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NYS DEPARTMENT OF CORRECTIONS
AND COMMUNITY SUPERVISION
BOARD OF PAROLE

----- X

Parole Board Hearing

In the Matter
of

[REDACTED]

DIN
NYSID

[REDACTED]

----- X

TYPE OF HEARING: Reappearance

LOCATION: (Teleconference)
Otisville Correctional Facility

DATE: November 8, 2011

BEFORE: COMMISSIONER W. WILLIAM SMITH, JR.
COMMISSIONER LISA ELOVICH

ALSO PRESENT: FPO II G. MORGIEWICZ
FPO I A. GOLDSMITH
APA A. STEVENS

REPORTER: Esther Katz, Hearing Reporter

1 [REDACTED]
COMM. SMITH: Good afternoon. Are you [REDACTED]

2 [REDACTED]

3 THE INMATE: Yes, I am.

4 COMM. SMITH: [REDACTED] I am Commissioner
5 Smith and to my right is Commissioner Elovich.

6 COMM. ELOVICH: Hello, sir.

7 THE INMATE: Good afternoon.

8 BY COMMISSIONER SMITH:

9 Q. You are reappearing before the Parole Board.
10 You've been seen since your initial appearance in
11 1996; is that correct?

12 A. That's correct.

13 Q. You continue to serve a fifteen to life
14 sentence for Murder in the 2nd Degree. You pled
15 guilty to that; is that true?

16 A. That's correct.

17 Q. And we've had a chance to review what was
18 said in the pre-sentence, report as well as the
19 sentencing minutes. I don't believe I've talked to
20 you before I may go over some things that were
21 discussed in the past.

22 You plead guilty to this crime. Do you
23 admit committing the offense?

24 A. Yes, I did.

25 Q. So you take a responsibility for it. It was

[REDACTED]

1 certainly a serious matter in that it resulted in the
2 death of a young man. You knew this man?

3 A. Yes, I did.

4 Q. And in terms of the actual shooting, there's
5 descriptions in the appearance information, the stuff
6 that we have in terms of pre-sentence report about
7 your discharge of a weapon during this crime. How
8 many times did you fire?

9 A. Once.

10 Q. The victim, did you know the victim?

11 A. Yes.

12 Q. Did you have some reason to be upset with
13 him?

14 A. Well, I have to go back, further back like
15 into maybe 1979, even further back than that 1974.
16 When I was released from prison in '74, I had a job.
17 I got a job immediately after prison working with the
18 mentally retarded.

19 Q. My question though -- I don't need to know
20 what you did from '74 on. Did you know the victim?

21 A. Yes, I did.

22 Q. There's a description, the crime involved a
23 total of six perpetrators, if you will, and resulted
24 in three shootings, three people being shot, two of
25 those dying; is that correct?

[REDACTED]

1 A. Yes, partly.

2 Q. Well, were more than three people shot or
3 just three?

4 A. No, three people were shot.

5 Q. And two people died as a result, right?

6 A. Yes. Yes.

7 Q. Was that [REDACTED] and [REDACTED]

8 A. No, no it wasn't. It was [REDACTED] and

9 [REDACTED]

10 Q. [REDACTED]

11 A. Yes, [REDACTED]

12 Q. [REDACTED] You were going to
13 talk about the time you were released, because it was
14 through your employment that you knew one of the
15 victims, right?

16 A. Yes.

17 Q. I go back to the '73 prison term, that's the
18 one you were referencing?

19 A. Yes, it is.

20 Q. You had been released, it looks like paroled
21 on December 20th of 1974; is that correct?

22 A. I believe so.

23 Q. There were actually two separate accounts of
24 Attempted Criminal Possession of a Weapon that you had
25 pled guilty to; is that right?

[REDACTED]

1 A. That's right.

2 Q. We don't always have old information, but
3 actually your folder is pretty complete. I go back to
4 the information as it relates to those attempted
5 Criminal Possession of a Weapon seconds, what were the
6 weapons?

7 A. They was toy guns.

8 Q. Did you use them in robberies?

9 A. Yes, I did.

10 Q. Because it says you showed a gun, give me
11 all your bills and you won't get hurt. I don't know
12 if you recall that, it's a while ago, but I certainly
13 have an advantage of having paperwork in front of me.

14 This was certainly an escalation, because
15 these were guns that were used to cause the death.

16 Now, we look at your criminal history and
17 your instant offenses. They're not the only factors.
18 You have submitted a number of documents in the past,
19 but in addition, more recently, it looks like you've
20 reached out to the [REDACTED] and that's
21 in [REDACTED] right?

22 A. Yes, it is.

23 Q. It's actually I think the [REDACTED]

24 A. [REDACTED]

25 Q. Yes, [REDACTED] They are very

[REDACTED]

1 supportive of you. There's a meeting of the friends
2 in [REDACTED] the [REDACTED] friends meeting group.
3 One of the leaders, volunteers of that, has positive
4 letters. Where did you get involved in that program,
5 with which facility?

