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September 2021

### Parole Interview Transcript/Decision - FUSL000010 (2014-02-18)

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

NYS DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

\*\*\*\*\*

Parole Board Interview

In the Matter of

██████ ██████

DIN # ██████

NYSID # ██████

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TYPE OF INTERVIEW: Reappearance

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

DATE: February 18, 2014

BEFORE: COMMISSIONER W. WILLIAM SMITH, JR.  
COMMISSIONER JOSEPH P. CRANGLE  
COMMISSIONER JULIE SMITH

ALSO PRESENT: Sue Baker,  
Offender Rehabilitation Coordinator  
  
Judy Torge,  
Agency Program Aide

HEARING REPORTER: Michelle Nardecchia

Greater Rochester Court Reporting Service (585) 441-5184

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

1 BY COMMISSIONER CRANGLE:

2 Q Hello, sir. Can you state your name for the record?

3 A Good morning.

4 Q Can you state your name for the record?

5 A My name is [REDACTED] [REDACTED] my number is [REDACTED]

6 Q I am Commissioner Crangle; along with me is Commissioner  
7 William Smith and Commissioner Julie Smith.

8 COMM W. SMITH: Hello.

9 COMM J. SMITH: Good morning.

10 THE INMATE: Good morning.

11 Q Sir, this is a reappearance for you today.

12 Looks like you are in state prison for murder second,  
13 two counts; robbery first degree, four counts; burglary in  
14 the second degree and grand larceny auto in the third  
15 degree; is that correct?

16 A Yes.

17 Q How old are you now, sir?

18 A I am sixty-two years old.

19 Q You took everything to trial and were found guilty by  
20 verdict.

21 I know you have been through this before, in terms of  
22 the parole interview; I want to remind you that everything  
23 in this discussion is being recorded; there is a  
24 stenographer on this side of the camera and a record is  
25 being made and it could be used in any future proceedings,

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

- 1           okay?
- 2    A    Yes.
- 3    Q    Sir, do you admit guilt in these crimes or do you maintain  
4           your innocence?
- 5    A    I maintain innocence to some of the crimes but I admit to  
6           the crimes that I did take part in.
- 7    Q    The record states that back in [REDACTED] of 1977, you and your  
8           codefendants went into a residence to burglarize it and the  
9           residents were home?
- 10   A    Yes.
- 11   Q    And I note that there were children in the home and shots  
12           were fired. Now, you were not the shooter though, right?
- 13   A    Exactly, I wasn't.
- 14   Q    You were there to steal property and leave; is that your  
15           end?
- 16   A    Yes, sir.
- 17   Q    But your codefendants went above and beyond what was  
18           initially the plan, correct, which was to go in and take  
19           property?
- 20   A    Yes, sir.
- 21   Q    But you knew someone was home when they opened the door,  
22           right?
- 23   A    The women came outside the home.
- 24   Q    But this was not the first time you burglarized a home, was  
25           it, in your life?

DIN# [REDACTED]

NYSID# [REDACTED]

- 1 A No.
- 2 Q At your other burglaries, were people home or not home in  
3 your past?
- 4 A They were not home.
- 5 Q So, why didn't you get the heck out of there when you knew  
6 there were people home?
- 7 A I can't answer that. I was young, I made a bad decision, I  
8 was in the wrong place at the wrong time.
- 9 Q The bad decision started out with you being around these  
10 guys, right?
- 11 A Yes, sir.
- 12 Q You have a history of crime in the State of Connecticut; is  
13 that right?
- 14 A Yes.
- 15 Q Is this your first New York State bid?
- 16 A Yes, sir.
- 17 Q Did you ever do any local time in New York State, prior to  
18 this?
- 19 A No.
- 20 Q What did you do, once you heard the gunshots fired; because  
21 several shots were fired and the victims were two women,  
22 correct? There were children in the house; one child, I  
23 believe, even witnessed a lot of this. Your codefendants --  
24 it is just such a heinous crime, sir, that you got yourself  
25 involved in; that is the best way to describe it.

