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1 STATE OF NEW YORK
2 EXECUTIVE DEPARTMENT
3 DIVISION OF PAROLE

4 In the Matter of

5 [REDACTED] [REDACTED] Wyoming

6 DIN # [REDACTED]

7 NYSID # [REDACTED]

8 HELD AT Wyoming Correctional Facility
9 Dunbar Road
Attica, New York

10 Parole Board Hearing

11 January 16, 2002

12 BEFORE: COMMISSIONER KENNETH E GRABER
13 COMMISSIONER W WILLIAM SMITH, JR.
14 COMMISSIONER GEORGE C JOHNSON

15 PRESENT JOHN SICORA, Facility Parole Officer, II
16 JANET CIOCIOLA, Agency Program Aide

17 REPORTER: MIDTOWN REPORTING SERVICE
18 KAREN A BIANCHI, Hearing Reporter
19 (716) 325-2130
20
21
22
23
24
25

[REDACTED] - NYSID # [REDACTED]

2

EXAMINATION BY COMMISSIONER GRABER

Q Hello. You are [REDACTED]

A Yes, I am

Q Mr. [REDACTED] I'm Commissioner Graber. And present also with us today are Commissioners Smith and Johnson.

COMMISSIONER JOHNSON. Hello

COMMISSIONER SMITH Hello

A Hello

Q You are before us today as an initial applicant for parole release. You are presently serving terms of 25 to life, two counts of murder in the second degree. Six to 12 years for five counts of robbery in the first degree. Four and a half to nine years for burglary in the second degree. And two to four years for two counts of grand larceny third, degree. They all appear to be running concurrent with each other, is that correct?

A Yes, sir.

Q It looks like you went to trial. Do you have any appeals pending?

A. No,, I don't.

Q I do want to make sure you understand that anything, everything we do say is taken down by the stenographer and if you were to say anything against your interest, it possibly could be used against you if there was any type of post-conviction proceeding of any nature,

[REDACTED] - NYSID # [REDACTED]

3

1 whether it be a direct appeal or a writ in federal or state
2 court or anything else

3 On the other hand we would like to hear your
4 your side of anything and would welcome your discussion of
5 the facts of the case But nothing negative would be taken
6 by your decision not to discuss it for the reason I've
7 given

8 Our understanding about the factors behind
9 these convictions is that on [REDACTED] of 1977 or
10 thereabouts you and two other individuals, Mr. [REDACTED]
11 [REDACTED] and Mr. [REDACTED] [REDACTED] came upon a residence
12 in [REDACTED] County, I believe it's the Town of [REDACTED]
13 [REDACTED]

14 It looks like you were the look out, but you
15 were still involved in going in there The other two
16 gentlemen went in the house with the intent of committing a
17 burglary

18 While in the house, there were several
19 children, according to what we have here. You sort of kept
20 the kids together and the other two men went in to the two
21 mothers

22 They raped them, shot them in the head and
23 then the three of you somehow ended up in Massachusetts.
24 You were found in possession of some property that belonged
25 to a neighbor of one of those people That's where another

[REDACTED] - NYSID # [REDACTED]

4

1 burglary had occurred

2 You went to trial and you were convicted of
3 the charges as I stated. That is what your convictions are
4 based upon, is that correct?

5 A. Yes, sir

6 Q. Did you want at that discuss the facts of the
7 case?

8 A. Yes, I do

9 Q. Okay. We would like to hear your side of this.

10 A. I went to trial because I didn't want to plead
11 guilty to everything that they had charged me with. I
12 wanted to plead impartial. Partially I was guilty of some
13 of the crimes but the immediate crimes and the rapes I had
14 no knowledge of, and I wasn't and I refused at that time or
15 any time to copout to something that I had no knowledge of
16 or I had no participant of

17 Through the time when whatever was taking
18 place in the house before I had entered it, I had no
19 knowledge of. But at the time when I did go into the house,
20 I saw children at the front door

21 By me seeing the children at the front door,
22 it wasn't that I was instructed to be a look out, I took it
23 upon myself when I saw the children to gather the children
24 into my custody being that I understood that these other
25 two, well the people I was with was in the house with their

[REDACTED] - NYSID # [REDACTED]

5

1 women, but I didn't know what they was doing with the women.

