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██████████ ██████████

DIN# ██████████

NYSID# ██████████

NYS DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

Parole Board Hearing

In the Matter of

██████████ ██████████

DIN # ██████████

NYSID # ██████████

TYPE OF HEARING: Reappearance

LOCATION: Attica Correctional Facility
Video-conferenced to
Rochester Parole Office
350 South Avenue
Rochester, NY 14620

DATE: November 1, 2011

BEFORE: COMMISSIONER GREENAN
COMMISSIONER LUDLOW

ALSO PRESENT: Jeffrey Helf,
Facility Parole Officer II
Nancy Ostertag,
Agency Program Aide

HEARING REPORTER: Michelle Nardecchia

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

1 BY COMMISSIONER LUDLOW:

2 Q Good morning, sir.

3 A Good morning.

4 Q You are [REDACTED] [REDACTED]

5 A Yes.

6 Q Mr. [REDACTED] I am Commissioner Ludlow; with me is Commissioner
7 Greenan.

8 COMM. GREENAN: Hello, Mr. [REDACTED]

9 THE INMATE: How are you doing?

10 Q This is your sixth appearance before the Board of Parole.

11 You are now 60 years old; is that correct?

12 A Yes, sir.

13 Q You were found guilty by verdict of each of the following:

14 Murder second, two counts; robbery first, four counts;

15 burglary second; grand larceny auto third. Controlling

16 sentence appears to be 25 to life and you have been in

17 almost 35; is that correct?

18 A Yes, sir.

19 Q Mr. [REDACTED] do you have any appeals pending or do you

20 anticipate filing any appeals, as to the verdicts?

21 A No, I don't.

22 Q Nonetheless, I call your attention to the fact we have a

23 certified stenographic reporter here with us and every word

24 we discuss is being reduced to a written transcript; it is

25 possible that that transcript could find its way to public

██████████ ██████████ DIN# ██████████ NYSID# ██████████

- 1 forums and we caution you with regard to what you may say
2 regarding the terms and circumstances of these crimes, so
3 not to impede, limit or jeopardize any future opportunity
4 you may have for an appeal. You may decline to discuss the
5 terms and circumstances of this crime, if you wish, we will
6 not hold that against you; do you understand that?
- 7 A Yes, I do.
- 8 Q Are you maintaining your innocence as to the verdict, sir?
- 9 A No, sir.
- 10 Q Prior to the case going to verdict, did the district
11 attorney in ██████████ County extend any kind of a plea
12 offer to you?
- 13 A No, they did not.
- 14 Q Okay, sir. These are your only New York State convictions.
15 We do see a prior record in ██████████ is that accurate,
16 sir?
- 17 A Yes, sir.
- 18 Q We have sentencing minutes on file from ██████████ County
19 Court, ██████████ 1978, before Judge ██████████ you at the
20 time were represented by Mr. ██████████ We also have minutes
21 on file from ██████████ County, State Supreme Court,
22 ██████████ 1981, before Judge ██████████ you at the time
23 were likewise represented by Mr. ██████████ correct, sir?
- 24 A Correct.
- 25 Q The 1981 minutes, what do they reflect?

██████████ ██████████ DIN# ██████████ NYSID# ██████████

1 A They reflect a reversal, as far as I knew of -- of me coming
2 back to a new trial, stemming from the first one.

3 Q Both minutes are on file and are part of the record.

4 You had codefendants. The underlying offense relates
5 back to ██████████ County, ██████████, 1977, you were about
6 25 years old at the time; this appears to be a home
7 invasion, robbery type situation that went bad. Two
8 female -- two adult females living at the residence or were
9 present at the residence, were shot multiple times, each one
10 had been shot multiple times and apparently had been raped
11 prior to the shooting; and both women were killed as a
12 result of these injuries.

13 The facts indicate that your role was that, apparently,
14 of a look-out. There were minor children at the scene and
15 part of your duty was to attend to the children, to keep
16 them quiet; is that all true, sir?

17 A No, sir.

18 Q What is true; what is true from your vantage point?

19 A From my perspective, at the time of acknowledgement of
20 people being shot at this residence, I didn't know there was
21 children involved in this incident until I saw one child go
22 inside after the shootings and then when I came out of the
23 van I was in, when I entered the home, at that time, that is
24 what I realized there was two other children standing at the
25 door of the entrance of the dwelling. At that time I

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

1 gathered the children and I told them, the children, that I
2 wasn't going to let anything happen to them; I told them I
3 would protect them. After I realized what had took place
4 with the shots and things, but I didn't know what had got
5 shot but I heard shot. Me acknowledging and being in the
6 state of shock I was in, I told the children I wasn't going
7 to let anybody hurt them and I did just that.

8 Q What was your understanding of what was to take place there?

9 A From my understanding, from the beginning it was supposed to
10 have been a burglary. I didn't realize that people were
11 going to be raped and killed until after I heard the shots;
12 that is when I took it upon myself to do what I did, in
13 reference to the children that was standing at the door.

14 Q Did you know the victims here?

15 A No, I did not.

16 Q Was this a random hit?

17 A Yes, it was.

18 Q What time of day or night was this?

19 A I believe it was in the afternoon, afternoon hour, around
20 maybe two or three, something in that range.

21 Q So this was supposed to be a weekday burglary?

22 A Yes, sir.

23 Q In the process of the burglary, what are you implying, that
24 residents were there and you were surprised by them or the
25 codefendants were surprised by them?

