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1 NYS DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

2 *****

3 Parole Board Interview

4 In the Matter

5 [REDACTED]

6 [REDACTED] [REDACTED]

7 DIN# [REDACTED]

8 NYSID# [REDACTED]

9 *****

10 TYPE OF INTERVIEW: Reappearance

11 LOCATION: Ulster Correctional Facility
12 Video-conferenced to
13 Poughkeepsie Area Office
30 Manchester Road
Poughkeepsie, New York 12603

14 DATE: August 17, 2017
15 DECISION DATE: August 17, 2017

16
17 BEFORE: COMMISSIONER COPPOLA
COMMISSIONER CRUSE

18
19 ALSO PRESENT: C. Wright, APA
C. Loarca, SORC

20
21 AT FACILITY: L. Candelaria, ORC

22
23
24 HEARING REPORTER: Roberta O'Rourke

25

[REDACTED] [REDACTED] DIN [REDACTED] NYSID [REDACTED]

2

1 INTERVIEW BY COMMISSIONER COPPOLA:

2 Q Good morning, sir. Your name, please?

3 A Good morning. I'm [REDACTED] [REDACTED]

4 Q Mr. [REDACTED] I'm Commission Coppola.

5 A Can you hear me?

6 Q I got you. I'm Commissioner Coppola. With
7 me today Commissioner Cruse.

8 COMMISSIONER CRUSE: Hello, how are you
9 doing?

10 A I'm okay.

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

12 A Yes.

13 Q And you continue to serve a sentence of 25 to
14 life for murder second degree, five to 15 for
15 attempted robbery first degree, five to 15 for
16 criminal possession of a weapon second degree,
17 all of which were by verdict out of [REDACTED] County,
18 is that correct, sir?

19 A Yes, it is.

20 Q All right, sir. And that brings you to an
21 aggregate term of course the controlling sentence
22 25 years to life. We do have the sentencing
23 minutes from your conviction in the file for
24 review and consideration. You appeared before
25 the Honorable [REDACTED] sentencing judge, is

██████████ ██████████ DIN ██████████ NYSID ██████████

3

1 that correct?

2 A Yes, it is, yup.

3 Q All right, sir. We will consider what was
4 said at your sentencing by all parties involved
5 and pay close attention to any comments or
6 recommendations with parole at that time as we
7 formulate our decision, all right?

8 A Yes.

9 Q All right, sir. Now it appears that this was
10 in fact an attempted robbery. It says that on
11 12/28/1988 at an ██████████ gas station located at the
12 corner of ██████████ and ██████████
13 (phonetic spelling) the subject and an
14 unapprehended perpetrator approached the victim
15 who I believe was a cab driver?

16 A Yes.

17 Q Okay, and began to wrestle, that's all it
18 says. So I'm saying I assume struggle is a good
19 word but they say wrestle. Was he in his cab,
20 like seated in the cab at the time?

21 A No, no, he had got, he had got out, he had
22 got out of the cab at the time. What happened
23 was that I actually thought I could commit a
24 robbery without anyone getting hurt, but I
25 actually brought a weapon to the scene of the

[REDACTED] [REDACTED] *DIN* [REDACTED] *NYSID* [REDACTED]

4

1 crime. I hid the shotgun across the street in an
2 abandoned lot from the gas station. Mr. [REDACTED]
3 pulled up in the gas station, I waited for him to
4 get out to pay for his gas, at that time I tried
5 to snatch his wallet. A little scuffle ensued.
6 I seen I wasn't going to be able to get the
7 wallet so I ran across the street to retrieve the
8 gun. Now I'm not thinking all I have to do is
9 brandish the gun and he would give me the wallet.
10 When I came back with the gun Mr. [REDACTED] lunged
11 for it, another scuffle ensued and it was at that
12 time that I actually pulled the trigger and shot
13 Mr. [REDACTED].

