the time?
- 11 A. Yes, I knew there was money in there.
- 12 Q. And even though you knew that there was money
- in there, you're looking for a place to rob, you
- 14 know the ins and outs of this location, you didn't
- 15 think about robbing this location, first, it wasn't
- 16 planned?
- 17 A. No, not at all. First, we rode around in the
- 18 cab for at least forty-five minutes to an hour,
- 19 maybe even longer than that.
- Q. What made you think of this location?
- 21 A. It was getting late. We had to pay the
- 22 cabdriver, and we didn't have no money, so I said
- 23 let's go rob my former place of work.
- Q. How much did you get?
- 25 A. I don't remember, ma'am, I really don't.

- Q. Hundreds, thousands, what?
- 2 A. All of it went to drugs. I don't remember how
- 3 much it was.
- Q. Was it a couple of hundred, a couple of
- 5 thousand? Do you have any idea?
- 6 A. Maybe a couple of thousand. It wasn't worth
- 7 someone's life.
- 8 Q. Absolutely not.
- 9 A. Even if it was a million dollars, it's not
- 10 worth someone losing their life.
- 11 Q. You said when he threw the money at you, you
- 12 accidently shot him.
- 13 A. It was an impulse, a reflex. It was just
- 14 boom. He threw it in my face, and I shot.
- Q. Did it ever cross your mind that he could
- 16 identify you, if he was alive?
- A. I don't think, me, myself -- when you're using
- drugs, you're not thinking about that. All you're
- 19 thinking about is getting the money and getting
- 20 high. You're not thinking about people identifying
- 21 you. You don't think about that.
- Q. Did he have a family? Was this a family-run
- 23 business?
- 24 A. It was a family-run business, yes.
- Q. Did you know his family?

- 1 A. I knew his brother.
- 2 Q. Anyone else?
- 3 A. No, that's the only two people I actually ever
- 4 seen in the shop. I think his father came through
- 5 once in a while, but I never really met him. I met
- 6 his brother,
- 7 Q. How well did you know him?
- 8 A. Probably better than I knew because he
- 9 was always in the shop. He would give me the routes
- 10 to take, and that's who I reported to in the
- 11 morning.
- 12 Q. Why were you fired?
- 13 A. Because of drug use.
- Q. Did they know you were using drugs?
- 15 A. My work probably showed it. I would take the
- 16 truck and come back real late at night. My work
- 17 probably showed that something was wrong.
- 18 COMM. THOMPSON: No further questions.
- 19 Thank you.
- 20 COMM. CRUSE: I have some questions.
- 21 BY COMMISSIONER CRUSE:
- Q. We have talked to you before, I have
- 23 interviewed you before, along with Commissioner
- 24 Smith.
- 25 As I was rereading your crime and listing to

- 1 you, today, it started to take me back anew as to
- 2 how rampant your behavior was.
- 3 You said I was just riding around the
- 4 community, looking for a place to rob. And then, at
- 5 the top of the interview, even at this late date,
- 6 you left out yourself, in your response, like, oh,
- 7 yeah, he got killed. You were the one that shot
- 8 him.
- 9 A. Right.
- 10 Q. And then when she asked about the execution
- 11 style, you said yeah, like it was somebody else.
- 12 A. No, no, no, no.
- 13 Q. I don't feel that you did that deliberately,
- 14 within you that's what happened, but you did it
- 15 right off the cuff. It put me back in a place in
- 16 time, I'm wondering like, wow, how far have we
- 17 changed, or have we changed, because those answers
- 18 seem, after all of this time, to skip some very
- 19 pertinent information.
- 20 A. Listen, Commissioner, I could sit down here
- 21 and take you from 1974, when I was released from
- 22 prison, and take you right through the steps.
- 23 Reliving this thing, every two years, hurts.
- 24 It eats me up. It just hurts, and I can imagine how
- 25 the victims' families feel. I can imagine them

- 1 hurting. They have to relive this every day.
- 2 If I left something out, I didn't mean to
- 3 leave it out. Everything is important in this case.
- 4 Everything, everything, everything is important.
- 5 I'm not trying to sound like I'm minimizing
- 6 the crime or my responsibility. I am responsible
- 7 for it. is not responsible for it, I am
- 8 responsible for it.
- 9 If I didn't go to the gentlemen
- 10 might still be alive. It is my responsibility, me,
- 11 me, me, and no one else, no one else.
- 12 I don't want you to feel like that.
- 13 COMM. CRUSE: Thank you, sir.
- 14 CONTINUED BY COMMISSIONER SMITH:
- it's a tough case, and we have to
- 16 ask those tough questions, and I'm sure you have
- 17 been through that before. You have appeared before
- 18 numerous panels, in the past.
- We have a responsibility for public safety, to
- 20 make sure we have all the facts we need to make an
- 21 informed decision, and I hope you can respect that.
- 22 A. I mean, I respect it. I respect everything
- 23 you all do. I know you have a very tough job, and I
- 24 respect that.
- The only thing I'm saying, ma'am, is that I
  - Schmieder & Meister, Inc. (845) 452-1988

- 1 have changed. I am not the same person. Thirty-six
- 2 years ago I was impulsive, reckless, selfish and
- died. This
- sitting in front of you today, right
- 5 now, is a totally new person. I reinvented myself.
- 6 I am a totally new person.
- 7 Q. I hope I have acknowledged your program
- 8 accomplishments, because I do see change. I see a
- 9 long time in prison. I see a disciplinary history
- 10 that is very good, a COMPAS score that is very good.
- On the other side of that, we have to look at
- 12 we have two people deceased and one seriously
- 13 injured. We have to weigh all of that. Nothing
- 14 gets weighed more than something else. We do
- 15 acknowledge what you have done and you have changed.
- 16 A. I am a totally different person. The support
- 17 letters you have from the staff, these people know
- 18 me for like twenty, twenty-five years, and they know
- 19 how I sleep, what I like to eat, what I like to
- 20 read, how I act when no one is looking. They know
- 21 my character. They would not put themselves on the
- 22 line. They have watched me for twenty-five years.
- 23 I just pray that the Panel can see the change.
- 24 I know it's only a few minutes, and I might not have
- 25 articulated myself very well.