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

- 1 A From my recollection, I believe my codefendants were
2 surprised by these women, as far as what had taken place
3 before I came out of the van. And you know for as far as
4 what I was told what had happened after the fact that I
5 heard the shots, I couldn't believe it, I was in a state of
6 shock.
- 7 Q What weapon did you have on you at the time?
- 8 A I didn't have a weapon on me at that time.
- 9 Q Were you part of a burglary that occurred nearby at a prior
10 hour?
- 11 A Yes, I was.
- 12 Q And that apparently was the home of Mr. [REDACTED]
- 13 A I don't remember names, but it was the home before the
14 [REDACTED] home.
- 15 Q Were you part of the [REDACTED] burglary?
- 16 A No, I wasn't.
- 17 Q You apparently were arrested in [REDACTED]
- 18 A Yes, I was.
- 19 Q At the time of your arrest you had a weapon on you that was
20 traced back to the [REDACTED] residence; is that correct?
- 21 A Yes.
- 22 Q How did you come --
- 23 A It wasn't on my possession, it was at my home; I didn't have
24 it on my person per say, it was in the home, yes.
- 25 Q You had custody of it?

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

- 1 A Yes, I did.
- 2 Q How did that come into your custody?
- 3 A It was given to me.
- 4 Q By whom?
- 5 A By [REDACTED]
- 6 Q One of your codefendants?
- 7 A Codefendant, yes, sir.
- 8 Q Were there other burglaries that you participated in prior
9 to that, that you were not charged with?
- 10 A No, sir.
- 11 Q Why were these locations selected to be burged (sic), do you
12 know?
- 13 A I believe -- no, I don't know per say, but I believe they
14 were just random houses.
- 15 Q I see; well, a very tragic outcome here, that two women had
16 to be killed in the process of a burglary.
- 17 As far as criminal history, you had some convictions in
18 [REDACTED] that go way back to the '60s, some kind of petty
19 larceny, breaking and entering, some kind of offense
20 regarding a child way back in '74, assault and battery 1974,
21 [REDACTED] [REDACTED] is that all correct?
- 22 A [REDACTED] [REDACTED]
- 23 Q Oh, was that it?
- 24 A Yes, sir.
- 25 Q Okay, we appreciate that clarification; the file says

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

1 [REDACTED] but I will take your word for it. We also see

2 [REDACTED] [REDACTED] in that?

3 A No, [REDACTED] [REDACTED] is where I was born.

4 Q These out-of-state offenses were all in [REDACTED]

5 A Yes, sir.

6 Q Okay, thank you for that clarification; we appreciate that.

7 You have been in almost 35 years, that is a long period
8 of time. Of late you have been a group leader assistant and
9 a B Block porter.

10 Would it be fair to say, sir, that over 35 years you
11 have completed all recommended programs?

12 A Yes, I have.

13 Q That would include ART, ASAT, GED; is that correct?

14 A Yes, I have.

15 Q AVP?

16 A Yes, I have.

17 Q Any education beyond GED, sir?

18 A I was admitted in Mercy College in Sing Sing back in '87.

19 Q What about vocational certificates, do you have any of
20 those, sir?

21 A I have an IPA certificate in vocational -- I mean,
22 automotive.

23 Q Automotive technology?

24 A Yes, yes, I do.

25 Q Since your last appearance no tickets.

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

1 You can live with your mother in [REDACTED] [REDACTED]

2 is that correct?

3 A That's correct.

4 Q How old is mother now?

5 A My mother is 80.

6 Q What about work for you at age 60, what is legitimate and
7 positive out there that you think you can do? It has been a
8 long time that you have been locked up; despite that, what
9 do you think you can do out there in the way of work, sir?

10 A I can do anything I can put my mind to. As far as work,
11 functioning for myself, I am not a lazy person; I can work.
12 I never -- when I was out there years ago, I never had a
13 problem maintaining a job.

14 I just need an opportunity, so I can do the right thing
15 for myself and my family and for society. I have learned a
16 lot since I have been incarcerated, I suffered a lot. I
17 realize that if I can change back the hands of time and of
18 everything that happened when it went down, I would so. I
19 lost a lot of years from my life and I regret that it
20 happened, I feel bad that it happened. I was in the wrong
21 place at the wrong time, with the wrong people.

22 Q Who selected these houses to burglarize, did you do that?

23 A No, sir.

24 Q Who did?

25 A From my understanding, it was Mr. [REDACTED]

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

1 COMM. LUDLOW: Commissioner Greenan?

2 COMM. GREENAN: I have no questions; thank you.

3 Q Mr. [REDACTED] anything additional for us today, sir, that is
4 important to you?

5 A I just want to go home. I want to go home, so I can help my
6 mother and help my family. As you know, I cannot go to
7 funerals, I cannot go to anybody bedside; I need their help,
8 they need my help, I need theirs.

9 Q We have attempted to give you a full, fair and accurate
10 interview today, sir; in your opinion have you received
11 that?

12 A I believe so.

13 COMM. LUDLOW: We wish you good luck at age 60,
14 Mr. [REDACTED] We will advise you in writing; good luck to you,
15 sir.

16 THE INMATE: Thank you.

17 HEARING CONCLUDED

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CERTIFICATION

I, Michelle M. Nardecchia, 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, that the foregoing, consisting of 12 pages, is a true and correct copy of same and the whole thereof.

Dated: November 16, 2011

Michelle M. Nardecchia, Court Reporter