2 Because from my understanding that they was
3 upstairs, I never went upstairs So by me having the
4 children right there, by the children being at the door, I
5 saw that they was crying, so I sat them all down, we all sat
6 down and I started talking to them So during the time when
7 I was talking to them --

8 Q. Did you make any attempt to call the police?

9 A. No, I did not

10 Q. You must have heard the gunshots?

11 A. Later, I did, yes.

12 Q. And what did you do then?

13 A. I held the kids, I started shaking, you know, by
14 me hearing gunshots I started shaking and the kids started
15 crying, and I was trying to figure out what had happened and
16 then --

17 Q. At that point did you know the women were dead?

18 A. No, I did not

19 Q. I mean had you called the police and an ambulance
20 came I don't know medically, okay, what the story was, but
21 it's not impossible that they might have been saved But
22 even if it wasn't possible, you didn't know the situation,
23 some effort on your part at least at that point if you
24 thought about it, might have saved them. You ran away
25 though with the other guys, right?

██████████ - NYSID # ██████████

6

1 A Yes, I did

2 Q I mean you assisted them in getting away even
3 after the fact of knowing what they did?

4 A I was in a state of shock.

5 Q Well, Mr. ██████████ let me ask you this question
6 Why would you have, even have gone there with these guys?

7 A. To commit a burglary

8 Q Okay And why?

9 A From my understanding there was, we was
10 supposedly going in for property

11 Q. But regardless of whether it's cash or property,
12 why would you involve yourself in any burglary, any crime,
13 what was the reason for that?

14 A I don't know.

15 Q Well, there had to be a reason People don't do
16 things for no reason You did it to get the monetary value,
17 was it not?

18 A Yes.

19 Q Why would you need money so desperately that you
20 would do such a thing?

21 A Well, at the time I wasn't working and I was
22 seeking unemployment During the time when I was seeking
23 unemployment, I was picked up off the street by Mr Profit
24 and his friend And he said that he, that he was, they was
25 going to do some sort of job or something And by the time

[REDACTED] - NYSID # [REDACTED]

7

1 that I realized what was happening, I found out that they
2 was doing burglaries

3 Q Well you do have a history of illegal conduct,
4 right?

5 A Yes, I do.

6 Q. Going back as a juvenile, all the way back to
7 1967. You had a record in [REDACTED] I would say what we
8 would call petit larceny And then they call it breaking
9 and entering I'm not sure what level, whether it's a
10 misdemeanor or felony It doesn't make much difference.
11 The point is you were involved in larcenist activities,
12 including home entries prior to this. And this continued
13 I see an assault and battery in '74, is that right?

14 A. That's correct

15 Q. That's in [REDACTED]

16 A I understand.

17 Q What happened there?

18 A Me and my mother's children, yes, my son's
19 mother's children had, we was going through some problems.
20 We had a falling out Me and my son's mother were having
21 difficulties in the household, so by the time that she
22 understood what she was doing and what I was doing, she had
23 called the police on me As far as me making verbal threats
24 or I was supposedly had assaulted her It wasn't that I
25 assaulted her, I just, she was tired of me, I was tired of

[REDACTED] - NYSID # [REDACTED]

8

1 her, but I didn't want to leave her because of the children.
2 And she fabricate, she called the police on me and fabricate
3 a story saying that I hit her

4 Q. Well, you did plead guilty to something, didn't
5 you?

6 A. It's not -- no, I didn't plead guilty, they gave
7 me, they asked me did I do it? I said, no They came up
8 with some sort of stipulation of probation and child
9 support.

10 Q It did say pled guilty as charged to assault and
11 battery and trespassing. Now this was in July of '75. In
12 February of '74 you pled guilty to something called a
13 violation of illicit or illegitimate child act I don't
14 know what that is Six years probation and 16 dollars per
15 week child support?

16 A Yes.

17 Q. And it looks like the probation is really a
18 mechanism to collect the money?

19 A Yes. I think that's what it was.

20 Q Is that basically a paternity proceeding?

21 A. Yes

22 Q. Something like that?

23 A. Yes

24 Q I'm not saying that you are the worst criminal in
25 the world here. I'm just saying there was a pattern of you

[REDACTED] - NYSID # [REDACTED]

9

1 having problems and it was constant, so it was not outside
2 of your experience to be involved in crime So when this
3 gentleman came by and offered you an opportunity to be
4 involved in a crime, it was not something new to you, not
5 something unnatural, is that correct?

6 A Correct

7 Q Now you never had been involved certainly in
8 something of the level of what developed?

9 A. Never

10 Q. Once you get involved in something, it could
11 develop into something like this. Didn't you know that they
12 had weapons?

