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NYS DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

Parole Board Interview

In the Matter

-of-

[REDACTED] [REDACTED]

DIN # [REDACTED]
NYSID # [REDACTED]

TYPE OF INTERVIEW: Initial

LOCATION: Otisville Correctional Facility
Video-conferenced to NYS DOCCS
20 Manchester Road
Poughkeepsie, New York

DATE: June 29, 2016
DECISION DATE: June 29, 2016

BEFORE: COMMISSIONER W. SMITH
COMMISSIONER C. HERNANDEZ
CHAIRWOMAN T. STANFORD

ALSO PRESENT: SORC Glebocki
ORC Brooks

AT FACILITY: ORC Raimondo

HEARING REPORTER: Lori Ciofalo

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

1 COMM. STANFORD: Good afternoon. Are you

2

3 THE INMATE: Yes, ma'am.

4 COMM. STANFORD: Hi, Mr. ██████████ I am
5 Commissioner Stanford. I am joined by Commissioners
6 Smith and Hernandez.

7 COMM. HERNANDEZ: Hello.

8 COMM. SMITH: Hello.

9 INTERVIEW BY CHAIRWOMAN STANFORD:

10 Q. Mr. ██████████ my records reflect that you are
11 serving a sentence of seventeen-years to life for Murder
12 in the Second Degree; is that correct?

13 A. Yes, Commissioner.

14 Q. And, so far, you've served over sixteen years; is
15 that right?

16 A. Yes.

17 Q. You took a plea in satisfaction of this charge,
18 in ██████████ County, and your sentence was in 2000; is that
19 correct?

20 A. Yes, that's correct.

21 Q. You didn't know your victim, did you?

22 A. No, ma'am.

23 Q. This person was a cabdriver?

24 A. Yes, it was.

25 Q. I understand, looking at your statement, that you

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

1 gave facility staff, in preparation of today, that it
2 was one of your co-defendants, who came up with the idea
3 of robbing a cabdriver; is that correct?

4 A. Yes.

5 Q. At your sentencing, did anyone from this man's
6 family come and speak?

7 A. No, ma'am.

8 Q. Do you remember any words that the judge may have
9 placed on the record to you, explaining his or her
10 sentence?

11 A. No, ma'am.

12 Q. I ask that, because we've tried to get your
13 Sentencing Minutes.

14 With every case, the Department of Corrections
15 and Community Supervision makes, at least, two attempts
16 to reach out to the Office of Court Administration, to
17 get a copy of your Sentencing Minutes, so that we can
18 know, the people who are interviewing you can know, what
19 was said at your sentence.

20 If, for example, the victim's family spoke, or
21 what your defense attorney said, on your behalf, or what
22 the assistant district attorney said, on behalf of the
23 people of the State of New York, or what the judge may
24 have said, before passing the sentence.

25 But we don't have those minutes; even though, we

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1 can see, that a diligent effort was made to get them.

2 Are you also saying you don't have any
3 information from that sentencing, that you can share
4 with us?

5 A. I've been trying to request my Sentencing
6 Minutes, also, to no avail.

7 Q. Thank you. We do have your sentence and
8 commitment, so we know what the sentence was, and we
9 know who participated in those events, in terms of the
10 judge's name, the district attorney's name, and your
11 defense attorney's name.

12 We have reached out to them, as we always do,
13 also, as a matter of course. In fact, a letter was
14 probably sent out many years ago. I think in your case,
15 it was sent in 2001, to those parties, asking them if
16 they had an opinion, that they wanted to share, with a
17 future Parole panel, regarding your release. We never
18 got any feedback, positive or negative, from any of
19 those parties. I just want the record to reflect that,
20 as well.

21 The narrative, the description that the staff
22 provides us, is usually taken from the Probation Report,
23 that's prepared for the judge, at the time of your
24 sentencing.

25 It says that forcibly, certain property was taken

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

1 from this man. He was cut with a box cutter, and then
2 he was shot with a handgun.