14 Q Okay.

15 A I panicked. I panicked.

16 Q Where did you get the gun?

17 A I had purchased the gun around Christmas. I
18 had some, I had got paid, I was working for a job
19 and I was actually involved with drugs. I was in
20 the drug den, somebody offered the gun for some
21 drugs and I wound up exchanging it.

22 Q This was a shotgun?

23 A Yes.

24 Q Like a full size shotgun, long rifle?

25 A No, sawed-off.

██████████ ██████████ DIN ██████████ NYSID ██████████

1 Q A sawed-off?

2 A Sawed-off shotgun.

3 Q Kind of difficult to conceal, so I understand
4 why you hid it in the brush but. You said two
5 things there, you were working at the time but
6 you were also involved in selling drugs?

7 A No, I was working at the time and I was
8 involved with using drugs.

9 Q Using drugs, okay. So let me ask you this,
10 where were you working?

11 A I was working in Wall Street at a company

12 ██████████.

13 Q Doing what?

14 A I was actually, I was actually in the mail
15 room, mail room at that time. I started as a
16 messenger and I moved up a couple of steps and I
17 was in the mail room.

18 Q So how much do you remember purchasing the
19 gun for?

20 A It was just for a couple of crack vials that
21 I guy was trying to purchase. I believe it
22 probably wasn't even worth \$50 at that time.

23 Q So if you were working it means you weren't
24 penniless. I mean you had, you did have some
25 money. Why the need to rob the cab driver? It

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

1 sounds like you had like a detailed plan. I mean
2 you waited for him, you hid the gun, you waited
3 for him. It sounds like you planned this out
4 pretty well. Why would you, why would you have
5 to plan a robbery out if you were actually
6 working? I mean it's not like you were starving
7 in the street or anything.

8 A Yes, that is true. I think it was cause of
9 my addiction at the time. I was getting more
10 caught up into the drugs and even though I was
11 working I really didn't have enough money to, you
12 know, support my drug habit and, you know, live
13 like to pay the rent to help my mother out at
14 that time and stuff like that. During that time
15 I had ran out of the money I had and I was hoping
16 to get some more money to purchase drugs at that
17 time.

18 Q And I believe that prior to this you have had
19 some contact with the law, criminal possession of
20 stolen property in 1988, a misdemeanor. Criminal
21 possession of stolen property fifth degree 1989,
22 misdemeanor. Again stolen property in '88.
23 Actually I think those two in '88 were combined.
24 Well, one was sentencing on the 4th of August,
25 one was sentenced on the 8th. But it looks like

[REDACTED] [REDACTED] DIN [REDACTED] NYSID [REDACTED]

7

1 your criminal history prior to this were all
2 misdemeanors, correct?

3 A Yes, they were.

4 Q This being a serious escalation of any of
5 those misdemeanors and activities. Were you
6 successful in this type of a robbery before where
7 you didn't have to brandish the gun?

8 A No, this was actually the first time I ever
9 committed a robbery with a gun. One of the worst
10 things I ever did was actually purchase that gun
11 because as you see I was into petty crime. I
12 basically didn't want to harm anybody. I was
13 stealing things out of cars and you know
14 shoplifting at some point in time. Basically I
15 was committing crimes that you know that didn't
16 hurt anyone. When I purchased the gun, when I
17 purchased the gun I didn't have no plans on using
18 the gun but I now know that any time you bring a
19 gun to the scene of a crime nothing good can
20 happen.

21 Q You're absolutely right. I say that often.
22 I say that often because let me tell you
23 something, say you get in a fight with a guy in a
24 bar, right? If no one has a gun somebody might
25 get a broken nose, maybe a little worse a chair

██████████ ██████████ DIN ██████████ NYSID ██████████

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1 gets thrown or something like that. There's a
2 lot less chance somebody dies or somebody goes to
3 prison for murder, right?