13 A No.

14 Q I saw that statement where you said that that's
15 sort of hard to be, you know --

16 EXAMINATION BY COMMISSIONER SMITH:

17 Q. How did the children know they had the weapons
18 now?

19 A I gather when they saw them enter the building,
20 enter the home or from when they came downstairs.

21 Q. And you didn't see them?

22 A. I didn't know they had guns on them when they
23 went into the house I saw the guns as they came out.

24 Q You've been involved in a good number of programs
25 over the time that you've been incarcerated Numerous

1 [REDACTED] [REDACTED] - NYSID # [REDACTED]
2 programs dealing with education You did get your G.E D.,
3 right?

4 A. Yes, I did.

5 Q And was there anything further like college?

6 A. Yes I went to [REDACTED] [REDACTED] for a year and a
7 half and before that I went to [REDACTED] [REDACTED] [REDACTED] in
8 [REDACTED] and [REDACTED] --

9 Q. Now you completed A R T , is that right?

10 A Yes, I have.

11 Q Any other anti-violence programs?

12 A AVP. I did four work shops of AVP.

13 Q Now I see where corrections recommended that you
14 should take A.S.A.T. and the sex offender program and they
15 state that you have refused that, is that correct?

16 A. I have refused one of them

17 Q. Well, have you taken either of them?

18 A. No, I haven't.

19 Q Which one did you refuse?

20 A I think that was the K S A.T program.

21 Q Okay. Well K S A T This says A.S.A T
22 Regardless, why did you refuse it?

23 A Because I felt that I didn't need that

24 Q Would that have hurt you?

25 A. No It wouldn't have hurt me, no

 Q I would think that a person who was convicted of

[REDACTED] - NYSID # [REDACTED]

11

1 the crimes that you were convicted of would do everything
2 they can to present the best package whenever they see the
3 Parole Board. Not for our sake but for your own sake And
4 we can never understand why inmates refuse programs It can
5 never hurt them to take a program where is it might be some
6 benefit It just shows resistance to supervision of some
7 kind.

8 If your parole officer says, [REDACTED] I think
9 you ought to take X program, then you refuse it, now most of
10 the time they are not going to drag you down to the program
11 because that doesn't help, you are not going to get anything
12 out of a program you are forced to be in, but it shows that
13 you are not willing to work with them

14 I'm not saying this is dispositive of your
15 case, but something like that doesn't look the best?

16 A. Correct

17 Q. Now I can understand if you said you refused the
18 sex offender program because people think there's some sort
19 of stigma. There, but once again, given what happened in
20 this crime, it certainly wouldn't hurt

21 A May I say something?

22 Q. Yes

23 A. I've been down a long time And I understand the
24 charges and I've had a lot of people to give me information
25 on these two programs, you know, as far as old timers, new

[REDACTED] - NYSID # [REDACTED]

12

1 people, young people, it didn't matter.

2 And the information that I've gathered from
3 these programs as far as the percentage of the guys that
4 came and explain those programs to me, myself I feel that
5 I'm a great deal stronger than the people that have taken
6 those program because the large amount of percentage that
7 have taken them, they mostly come back for the same charges
8 that the A S A T. is illustrating them to them to help them
9 change their life pattern around

10 And since my incarceration I've dealt with
11 my situation of being locked up on my own, learning through
12 other peoples' mistakes, by me being sitting this large
13 amount of time

14 And for my capabilities through this time
15 factor, I've bettered myself I teach them better issues
16 about what their participating in then they are absorbing
17 from the programs And I have these guys come back and tell
18 me, and they would, you know, tell me you teach me better
19 things pertaining to what they supposedly be giving me in
20 K S.A.T. or A.S.A.T. than what I'm receiving and the
21 lifestyle they're living inside these programs

22 Q. You may be right, Mr [REDACTED] and you may be doing
23 a better job then the people employed by the corrections
24 department I know you are not suggesting that you are better
25 than anyone else?

[REDACTED] - NYSID # [REDACTED]

13

1 A. No

2 Q However, we have to go by the fact that the
3 people employed to make these decisions, which are the
4 corrections counselors and the corrections staff, say you
5 should take certain programs And then we go by the fact of
6 whether or not you take them or not And if you are
7 assisting in other areas, and I acknowledge that you've been
8 a program aid in different things, maybe you can incorporate
9 it better in the way you do it and maybe you can benefit
10 other people. Even if it's not directly yourself

11 Now there's many reasons why counselors want
12 people to take programs You don't have to be a drug addict
13 or an alcoholic to benefit from A S A T I think it was
14 A.S.A.T as opposed to K.S A T But regardless of the
15 reason, I'm just bringing it up in a general discussion that
16 you have refused or failed to take the programs that have
17 been recommended.