- 1 Q. You have done very good.
- 2 A. I just pray that the Panel can see that this
- 3 sitting here, today, is not the same
- 4
- 5 The officer standing right there, he can
- 6 attest to this. He's standing at the door, looking
- 7 in. He's looking at me, because he knows I've
- 8 changed.
- 9 Q. We appreciate that you have taken some effort
- 10 while incarcerated to make those changes, and we
- 11 will weigh everything and render you a decision,
- 12 sir.
- 13 Is there anything else that we have not
- 14 discussed, that you feel is important for us to
- 15 consider, as we close the interview?
- 16 A. This is actually for Commissioner Cruse, also,
- 17 the whole Panel, but he was on the Board last time,
- 18 and he talked about me losing opportunities, wasting
- 19 opportunities, letting opportunities slip away.
- I never sat before a Panel, before, and wanted
- 21 to write a Commissioner and thank him. I have to
- 22 thank him for telling me about the opportunities I
- 23 missed and letting me see the opportunities I
- 24 missed. I had an opportunity to go to college, and
- 25 I missed it.

- When the kids come in I use his opportunities,
- what he was telling me. The first thing when I see
  - 3 them, I ask them if I gave you a million dollars, or
  - 4 an opportunity, which one would you take.
  - 5 These are fifteen, sixteen and
  - 6 seventeen-year-old children, and they say the
  - 7 million dollars, but they don't understand about the
  - 8 opportunities. The opportunities are to finish
  - 9 school and obey your parents, this is what I tell
- 10 them.
- I thank because he made me
- 12 think about that, and I thought about it for a long
- 13 time, about the opportunities --
- 14 Q. All right, sir.
- 15 A. -- so I could honor and
- Q. We have attempted to give you a full, fair and
- 17 accurate interview. Do you feel that you have had
- 18 that today, sir?
- 19 A. Honestly, I will say this. Going on over
- 20 thirty-six years, I think if something is agonizing
- 21 with the Board, then we should discuss it, and
- 22 that's what I think is a fair hearing is.
- I see your face, and if something is agonizing
- 24 you, then maybe we should discuss it.
- Q. You have answered all of my questions. I'm

- 1 asking you if you feel like that was fair and
- 2 accurate, what we have asked you?
- 3 A. What you're asking me was fair and accurate,
- 4 yes.
- 5 Q. We've got two files, here. I had to separate
- 6 them, because they are so big with all of your
- 7 information.
- 8 We have a lot of information to review, and we
- 9 will get back to you. Thank you for coming in and
- 10 have a good evening.
- 11 A. Please don't take what I said as me trying to
- 12 minimize this. I'm sitting here and you're nervous
- 13 and everything might not come out the way you plan
- 14 it to come out in your head. I do take full
- 15 responsibility.
- 16 Q. And we thank you.
- 17 A. I am very, very hurt. If you could see my
- 18 heart, you would see the remorse and the pain just
- 19 bleeding out of my heart for the victims' families.
- 20 Q. Thank you for that.
- 21 A. It hurts me every day.
- 22 COMM. SMITH: Very well,
- 23 Have a good evening. We will get back to you,
- 24 shortly. Thank you, sir.
- THE INMATE: All right, thank you. (Interview concluded.)

-	
2	(After due deliberation by the Parole Board
3	Panel, the following Decision was rendered:)
4	
5	DECISION
6	
7	parole denied. Hold 12 months.
8	Next appearance 5/18.
9	Parole is denied. This decision is based on the
10	following factors: The Instant Offense of Murder,
11	Second, wherein when acting in concert, during the
12	course of a robbery, three victims were shot, two of
13	whom died.
14	This is your second New York State term of
15	incarceration. This crime was heinous and left a
16	wake of victims.
17	After a review of the record and interview, the
18	Panel has determined that if released at this time
19	there is a reasonable probability that you would not
20	live at liberty without, again, violating the law.
21	Your record dates back to approximately 1973.
22	It includes felonies, as well as prior prison. You
23	have failed to benefit from prior efforts at
24	rehabilitation.
25	Note is made by this Board of your Sentencing
v.	Schmieder & Meister, Inc. (845) 452-1988

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1
     Minutes, COMPAS Case Plan, COMPAS Risk Assessment,
 2
     which indicates a low risk of felony violence,
 3
     rehabilitative efforts, letters of support and/or
 4
     reasonable assurance, disciplinary record, and all
5
     other required factors; including official
 6
     opposition to your release.
 7
         Additionally, your release at this time would
 8
     be incompatible with the welfare of society, and
     would so deprecate the serious nature of the crime
 9
10
     as to undermine respect for the law.
11
     The Panel notes your institutional progress and
12
     length of time served.
                (All Commissioners concur.)
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2	CERTIFICATION
3	
4	I, Lori Ciofalo, Court Reporter and Notary
5	Public, in and for the State of New York, do hereby
6	certify that I attended the foregoing proceedings,
7	took stenographic notes of the same, and that the
8	foregoing, consisting of 23 pages, is a true and
9	correct copy of the same and whole thereof.
10	
11	<u>Lori Ciofalo</u>
12	Lori Ciofalo, Court Reporter
13	Dated: May 23, 2017
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