3 What, specifically, was your participation in
4 this crime?

5 Exactly, what did you do when the property was
6 being taken, when he was being injured, and, finally,
7 when he was being killed? What exactly did you do?

8 A. My participation was, we agreed on a robbery, I
9 was supposed to be a lookout.

10 In the course of the robbery, the cabdriver
11 started fighting back. There was a struggle for the
12 gun. I helped struggle for the gun. When my
13 co-defendant got the gun back, he actually shot him, and
14 then we ran.

15 Q. When you say, "There was a struggle for the gun,"
16 where did this struggle take place?

17 A. Inside the cab.

18 Q. Was the cab moving, when the robbery began, or
19 had he stopped?

20 A. He had stopped. When the robbery began, we were
21 still.

22 Q. Now, did you lead him to believe that you three
23 wanted to be taken someplace? Were you at this address
24 you had given him, or were you at the place where he
25 picked you up?

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

1 A. No. We led him to believe that we was going
2 somewhere.

3 Q. Had he arrived to that destination, before the
4 robbery began?

5 A. Yes.

6 Q. And before anybody got out, that's when
7 everything took place?

8 A. Yes, ma'am.

9 Q. So the three of you were in the cab, in the
10 backseat?

11 A. Yes.

12 Q. And this was before the days where they had
13 partitions, and all of that; is that correct?

14 A. Correct.

15 Q. What do you know about this man, if anything, the
16 cabdriver?

17 A. Absolutely nothing. I just know that he was a
18 father. They told me in court, that he was a father.
19 They didn't say that he was married or anything. There
20 was not too much information that they gave me. I
21 didn't know him. There was not too much information
22 given on him.

23 Q. What do you remember about him? Was he about
24 your age, when the crime was committed? Was he older?
25 Was he younger?

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1 A. He was older. Probably in his mid forties, I
2 would say, just off of sight. I don't know for sure.

3 Q. At that time my records suggest you had turned
4 nineteen, that year; is that right?

5 A. Yes.

6 Q. Had you graduated from high school, at that time?

7 A. I was actually still in high school.

8 Q. In what year?

9 A. In my final year.

10 Q. How about where you were living?

11 A. There's a conflict of where I was living; because
12 my address was my father's, but I was actually living
13 with my girlfriend at the time.

14 Q. What county was that in?

15 A. It was in ██████████. I don't know the county's
16 name.

17 Q. ██████████ County. That's how I always remember it.

18 ██████████ is ██████████ County. ██████████ is ██████████ County.

19 ██████████ is called ██████████ County.

20 A. Okay.

21 Q. So you were living in ██████████ County. This crime
22 occurred in ██████████ County, in ██████████; is that right?

23 A. Yes, ma'am.

24 Q. You were living with your girlfriend at the time?

25 A. Yes.

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1 Q. Did you have any children, by that time?

2 A. No.

3 Q. Do you have any children, today?

4 A. Yes.

5 Q. How many?

6 A. One.

7 Q. How old is your child?

8 A. Three-years old.

9 Q. And recently married?

10 A. I'm not married.

11 Q. So I'm just curious, being nose-y, now, more than
12 anything. How is it that you have a three-year old and
13 you're not married? I didn't think that people were
14 allowed visits of that sort, if they weren't married.

15 A. Well, I don't want to put no say on how certain
16 things go on inside facilities, but --

17 Q. Okay. You don't want to incriminate yourself.
18 Is that what you're saying, basically?

19 A. It's not that I don't want to incriminate myself,
20 but I don't want to bash the facility that I was in.

21 Q. But you believe that you have a biological child,
22 that is three-years old, in any event?

23 A. Yes.

24 Q. Fair enough.

25 What is your plan for where you intend to reside,

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

1 when you are able to go home?

2 A. Well, if I was to be released, I would actually
3 try to parole to my father's house. If that's not
4 available, then I would be trying to get into the
5 Fortune Society.