18 On the other hand, you have taken other ones
19 and you've done very well. There's also numerous vocational
20 programs that you have been in, auto mechanics. Is there
21 other ones that you want to point out to us?

22 A No I've been working on auto mechanic for a
23 long period of time, even when I was in the outside world
24 I went to school for it and I went to different other
25 training schoolings for it I've been dealing with, I've

[REDACTED] - NYSID # [REDACTED]

14

1 been working on cars ever since the '60's that I can
2 remember.

3 Q. Okay If we grant release, you want to live with
4 your sister in [REDACTED]

5 A. Yes, sir.

6 Q. You said you had a child, but I'll have to
7 believe at this time --

8 A. I have two

9 Q. -- at this time they are grown?

10 A. Yes, they they are.

11 Q. Do you have a job to go to?

12 A. I don't know right offhand because I haven't
13 contacted my sister yet I had to wait to come here first
14 to find out what's up

15 Q. You do have the skills that you talked to us
16 about?

17 A. Yes, I do.

18 Q. And I imagine you shouldn't have any trouble
19 getting a job as an auto mechanic?

20 A. I worked dealerships before getting involved with
21 this situation here.

22 Q. All right. We have copies of different
23 correspondence with programs out in the community They are
24 basically [REDACTED] but I know if you went to
25 [REDACTED] there's programs I'm sure there also How's

[REDACTED] - NYSID # [REDACTED]

15

1 your physical health, any problems?

2 A No

3 Q. All right We have a current mental health
4 evaluation that's required by law because of your crime of
5 conviction There do not appear to be any mental health
6 issues Do you feel there are any?

7 A No

8 Q Is there anything else you would like to discuss
9 with us?

10 A. Yes. As far as what happened, I kick myself in
11 the butt every day for being involved with the people that I
12 was with and being at the wrong place at the wrong time I
13 spent 25 years of my life that I'll never be able to get
14 back. My kids are grown I missed them growing up. I
15 understand the victims' family, I understand that they're
16 hurting is maybe more so than I am

17 And at one time I had communication with
18 [REDACTED] and we, he gave me his phone number, we was
19 corresponding for a period of time when I was in Sing Sing.
20 And, you know, if I did a hundred years or whatever I did
21 within the penitentiary, I could never mend for what
22 happened to those women and for my being present, for what I
23 saw, or what I participated in during that crime.

24 You know I feel bad about the whole
25 situation and I fought nobody but myself, you know, and no

[REDACTED] - NYSID # [REDACTED]

16

1 matter what, whatever I do or whatever I could possibly do,
2 I can never bring those women back, you know.

3 This is something I have to live with for
4 for the rest of my life and it's eating me up.

5 COMMISSIONER GRABER Commissioners, any
6 questions?

7 COMMISSIONER SMITH No questions

8 COMMISSIONER JOHNSON No further questions

9 Q. Mr [REDACTED] we are going to discuss your case
10 amongst ourselves and then you'll get a written decision in
11 a couple of days, okay?

12 A Thank you

13 Q Bye-bye.

14 (Whereupon an off the record discussion was held)

15 * * * *

[REDACTED] - NYSID # [REDACTED]

17

D E C I S I O N

1
2 All right, parole denied, hold 24 months,
3 that will be 1/04. Parole is denied You are
4 presently serving terms for two counts of murder
5 second degree, five counts robbery first degree,
6 two counts grand larceny third degree, and one
7 count burglary second degree

8 They relate to you acting in concert to
9 illegally entering a dwelling in [REDACTED] County
10 in 1977, shooting two women numerous times,
11 causing their death and stealing their property.

12 Your two crime partners also raped the
13 women Their children were on the premises during
14 the crime. Your statements during the interview
15 and to our staff seriously minimize your role and
16 responsibilities in this crime thereby exhibiting
17 limited insight into your criminality or actual
18 remorse for your victims

19 We also note a serious prior record as a
20 juvenile and young person consisting mainly of
21 larcenist acts and significantly escalated with
22 this crime

23 We note also several positive institutional
24 factors However you have refused a sex offender
25 program and A.S.A.T

██████████ - NYSID # ██████████

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And for full consideration of your entire record we must come to the conclusion that discretionary release would not be appropriate at this time You continue to present a serious threat to community safety and welfare.

Discretionary release would also deprecate the seriousness of your offenses

The guidelines are unspecified
(Whereupon all commissioners concurred)

* * * * *

C E R T I F I C A T I O N

I, Karen A. Bianchi, 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.

Karen A Bianchi

Karen A Bianchi

DATED AT Rochester, New York
this 25th day of January, 2002