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

- 1 A You are right. When I heard the shots --
- 2 Q Be honest with me, where were you physically when you heard
- 3 those gunshots go off?
- 4 A I was inside the van.
- 5 Q You were not in the house?
- 6 A No.
- 7 Q Was someone ever sexually molested?
- 8 A From what I heard, I wasn't there, I was not present to see
- 9 who did what, because I was inside the van. I did not go
- 10 inside the dwelling, until after I heard the shots and I
- 11 realized there were children standing at the door. And
- 12 after a couple of them came down the stairs stating what
- 13 they just did, that is when I protected the children because
- 14 I didn't want the children to get hurt.
- 15 Q How did you protect the children?
- 16 A I gathered them together and I sat them down on a stairwell
- 17 somewhere in the kitchen area and I was talking to them and
- 18 told them I was not going to let nobody hurt them.
- 19 Q What kind of guns were these; handguns, shotguns, what?
- 20 A No. I believe one person had -- I believe Profit had a .22,
- 21 I think he had a .22 and I think Ayala had a .38.
- 22 Q Now, we have your sentencing minutes on file. Did you see
- 23 the blood and --
- 24 A No, no; I didn't see any of it.
- 25 Q What made you gather the children into an area to calm them

DIN# [REDACTED]

NYSID# [REDACTED]

- 1 down; what possessed you to do that?
- 2 A When I heard those shots, it scared me because that was not  
3 my intentions.
- 4 Q You knew they had guns going in though, didn't you? I mean  
5 you drove there with them, didn't you?
- 6 A Yes.
- 7 Q You know with the felony murder rule, once you go in and you  
8 are burglarizing a place and a felony is committed and then  
9 a shooting happens and someone dies, you are attached to  
10 that; that is what you are sitting in state prison for  
11 today, right?
- 12 A You are right, you are right.
- 13 Q Now, you have been in since 1978, correct?
- 14 A Yes, sir.
- 15 Q And how long have you been in Attica for?
- 16 A Since 2007.
- 17 Q Where were you before that?
- 18 A I was in Wyoming Correctional Facility.
- 19 Q Since you have been in Attica, you have not had an  
20 infraction, correct?
- 21 A Correct.
- 22 Q Your last infraction was in 2007, in Wyoming --
- 23 A Yes, sir.
- 24 Q -- for a weapon. So we are talking about pretty much seven  
25 years of good discipline, which is noted and to your credit.

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

1           What has changed because you racked up some infractions  
2           along your way here but once you got to Attica things have  
3           been okay?

4    A       Well, the weapon that they claim was a weapon, to me was not  
5       a weapon. I had a pair of glasses -- I had something on top  
6       of a pen that I used to tighten the screw and they blew it  
7       out of proportion and put a weapon label on it. I never had  
8       a weapon, since I have been in the penitentiary. There  
9       should be a photostatic copy of it in the records; it was  
10       something on a pen, a writing pen that I used to tighten the  
11       screw up. In order for me to see the eye doctor, it  
12       took months and months and months for me to get my glasses  
13       fixed. In order to keep the screw in it, that is what it  
14       was, it was something to keep the screw in my eyeglasses. I  
15       never had a weapon in the penitentiary to bring any bodily  
16       harm to anyone.

17   Q       What made you go from [REDACTED] to New York, is there  
18       family in New York that brought you here?

19   A       No, sir. No, I don't have any family members in New York.

20   Q       What were you doing back in the late '70s. You got out --  
21       your last time in jail, I believe, was back in 1974 in  
22       [REDACTED] [REDACTED] right?

23   A       Yes, sir.

24   Q       So then you leave and you go to New York State; what were  
25       you doing in New York State?

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

- 1 A I was with ██████████ and ██████████
- 2 Q Pardon me?
- 3 A I was with ██████████ and ██████████
- 4 Q Who is that?
- 5 COMM W. SMITH: Your codefendants?
- 6 THE INMATE: Yes, sir.
- 7 Q Were you living with them?
- 8 A No.
- 9 Q Were they from ██████████ too?
- 10 A They picked me up off the street.
- 11 Q Where were you living?
- 12 A I was living in ██████████ with my mother at the time, I
- 13 was visiting.
- 14 Q How far of a drive is it from your mom's to where the crime
- 15 was committed?
- 16 A I can't say, per say, how many miles away from it it was.
- 17 Q Was it an hour, two hours, eight hours?
- 18 A It might have been an hour, hour and a half, maybe
- 19 forty-five minutes.
- 20 Q How long were you with them?
- 21 A I was only in the van for my recollection, I think maybe
- 22 only forty-five minutes, if it wasn't an hour.
- 23 Q So prior to this incident, you didn't know these guys?
- 24 A I knew ██████████ back from the '60s; we used to go to school
- 25 together back in the '60s.