6 Q. And your father lives in ██████████ County, presently?

7 A. Yes, ma'am.

8 Q. Does he live in the same address, he was living
9 at, at the time of this crime?

10 A. No.

11 Q. Now, you mentioned the Fortune Society, as an
12 alternate. Have you had any contact with the Fortune
13 Society?

14 A. I have. I wrote, and they wrote me back. They
15 said they can't hold a bed, unless I have a date.

16 Q. Okay. I see.

17 Now, am I correct, that this was your first
18 conviction of any kind?

19 A. Yes, ma'am.

20 Q. And you don't have any other misdemeanor or
21 felony convictions, in any other state?

22 A. No.

23 Q. No federal convictions?

24 A. No, ma'am.

25 Q. We do have your disciplinary history. It

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1 suggests that you started having incidents in
2 facilities, beginning with Great Meadow, in 2001, maybe
3 about seven or so months after you came into state
4 custody.

5 You have three Tier III incidents. The first is
6 in '02, also at Great Meadow; then another in '03, at
7 Great Meadow.

8 The first was a violent conduct, fighting. The
9 second was a weapon incident. The third, again, at
10 Great Meadow, was in '04, and that was also a violent
11 conduct, fighting.

12 The last two you received some Special Housing
13 time. The first one looks like the sanction was keep
14 lock.

15 Since then, between 2005 and 2013, you have
16 approximately eight Tier II incidents. The last one,
17 again, in 2013, at Fishkill; is that right? Does that
18 sound accurate to you?

19 A. Yes.

20 Q. What do you attribute your success in becoming
21 ticket free, since 2013?

22 A. I know that I've been getting closer to my
23 family. I attribute it to me growing up and becoming
24 more mature, you know.

25 When I came in I had the mindset of me not

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

1 letting nobody harm me. Then I realized, later on, that
2 I didn't need to. So it came with maturity, I would
3 say.

4 Q. Today, you're thirty-six-years old?

5 A. Yes, ma'am.

6 Q. You just turned thirty-six, at the beginning of
7 the year; is that correct?

8 A. That's correct.

9 Q. We have your risk assessment, which suggests that
10 you present a low risk of felony violence, arrest and
11 absconding.

12 That you are unlikely to have any criminogenic
13 need that specifically tends to lead people back into
14 criminal behavior. Your criminal involvement is low.
15 So, overall, you have a very favorable risk assessment.

16 We have your Case Plan, which suggests that you
17 have completed your academic program, completed your
18 vocational program, completed your substance abuse
19 program, completed your aggression replacement program,
20 and completed Transitional Services Phase 1, I believe.
21 Does that all sound accurate?

22 A. That's accurate.

23 Q. Is there anything else that is significant, in
24 your mind, in terms of your program completion or
25 participation, that you want to place on the record?

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1 A. I took lot of self-help programs. I didn't
2 really come down here with all that paperwork. I didn't
3 feel it was necessary to be coming down and bragging
4 about all the accomplishments that I have in prison.

5 It's unfortunate that I had to get myself in
6 trouble, for me to realize all the good things I could
7 do in life. There's stuff that I accomplished in here,
8 but I didn't come here for that route.

9 Q. What would you like to place on this record, that
10 is significant for you to make a record of?

11 A. For the record, I would like to say, you know,
12 honestly, I'm not the same person that I was when I came
13 in here.

14 You know, in a way, I was kind of a follower. I
15 don't want one action to determine my life's worth. You
16 know, I made a lot of bad decisions to shape the person
17 that I thought I wanted to be, and I'm paying for that,
18 regretfully.

19 I don't want this world to see me as that person,
20 to be judged by one action, not mistake, but action I
21 made. You know, there's not too much more for me to
22 say.

23 Q. Do you think the loss of this man's life, earned
24 you the time that you were given?

25 A. Did it earn me the time I was given?

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

1 Q. Yes.

2 A. I really don't understand what that means.

3 Q. Do you feel that you deserved the sentence that
4 you were given, for the fact that this man was killed,
5 in this manner?

