STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF PAROLE

In the Matter of

Wyoming Correctional Facility

DIN #

NYSID #

Held at: Wyoming Correctional Facility
Attica, New York
Parole Board Hearing
October 11, 2006

Before: COMMISSIONER VANESSA CLARKE
COMMISSIONER THOMAS GRANT

Present: ANTHONY MOLIK, Facility Parole Officer II
JANET CIOCIOLA, Agency Program Aide

Reporter: MIDTOWN REPORTING SERVICE
SARAH CAVAGNA, Hearing Reporter
(585) 325-2130

Midtown Reporting Service
501 Union Square Building
Rochester, New York 14614
EXAMINATION BY COMMISSIONER CLARKE:

Q. You are

A. Yes, ma'am.

Q. Good afternoon. My name is Commissioner Clarke, and with me is Commissioner Grant.

COMMISSIONER GRANT: Afternoon, sir.

Q. You're here today serving ten years to life for burglary in the first degree. It's your reappearance and I understand that you first appeared before our Panel back in August 2004?

A. Yes.

Q. Why gave you the written reason why that decision was made. The Panel reviewed this case and decided against release. You are serving ten to life and you're going on twelve on the conviction.

A. Yes.

Q. All right. Now, this is a persistent felon sentence. You received ten years to life because you had been in prison twice before; is that right?

A. Yes, ma'am.

Q. Now this a very serious crime. We are going to consider the facts. The crime and your previous record, are not going to change, but your plans for the future, the programs you have done since your last appearance, are things that may have changed. All right. And we
will make a decision today.

How old are you, now?

A. Thirty-eight.

Q. Thirty-eight years old.

This happened when you were about twenty-six?

A. Twenty-four.

Q. Okay. The record says that you and an accomplice went into your victim's home, threatened the victim with a gun, stole her property, and during the course of the incident, you struggled with the victim and dragged her and her eight-year-old son into a bedroom and attempted to tie her up with a sheet, threatened her with the gun.

All right. Now, you claim that it didn't happen exactly like that. You didn't have a gun; is that what you told the previous Panel?

A. Yes. I didn't have no gun.

Q. Why would they say that you did if you didn't?

A. That's the why they wrote it for everybody in the sentence report.

Q. All right. Did anyone have a gun, because --

A. Yes.

Q. -- you weren't by yourself, you were with someone else.

A. Yes.
Q. Did that person have a gun?
A. Yes.
Q. Why would you do this? This appears to be an unarmed woman with a child and people are breaking into her house and creating mayhem. Why would you do that?
A. There wasn't supposed to be a woman in that house. There was supposed to be a man.
Q. Well, he wasn't there; was he?
A. No.
Q. Why is that?
A. We found out later on that we had the wrong apartment.
Q. I see.
So you were going to go in there and rob this other person, a male person?
A. (No audible response.)
Q. When you realized that you weren't at the right place, why not get the hell out of there.
A. It happened too fast. The police was there like maybe two minutes.
Q. All right. The reason why you would agree to go along with something like this is because you are criminal minded or you were at the time. You've been in problem since 1983. And back in '83 you would have been seventeen or eighteen. YO robbery, robbery second,
attempt burglary. Constant crime. You have been on probation, you've been on parole, you've been on work release. I think you've violated just about everything, other than maybe the probation.

Okay. Why should we release you,
Mr. Because you can't behave. You haven't been a good citizen ever. You are a good prisoner. You have an excellent record here.

Why should we release you?
A. I cannot pay for my crime.
Q. Okay. That's a good answer. We want to know why, because you have been terrible, a terrible citizen. You have been a criminal and this is where we put people who act like that. So maybe it's in your best interest that you stay here because that's the only place you're good. But, you don't want to be here anymore. So we want to know that nobody else is going to be subjected to your crimes. Why don't you tell us about that?
A. See, this was one like -- the first two times, it was not a long sentence.
Q. Okay.
A. One was one and a half to four and a half. The other one was two and a half to five.
Q. Right.
A. The second time I went, I only did like a year
and a half and then I went to work release.

Q. Right.

A. I don't think it was --

Q. Enough time?

A. -- enough time. This time I've been here for a
long time.

Q. Those are legitimate points that you're making.

It's unfortunate that being in prison one and a half
years is not enough time for you to realize that you
don't want to be here. But ten years to life, with life
being the actual word; the operative word, if we don't
parole you, you will not leave here, never. So we have
to come up with why we should parole you? And we don't
want to be here anymore.