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

- 1 Q In [REDACTED]
- 2 A Yes, sir.
- 3 Q Now, this is your seventh appearance?
- 4 A Seventh.
- 5 Q I just want to note that we have your COMPAS Risk
- 6 Assessment, this is something new that we consider; at your
- 7 other appearances the COMPAS was not developed yet. It is a
- 8 tool we use to measure your risk and needs for success on
- 9 parole. Do you remember filling out the COMPAS
- 10 questionnaire for us?
- 11 A Yes, I did, to the best of my ability.
- 12 Q This is one of the things that we review, along with the
- 13 various letters that you wrote to agencies for support.
- 14 It is noted the Osborne Association is what you are
- 15 interested in, correct?
- 16 A Yes, sir.
- 17 Q Sir, if you were able to walk out that door tomorrow, what
- 18 are your short-term plans?
- 19 A My short-term plans is to --
- 20 Q Where would you go and what would you do? I think you would
- 21 need a lot of support, you have been in there for a long
- 22 time and things have changed since the late '70s; that is
- 23 for sure.
- 24 A I realize that. As far as a place to go, I have five
- 25 addresses that I could live with, as far as relatives. My

DIN# [REDACTED]

NYSID# [REDACTED]

- 1 plan is to live with my mother because my mother needs my  
2 help. From there, if I couldn't get employment right away,  
3 I would get into a trade school; because before I got into  
4 this trouble, my occupation was an auto technician.
- 5 Q How far did you get in school, before you got yourself in  
6 trouble on this case? Did you get all the way through high  
7 school on the outside?
- 8 A Tenth grade.
- 9 Q And what are you doing on a daily basis at Attica, what is  
10 your job assignment, what are you doing?
- 11 A I am a porter. But outside of porter, I am mostly reading  
12 about my trade; I have a lot of books on auto technician and  
13 motorcycles. I am a mechanic, I used to be a mechanic.
- 14 Q So when you are saying you are a porter in Attica, what is  
15 your shift?
- 16 A My shift is in the evening.
- 17 Q During the day you are pretty much free to do what you want?
- 18 A I am in my cell.
- 19 Q Of all the programs that you have completed through the  
20 years, what one do you feel was the most beneficial for you?
- 21 A The most beneficial?
- 22 Q Yes.
- 23 A The ASAT was beneficial to me.
- 24 Q In what facility did you take that at?
- 25 A Wyoming.

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

- 1 Q Wyoming?
- 2 A Yes.
- 3 Q Were you under the influence of drugs at all back then, sir,  
4 back in the '70s?
- 5 A Back in the '70s, no. Back in the '60s I had a stick of  
6 marijuana in my pocket.
- 7 Q That's it?
- 8 A But I was never like hooked or under the influence, I just  
9 had it on my person.
- 10 Q And how long were you actually at this house before you guys  
11 took off?
- 12 A Maybe twenty minutes, maybe twenty minutes, that I can  
13 remember.
- 14 Q Were you offered a plea on this at all?
- 15 A Excuse me?
- 16 Q Did the district attorney offer you a plea, prior to going  
17 to trial?
- 18 A Yes, he did.
- 19 Q What was it?
- 20 A He offered me fifteen years to life.
- 21 Q Looking back, why didn't you take it?
- 22 A Because at the time --
- 23 Q Instead of twenty-five years to life?
- 24 A At the time I wasn't aware of the law that he was trying to  
25 get me to confess to. When he said murder and I tried to

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

1 explain to him that I didn't have any part of killing anyone  
2 because I was not present inside the dwelling during the  
3 time these women were killed. Yes, I was in the premises  
4 but I did not go into the dwelling until after I heard the  
5 shots. The attorney kept trying to convince me to cop out,  
6 cop out, cop out. He kept throwing the word murder to me  
7 and I didn't really understand the charge that I was being  
8 charged with, until after I started going to the law library  
9 and starting to understand exactly what felony murder was.  
10 Being young I was not familiar with the laws he was trying  
11 to get me copped out to.