4 A Yes, yes, I understand how that can happen.

5 Q I don't believe that those like you who
6 commit robberies with a weapon intended on saying
7 and there are some but I don't believe the vast
8 majority went to that robbery with the gun
9 figuring I'm going to rob this guy and I'm going
10 to kill him. But you brought the gun.

11 A Having the gun that can happen, yes.

12 Q You brought the gun. Worst mistake any
13 robber could make is bringing, first of all doing
14 the robbery right, but bringing the weapon.

15 A Yes.

16 Q Bringing the weapon. Commissioner Cruse is
17 chuckling now because he hears this over and over
18 again, we see so many guys convicted of murder
19 and robbery and they all say the same thing, I
20 didn't intend on hurting anybody. But the law
21 says you brought the gun, it's on you. It's
22 unfortunate this guy was trying to support his
23 family, he was just doing his job, okay? No
24 different than you being in the mail room and
25 somebody holds up the building and decides to

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

1 shoot you because they had the gun and you
2 flinched at the time and got nervous and they
3 shot you. Not fair to anybody.

4 A Yes.

5 Q You're right.

6 A I'm definitely well aware of that now.

7 Q What have you done inside as far as your
8 insight and awareness of all of this to, you
9 know, toward rehabilitation? I know that you've
10 completed many programs.

11 A I did a lot of stuff I was doing.

12 Q I have your packet here.

13 A Yes.

14 Q I see your certificates.

15 A Program wise I tried to take a lot of
16 programs that I felt would help me to be a better
17 human being. One of the programs that I felt
18 that really helped me was the AVP program, that's
19 Alternative to Violence program where I was
20 involved in groups that came in to talk to people
21 that have committed violent acts. So at that
22 program that's when I learned about, you know,
23 something that I did think about every day of my
24 life was choice and consequences. I use that
25 theme every day of my life. That's one of the

██████████ ██████████ DIN ██████████ NYSID ██████████

10

1 programs that I felt that really helped me.

2 Q Okay.

3 A I also got involved with the Delinquent
4 Individual program, that's a program similar to
5 YAP. Where they have young teenagers coming in
6 that's headed down the same path that I was
7 headed down. So I was able to, you know, tell my
8 life story, explain to them if they keep going
9 down that same road that now this is the life
10 that they could have, you know. Being in that
11 program I was able to be brutally honest and
12 explain to the kids that, you know, this is the
13 life, if I didn't I shot, what life would be like
14 in prison if you were in prison, how it would
15 affect not just you but how it affect you and
16 your family and anybody else that loves you.

17 Q How old were you at the time?

18 A At the time what?

19 Q Of the crime?

20 A Of the crime? I was, I had just turned 23.

21 Q Okay. 23, so relatively young, old enough,
22 you know, to be an adult, no better but
23 relatively young. Maybe not as young as some of
24 the young guys that you talk to. How old are you
25 now?

██████████ ██████████ DIN ██████████ NYSID ██████████¹¹

1 A I'm 51 now.

2 Q You're 51, okay. And as you were talking I
3 was looking through your letters of reasonable
4 assurance. I see the Anthony House here. And
5 the Bronx Defenders Redefining Public Defense. I
6 see that letter. Also letters, personal letters,
7 your brother, one from your brother, right,
8 ██████████?

9 A Yes.

10 Q Your brother ██████████?

11 A Yes.

12 Q Now, ██████████ has a different last name, right?

13 A Yes.

14 Q ██████████ ██████████?

15 A Yes. We have the same mother but different
16 fathers.

17 Q Okay. I see one from your uncle or wait --
18 no, from your niece?

19 A From my niece.

20 Q Your niece?

21 A Yes.

22 Q From your niece?

23 A Yes.

24 Q ██████████, right?

25 A Yes, yes.

██████████ ██████████ DIN ██████████ NYSID ██████████¹²

1 Q Okay. Another niece ██████████?

2 A Yes.

3 Q Your cousin ██████████.

4 A Yes.

5 Q Okay, sir, we're going to look closely at
6 those letters and this looks like a picture of
7 your family?

8 A Yes.

9 Q Is that your family visiting you?

10 A Yes, that was at a memorial service that we
11 was having for my sister that had passed away in
12 2012.

13 Q I'm sorry to hear about that. Nice looking
14 family there. You have some other pictures,
15 okay. This shows us that you have family
16 support, things for us to consider, okay?