All right. How are you going to behave
yourself? What is your plan for staying crime free and
possibility drug-free, you have drugs involved in this
situation. What is your plans for staying out of
trouble?

A. I want to open my own business.

Q. Okay. That's not easy to do.

A. Right now I have my son who's in the army.

He's in the army right now.

Q. Okay.

A. And we plan to open some -- I'm an electrician
and that's a trade that I am really good at it.

Q. Okay.
A. I have a newborn granddaughter.
Q. Okay.
A. And I want to be with her.
Q. Okay. So you want to pursue your trade. Where did you learn your trade? Here in the prison or outside?
A. Outside.
Q. Okay.
A. When I got arrested, I was going to college.
Q. Okay. Okay. Are you going to college for electrical trade?
A. Yes.
Q. Things would have been so different if you would have decided then, I'm going to be a professional man, I doing to be with this person, other than deciding to break into people's houses and steal stuff and rob them and all that.
All right, Mr. , who do you have out there? You mentioned a son in the army, you have a daughter?
A. No.
Q. No daughter.
A. Only one son.
Q. You have a granddaughter?
C. [redacted] - NYSID # [redacted] - DIN# [redacted]

1. Right, granddaughter.
2. Q. So your son has a daughter.
3. A. Yes.
4. Q. So who's raising this child; her mother?
5. A. They together. They married.
6. Q. Okay. So you said he was in the army?
7. A. Yeah. He's in Kansas right now.
8. Q. Okay. You also have a sister who lives in [redacted]? 
9. A. Yes.
10. Q. And they might take you in if you are released?
11. A. Yes, ma'am.
12. Q. Okay. The last job that you held was what?
13. A. The last job that I held?
14. Q. Yes.
15. A. I was working in the deli. Fast food deli.
16. Q. What was the longest period of time that you ever held a job? How long did the job last?
17. A. A year and half.
18. Q. Okay. Considering all the troubles you have been in, that's relatively a long time.
19. Okay. Since your last appearance before the Parole Board, you've had one disciplinary infraction. A total of two for the last twelve years. So you don't get
in any trouble here. That's great. I know that the
previous Panel mentioned that. Your behavior has been
very, very good.

You are not eligible for an Earned Eligibility
Certificate because of the sentence that you are serving,
so we don't have that in the guidelines.

What else would you like to tell us today that
you want us to know?

A. I cannot change the past. So if -- if I could,
I would do it. I'm sorry for what I have done. I'm
sorry that I've hurt a lot of people, myself and my
family, but also the person that I broke into their
house. I can't change that.

Q. Do you know what happened to the other man,
what sentence they received, because you had two
codefendants in this case?

A. One went to -- because he violated his
probation, went to jail.

Q. Okay.

A. The other one had a six to eighteen and he was
pulled out to go to federal prison.

Q. Okay. So everybody got locked up?

A. Yes.

Q. Of course. This is a terrible, terrible crime.

A. One is working construction in Dominican.
Okay.

A. That's my neighbor that's how come I know.

Q. All right. So you have received the most serious sentence for the incident, because your record is more worse.

All right, sir. We are going to weigh all of these factors.

COMMISSIONER CLARKE: Any questions, Commissioner?

COMMISSIONER GRANT: No questions. Thank you.

COMMISSIONER CLARKE: Do you have any questions for us today?

INMATE [Redacted]: No.

COMMISSIONER CLARKE: Okay. We're going to talk about your case and give you our decision. Thank you.

(After due deliberation by the Parole Board, the following decision was rendered:)

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Meltdown Reporting Service
501 Dean Square Building
Rochester, New York 14614
DECISION

COMMISSIONER CLARKE: This is in the matter of [Redacted] He is denied twenty-four months. Next appearance date will be 10/2008.

Parole is again denied.

You continue to serve a ten year to life term upon your conviction for the crime of burglary in the first degree. You and others burst into the house of a female victim and her eight-year-old son, terrorizing them at gunpoint. This crime continues your long prior record of persistent crimes dating back to 1983. Your crimes have included robbery second and attempted burglary second, among other crimes, and the Panel notes that you have violated work release and parole in the past; therefore, the Panel notes your overall positive adjustment as an inmate, due to the serious nature of the offense, and your negative response to past correctional influences, your release would not be appropriate at this time.

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CERTIFICATION

I, SARAH CAVAGNA, a Shorthand Reporter in the State of New York, do hereby CERTIFY that the forgoing 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.

SARAH CAVAGNA

DATED AT: Rochester, New York
this 24th day of October, 2006.