6 A. I definitely deserved my punishment. I
7 participated in the crime, so I know that I deserved it.

8 It's not like I'm making a gripe about my
9 punishment, that's not what it is. I understand that
10 when you do something wrong you get penalized, and I did
11 something wrong.

12 I participated in a crime that led to someone's
13 life getting taken. That was never supposed to be the
14 case, but it happened, and I participated, so I
15 understand.

16 Q. What we are finding, and we see this every week
17 that we are conducting interviews, is when people carry
18 firearms, specifically, people who are not licensed to
19 carry them, people carrying firearms, planning on
20 committing crimes, really, really, awful things can
21 happen, and the worst crime possible, which is murder,
22 can easily happen.

23 Very seldom is it the plan to kill somebody, but,
24 of course, if you're going around with firearms, that
25 are loaded and operable, planning on committing crime,

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

1 that's certainly a foreseeable consequence.

2 So having said that, do you see yourself ever
3 participating in a crime involving a firearm, or a crime
4 of this nature, robbery or murder, again, in life?

5 A. Absolutely not. I don't put myself in those type
6 of situations anymore.

7 When I was younger, I didn't know how to keep
8 myself out of certain situations. Now I think, before I
9 put myself in certain situations, so it's easy for me to
10 stay out of trouble.

11 Q. Were you involved in the cutting of this man?

12 A. No. But I was involved with the robbery scene,
13 so --

14 Q. I mean, directly, did you cut him?

15 A. No.

16 Q. Did you shoot him?

17 A. No.

18 Q. But you were involved with the struggle for the
19 gun, that was brought by one of you, that ultimately
20 caused him to get shot?

21 A. Yes, ma'am.

22 COMM. STANFORD: I am going to ask my
23 colleagues, if they have any questions?

24 COMM. SMITH: I have nothing else. Thank
25 you.

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

1 COMM. HERNANDEZ: I have no questions.

2 CONTINUED BY COMMISSIONER STANFORD:

3 Q. Sir, I think we have covered everything that I
4 wanted to cover. Is there anything you want to say,
5 about the type of work that you foresee yourself being
6 able to do, if you go out in the community soon?

7 A. Well, I've participated in a lot of self-help
8 programs over the years. My main thing is I like to
9 cook and bake. That's what I'm going for, a program to
10 help me further myself in the career of baking and being
11 a chef.

12 Q. What program are you specifically referring to,
13 now?

14 A. I'm talking about the Fortune Society, to get me
15 in the door of what I'm trying to do.

16 COMM. STANFORD: Thank you very much, sir,
17 for the time we spent today. We are going to deliberate
18 and consider everything very carefully, render a
19 decision, put it in writing and get it to you as soon as
20 possible.

21 THE INMATE: Thank you. You have a nice
22 day.

23 COMM. STANFORD: Thank you. Bye, bye.

24 (Interview concluded.)

25

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

1 (After due deliberation by the Parole Board Panel,
2 the following Decision was rendered:)

3 DECISION

4 ██████ ██████ denied. Hold 15 months. Next
5 appearance, September 2017.

6 A review of the record and interview leave the
7 Panel to conclude that your release would be
8 incompatible with the welfare of society, and would so
9 deprecate the seriousness of the crime as to undermine
10 respect for the law.

11 The Panel is concerned about the disciplinary
12 history you have created, since you were received into
13 state custody.

14 We urge you to continue to improve your behavior,
15 so that a future Parole Board Panel can have confidence
16 in your growth and determination to live a law-abiding
17 life.

18 We have considered your release plans and outreach
19 for community support, your risk assessment, Case Plan,
20 particular actions during the crime, and other
21 information related to factors required by law to be
22 considered.

23 The Panel urges you to maintain good behavior and
24 continue to develop and document positive release plans.

25 (All Commissioners concur.)

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CERTIFICATION

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I, Lori Ciofalo, 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, and that the foregoing, consisting of
17 pages, is a true and correct copy of the same and
whole thereof.

Lori Ciofalo

Lori Ciofalo, Court Reporter

Dated: June 29, 2016