17 A Yes.

18 Q We also see that your COMPAS risk assessment
19 is completed. It was done, you sat down with
20 counselor on July 25th, do you recall doing that?

21 A Yes, I do.

22 Q All right, sir. Did you take a look at the
23 COMPAS report?

24 A Yes, I have. And I understand that it's a
25 tool you all started using a few years ago to get
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██████████ ██████████ **DIN** ██████████ **NYSID** ██████████

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1 a better read of the person in front of you.
2 Glad to see that it showed me I am a low risk of
3 violent felony of committing another crime and
4 low for absconding. So I was happy to see that
5 the computer showed what type of person I am
6 today.

7 Q You're right. Human behavior can't be
8 guaranteed, nobody has mastered that yet.
9 However this is a glimpse, a tool that we use,
10 one of the many criteria that we consider and it
11 does say though low risk there. Prison
12 misconduct was high still at eight. Now, that
13 takes awhile to come down, don't get discharged
14 that you said eight, you know, high. Your stay
15 in prison has not been stellar I will say that,
16 however the last ticket that you had Tier III was
17 back in April of 2014, is that correct?

18 A That is correct, yes.

19 Q So in the past since your last Board
20 appearance you have had no disciplinary
21 infractions, right?

22 A That's correct.

23 Q And you continue to program. Your case plan
24 tells us a little bit about your goals, tasks and
25 activities while you've been inside. States that

[REDACTED] [REDACTED] DIN [REDACTED] NYSID [REDACTED]

14

1 you wanted to continue writing to Deacon Patrick
2 about re-entry programs. So a couple of these
3 goals were to continue writing regarding
4 re-entry. Get letters of support.

5 A I also have a letter of support from Deacon
6 Patrick. The Deacon Patrick is also a re-entry
7 program. Deacon Patrick, the Anthony House, you
8 know, they will house me. If I am granted parole
9 that's where I will live. They would help me,
10 they will help me with employment, help me with
11 my daily needs, help me so I can eventually get
12 out on my own.

13 Q We're familiar with the Anthony House and we
14 hear it's a really good program, so I'm glad
15 you've been looking into that. So it is
16 something that we believe could be beneficial
17 upon your release if that should happen. So we
18 will consider that as well. Let me turn it over
19 to Commissioner Cruse to see if he has any
20 questions.

21 COMMISSIONER CRUSE: I've listened carefully,
22 I have no further questions, thank you.

23 Q All right, sir, we've talked about everything
24 that I wanted to ask, is there anything that I
25 did not touch upon that you wanted to mention

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

1 before we finish?

2 A I understand that I committed a senseless

3 crime, one that will stay with me forever. I let

4 so many people down. I never even knew that I

5 had so many people counting on me. I know that I

6 will never be able to make amends to Mr. ██████████'s

7 family but I'll tell you I'm not that same person

8 I was 29 years ago. I can truly honestly say

9 that I will never be that person I once was. And

10 if you was to grant me parole you will never,

11 ever have to worry about me violating the law

12 again. I have a very good support system that

13 has been there for me and they will be there for

14 me if I'm released to help me every step of the

15 way. And I found a program in the Anthony House

16 that fits with exactly what I was looking to do

17 and that's start-up a construction environment,

18 work and acclimate myself back into society. At

19 the same time I understand that these decisions

20 is not easy for the commissioners to make.

21 That's why I wanted to put together a packet

22 where you can clearly see the person I am today,

23 what I have been doing while I'm in prison and

24 what I would like to do if I am released from

25 prison.

