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September 2021

### Parole Interview Transcript/Decision - FUSL000063 (2017-06-17)

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[REDACTED], [REDACTED]

DIN# [REDACTED]

NYSID# [REDACTED]

NYS DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION  
BOARD OF PAROLE

\*\*\*\*\*

In The Matter Of

[REDACTED]

DIN# [REDACTED]

NYSID# [REDACTED]

\*\*\*\*\*

TYPE OF INTERVIEW: Reappearance

LOCATION: Mohawk Correctional Facility  
Via Videoconference to  
Syracuse Parole Office  
333 East Washington Street  
Syracuse, New York 13202

DATE: June 13, 2017

DECISION DATE: June 13, 2017

BEFORE: COMMISSIONER W. SMITH  
COMMISSIONER J. SMITH

ALSO PRESENT: SHARON FLANAGAN, SORC  
GEORGE SERVICE, SORC

AT FACILITY: JIM KOTARY, ORC  
MARK RECCHIO, ORC

HEARING REPORTER: EILEEN M. SHARP  
DURR COURT REPORTING

[REDACTED], [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

1 BY COMMISSIONER J. SMITH:

2 Q Good afternoon, sir. Would you state your name for the  
3 record?

4 A [REDACTED] [REDACTED].

5 Q Good afternoon, Mr. [REDACTED]. I'm Commissioner Julie  
6 Smith. I'm joined today by Commissioner William Smith..

7 COMMISSIONER W. SMITH: Hello.

8 THE INMATE: How are you sir?

9 BY COMMISSIONER J. SMITH:

10 Q This is a reappearance for you today. You continue to  
11 serve 15 to life following a conviction by verdict in  
12 [REDACTED] County for murder second; is that correct?

13 A That is correct.

14 Q All right. Do you have any appeals pending on your  
15 conviction?

16 A No.

17 Q Okay. I will advise you as a matter of record we do  
18 have transcription being taken on this end, which would  
19 be available for any further proceedings. Prior to  
20 your case going to trial, was there any plea offer  
21 extended to you?

22 A No.

23 Q Okay.

24 A Nothing that was actually valid.

25 Q Okay. We have your sentencing minutes on file. This

[REDACTED], [REDACTED] DIN# [REDACTED] NYSID# [REDACTED]

1 offense dates back to [REDACTED] of 2001, soon to be 16 years  
2 ago, in [REDACTED]. Apparently you and the victim  
3 resided at the same address; is that correct?

4 A No.

5 Q No. Okay.

6 A No. The victim was homeless at that time.

7 Q Okay. All right. Then the information contained in  
8 the Parole Board Report, which I'm reading from and you  
9 would have a copy of, says, at the time of the offense  
10 the defendant resided at the address.

11 A Uh-huh.

12 Q Well anyways, it indicates that you pointed a rifle at  
13 and shot the victim twice in the head while he was  
14 sleeping.

15 A That is correct.

16 Q Okay. Can you tell me what happened that day?

17 A I was at -- I was at home that evening when there was a  
18 knock on the door. I looked into the -- the peep hole  
19 and I saw a friend of mine named [REDACTED] [REDACTED] who had  
20 been dropping by from time to time.

21 I opened the door and saw him and the victim, [REDACTED]  
22 [REDACTED] there together. I told [REDACTED] [REDACTED] that he  
23 could not come in and that he was not staying.

24 He brushed past me in the door and so did [REDACTED] [REDACTED].

25 [REDACTED] [REDACTED] I mean.