6 A. In this facility. I've been here nine years
7 and for nine years I've been involved in religious
8 programs.

9 Q. So there at Otisville?

10 A. Yes.

11 Q. I know you have other letters that have been
12 written by members of that association or grouping,
13 which is -- we certainly don't discount any support or
14 individuals who will help to keep you grounded and
15 hold you accountable for your behavior.

16 With the prior state prison term, why do you
17 think that wasn't enough to have you stay away from
18 guns and violence?

19 A. That's a very good question. It wasn't
20 enough because I didn't really do any time. I went
21 there, I was in Eastern at that time, what they called
22 NAP. It was a prison that had games, even had a
23 mini-golf course, so all I did was play games, games,
24 games, for nine months or however long I was there.

25 When I was released, I didn't want to get

1 [REDACTED]
2 into crime again, but I did get a job, like I was
3 alluding to earlier. I worked with the mentally
4 retarded as soon as I got released. I worked with
5 that organization until 1980, when I was released, and
6 I immediately went to seek another job.

7 Then, when I was released again, instead of
8 seeking a job, I went back to old habits.

9 Q. You have a sister in California that might
10 give you a place to stay, but you understand that that
11 would have to be approved, any out-of-state transfer.

12 Is it your intention to go to one of the
13 programs that I mentioned before that could offer
14 assistance in housing?

15 A. If I stay in New York?

16 Q. Yes. Or would you go to a shelter?

17 A. No, I also have a sister in New York. I
18 have family in New York also. My twin sister is in
19 New York. She has a home, she has a job for the last
20 35 years, steady job.

21 Q. It's important to know. It's kind of hard
22 sometimes to get a direct transfer out of state. I
23 know you've been involved in the outside clearance
24 program there in Otisville. You've also been involved
25 prior to that in a number of vocational services,
inmate grievance, you were involved in that for a

[REDACTED]

1 period of time. You've also been involved in other
2 therapeutic programs, including some violence
3 programs, in the past. I mention that in particular
4 because of your instant offense.

5 There's a lot to look at. It's not just the
6 instant offense. You have some good. Your behavior
7 has been good since 2002. Prior to that you had some
8 Tier II disciplinary violations, but I believe you've
9 had nothing since August of 2002. Is that still the
10 case?

11 A. That's still the case, yes.

12 COMM. SMITH: I don't know if Commissioner
13 Elovich has any additional questions?

14 COMM. ELOVICH: No, thank you.

15 Q. [REDACTED] we thank you for coming in. Is
16 there anything else?

17 A. Can I point out one thing? Yes.

18 Q. Is there anything else that you would like
19 to tell us?

20 A. Yes. We have a delay, I guess, right. I
21 understand believe me, I understand that your number
22 one responsibility and concern is public safety, I
23 understand that to the fullest. When I was released
24 in '73, I didn't have the support network that I have
25 now.

[REDACTED]

1 I have received letters from officers here,
2 my supervisors, civilians, even the superintendent has
3 written a letter on my behalf. These people, I don't
4 feel they would just write a letter and didn't believe
5 in me, didn't believe in me. So, I know that I would
6 not fail these people if I'm released. I would not
7 fail the commissioners sitting on this board, if I'm
8 released. I will not bring no shame to you nor no
9 disappointment.

10 Q. We thank you for what you said. We'll
11 consider it and let know you know in writing. Have a
12 good day.

13 (Hearing concluded.)

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DECISION

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2 COMM. SMITH:  We're going to
3 deny 24 months. Next appearance will be 11/2013.

4 This panel has concluded that you release to
5 supervision is not compatible with the welfare of society
6 and therefore parole is denied.

7 This finding is made following a personal interview,
8 record review and deliberation. Of significant concern is
9 the course of conduct you and your co-defendants displayed,
10 where you shot three individuals resulting in two deaths.
11 Positive factors considered include your programming,
12 document submissions and community support.

13 In addition, your instant offense was a significant
14 escalation from a prior attempted Criminal Possession of a
15 Weapon 3rd state sentence. To grant your release at this
16 time would so deprecate the seriousness of your offense as
17 to undermine respect for the law.

18 While your behavior has improved since 2002, the
19 probability you will live and remain at liberty without
20 violating the law is not reasonable given the factors noted
21 above.

22 (All Commissioners concur.)
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3 CERTIFICATION
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5 I, Esther Katz, Court Reporter and
6 Notary Public in and for the State of New
7 York, do hereby certify that I attended the
8 foregoing proceedings, took stenographic
9 notes of the same, that the foregoing,
10 consisting of 11 pages, is a true and
11 correct copy of same and the whole thereof.

12
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14
15 Esther Katz

16 Esther Katz, Court Reporter

17 Dated: November 8, 2011
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