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

1 Q Okay. And you definitely did, you know, all
2 that you can do as far as giving us that packet.
3 Let me ask you this, the unapprehended
4 co-defendant, what role did he play or she? I
5 don't know who it was.

6 A I was at a gas station at that time. And
7 when a lot of people was around the gas station.
8 People be around there trying to, you know, beg
9 for change or see if they can pump people gas for
10 other people, people down there saying they could
11 wash windows. There was a crowd of people down
12 there. When the shotgun, you know, went off
13 everybody dispersed. You know, some guys I guess
14 ran with me, some guys ran in the other areas.
15 So always considered that another perp was with a
16 me. I've been locked up too long to try to hide
17 a perp and defend someone else that would have
18 been with me or anything like that.

19 Q In sum are you saying that there was no
20 co-defendant?

21 A There was no co-defendant. But, no, no one
22 with me but there was actually people that was in
23 the gas station, regular gas station at that
24 time. And like I said when the gun went off
25 everybody dispersed, people ran maybe in the

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

17

1 direction I ran and then, you know, I guess they
2 would assume that someone was with me.

3 Q I did read that there was others that ran
4 they had he ever had the gunshot and everything
5 so we'll take your word for that that there was
6 no specific person involved with you. Okay, sir,
7 all right, we have a lot to think about. You
8 presented yourself well and we'll let you know in
9 writing in a couple of days.

10 A Thank you.

11 Q Thank you.

12 (After due deliberation by the Parole Board
13 panel, the following Decision was rendered:)

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[REDACTED] [REDACTED] *DIN* [REDACTED] *NYSID* [REDACTED]

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1 D E C I S I O N

2 BY COMMISSIONER COPPOLA:

3 Parole is denied 24 months, next appearance
4 August 2019.

5 After a review, interview, and deliberation,
6 the panel has determined that your release would be
7 incompatible with the welfare and safety of society
8 and would so deprecate the serious nature of the
9 crime as to undermine respect for the law, Parole is
10 denied. Required statutory factors have been
11 considered, together with your institutional
12 adjustment including discipline and program
13 participation, your risk and needs assessment, and
14 your needs for successful re-entry into the
15 community. More compelling, however, are the
16 following: Your serious offense of murder second,
17 attempted robbery second and CPW second degrees all
18 of which involved you during the course of an
19 attempted robbery of a cab driver causing his death.
20 The records indicate that when you first had contact
21 with the victim there was a struggle. You left the
22 scene only to return after retrieving a shotgun and
23 ultimately shot the victim and caused his death.
24 Your criminal history report reflects prior unlawful
25 behavior, however the instant offenses represent a

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

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1 serious escalation of criminal behavior. The panel
2 takes note of your positive programming to date and
3 improved disciplinary record since your last Board
4 appearance. Also noted are the results of your risk
5 and needs assessment and the low scores indicated
6 therein, nonetheless none of which outweighs the
7 gravity of your actions and the senseless loss of
8 life you caused. The elements of this crime
9 demonstrated a callous disregard for human life
10 which remains a concern to this panel.

11 Unfortunately for the victim and his family your
12 prior contact with the law and leniency by the
13 courts for prior criminal acts had failed to change
14 your negative behaviors. Therefore based on all
15 required factors in the file considered
16 discretionary release at this time is not
17 appropriate. Use this time to continue in programs
18 and activities that will benefit you upon release
19 and demonstrate a better restraint for adhering to
20 facility rules and regulations, no additional
21 tickets.

22 (All commissioners concur.)


██████████ ██████████ *DIN* ██████████ *NYSID* ██████████²⁰

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CERTIFICATION

I, ROBERTA O'ROURKE, 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 20 pages, is a true and correct copy of same and the whole thereof.

Dated: August 25, 2017



Roberta O'Rourke, Court Reporter