12 Q How many days passed before you were actually arrested on  
13 this?

14 A Three, three, I believe; I think it was three days.

15 Q Were you living -- during those three days, were you with  
16 your codefendants?

17 A No.

18 Q You took off from them?

19 A Yes, I did.

20 Q Were they bragging about what took place in the house?

21 A Yes, they were.

22 COMM. CRANGLE: Commissioners, any questions?

23 COMM W. SMITH: Why didn't you go to the police?

24 THE INMATE: Because I wanted to notify my relatives  
25 and my girlfriend what I had gotten into and then I was

DIN# [REDACTED]

NYSID# [REDACTED]

1 planning to turn myself in.

2 COMM W. SMITH: Why not right away, if what you say is  
3 true?

4 THE INMATE: Because I was afraid, I was afraid.

5 COMM W. SMITH: So were those children you were with,  
6 right?

7 THE INMATE: Yes, sir.

8 COMM W. SMITH: No other questions.

9 COMM J. SMITH: I have nothing additional; thank you.

10 Q Mr. [REDACTED] I have asked you a lot of questions, you have  
11 answered everything. Is there anything you feel we missed  
12 or anything you want to say on your own behalf that you feel  
13 we have not covered with you?

14 A Yes, I would like to say something. Yes, I know the crime  
15 is very heinous. I understand exactly the mess that I have  
16 gotten myself into. Yes, I have made some bad decisions.  
17 Yes, I realize I could have gone to the police immediately  
18 after this took place. Like I stated, by me being as young  
19 as I was and fighting for what I had heard and understand  
20 what two other people had did to two women, it places me in  
21 a bad position. And like I have a great amount of remorse  
22 pertaining to this situation that I am in and towards the  
23 people, the lives that were lost and for the children that  
24 are up there in age now and the ones -- the three that I  
25 saved. I cannot change what happened.

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

1           Yes, I made a mistake, I was very young. But through  
2 time and being incarcerated, I had a whole lot of time to  
3 think about all the mess that I have gotten myself into, by  
4 being with the people I was with at the wrong time in my  
5 life. I cannot change what happened in the past, I can only  
6 try to do what I can to better myself and try to live a  
7 respectful life. I have been away for a long time. What  
8 can I possibly do to change what happened in the past; I  
9 cannot change that. You can ask me a million questions, I  
10 can only give you the answers to the best of my ability. I  
11 am human, I made a mistake, I am sorry for it. What else  
12 can I possibly do?

13           I thought I was doing the right thing after I realize  
14 people were getting killed, to save the children; that is  
15 why I did what I did and got them away from it. After I got  
16 out of that van, I was hysterical. I know how -- I  
17 understand the crime is a very heinous crime. I know lives  
18 were taken. I understand from what they told me, what they  
19 did and their raping and the drinking their liquor that they  
20 was doing; I understand all of that. My thinking, my  
21 intentions was not to kill anybody.

22           COMM W. SMITH: You had been involved in a lot of  
23 breaking and entering prior to this?

24           THE INMATE: A lot, you say?

25           COMM W. SMITH: Yes.

DIN# [REDACTED]

NYSID# [REDACTED]

1 THE INMATE: Did you say a lot?

2 COMM W. SMITH: Yes. How many prior burglaries had you  
3 done?

4 THE INMATE: I believe that I was involved in three of  
5 them.

6 COMM W. SMITH: So you did three prior burglaries.  
7 Were you the mastermind? You said you didn't know these  
8 guys real well, but you were already experienced in  
9 burglary; were you the mastermind of setting this up?

10 THE INMATE: No, sir; no, I wasn't.

11 COMM W. SMITH: Who was?

12 THE INMATE: I was picked up off the street. From my  
13 understanding, it was supposed to be [REDACTED] was supposed to  
14 be the mastermind, as far as my recollection.

15 COMM W. SMITH: What did he say to you to get you to go  
16 along?

17 THE INMATE: He said that he knew some spots that he  
18 could get some money from.

19 COMM W. SMITH: You had already engaged in burglary  
20 activity; it wasn't a mistake, you knew what burglary was.

21 THE INMATE: Yes, I knew what burglary was.

22 COMM W. SMITH: All right thank; you.

23 COMM. CRANGLE: All right, sir; thanks for coming in.

24 HEARING CONCLUDED

25



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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 17 pages, is a true and correct copy of same and the whole thereof.

Dated: March 4, 2014

*Michelle M. Nardecchia*, Court Reporter