[REDACTED], [REDACTED] DIN# [REDACTED] NYSID# [REDACTED]

1 Q Okay.

2 A [REDACTED] then began to ask for money for drugs,  
3 specifically cocaine, which I gave to him so that he  
4 would leave the apartment. And when he did so, I  
5 argued with [REDACTED] [REDACTED] for bringing [REDACTED] over.  
6 [REDACTED] later came -- I mean [REDACTED] later came back and  
7 he announced that he was going to stay in the  
8 apartment, and he went over to the phone called out to  
9 everyone he knew to tell that they were to expect that  
10 he was going to be there from now on all.  
11 All this was insane because I was in the process of  
12 moving from the apartment.  
13 And he then said this he was going to take all my  
14 sister's belongings, which were in boxes and he was  
15 going to sell them and that he was going to show me  
16 where to get my money --  
17 I argued with him for the rest of the evening, while I  
18 continued drinking and he -- by that time he became  
19 very forceful and said that he didn't have to do what I  
20 said, but I kept telling him that he has to leave. Go  
21 away.  
22 [REDACTED] [REDACTED], in the meantime, had left the apartment and  
23 [REDACTED] continued to -- to insist that he was staying.  
24 And he finally went to sleep. And I was very fearful.  
25 I grabbed the rifle from my bedroom and took it over to

DIN#

NYSID#

- 1           him and I shot him in the head twice.  When I realized  
2           what I had done --
- 3    Q       You said you were very fearful?
- 4    A       Huh?
- 5    Q       You said you were very fearful?
- 6    A       I was fearful from the very -- from way before he ever  
7           came in that night.  When he said that he was staying  
8           with me, I think he was mad because he had stayed with  
9           me before.  He was staying at various people's  
10          apartment during the time that he was homeless and each  
11          time he would stay until he was kicked back out.  
12          And the last time that he had stayed over at my house,  
13          I think he had stayed for like three nights until I  
14          finally kicked him out.  And so that was weeks before  
15          and he came back.
- 16   Q       Okay.  So you said you were afraid of him, but he is  
17          asleep at that point in time?
- 18   A       That's right.
- 19   Q       And --
- 20   A       [REDACTED] was well over six feet tall.
- 21   Q       Okay.  But he's asleep.
- 22   A       Yes.
- 23   Q       So after he's asleep, why didn't you call the police  
24          that this person is in your house and you don't want  
25          him there?

[REDACTED], [REDACTED] DIN# [REDACTED] NYSID# [REDACTED]

1 A Quite frankly, it never occurred to me at all. It  
2 could have been because of the state of my anxiety. It  
3 could have been because I was drinking. There wasn't a  
4 single time that I think -- when I think back on it --  
5 that this even occurred to me though.

6 Q So you had a rifle in the house?

7 A Yes.

8 Q And why did you have a rifle in your house?

9 A For protection. All of my friends were drug dealers  
10 and drug addicts and I lived in a very bad neighborhood  
11 and I was always fearful.

12 Q It sounds like you needed a new group of friends.

13 A Exactly.

14 Q All right. Now this is your only crime of conviction;  
15 is that correct?

16 A That's correct.

17 Q All right. We note you have served as a member of the  
18 United States Marines; is that correct?

19 A That's right.

20 Q Honorably discharged?

21 A That's right.

22 Q Well thank you for your service.

23 A Thank you.

24 Q The Office of Mental Health has you classified as a  
25 Level 6. That suggests that you do not need any mental

[REDACTED], [REDACTED] DIN# [REDACTED] NYSID# [REDACTED]

1 health services; is that correct?

2 A That's correct.

3 Q Okay. With respect to your programming since you've  
4 been incarcerated, we note you have completed all  
5 program and you're working on your associates through  
6 [REDACTED] Community College; correct?

7 A That's right.

8 Q All right. In what discipline?

9 A Liberal arts and general -- general courses.

10 Q Okay. With respect to your discipline, we note five  
11 Tier 2 tickets during your period of incarceration.  
12 The last one was seven years ago at Clinton; correct?

13 A That's right.

14 Q We have your COMPAS case plan. We're going to be  
15 taking a look at that and your COMPAS risk assessment.  
16 Your COMPAS risk assessment shows you to have a low  
17 risk of violence and arrest.

18 The greatest concern for you is in the area of reentry  
19 substance abuse.

20 Now I know you spoke about using that night. Do you  
21 think that alcohol use would be an issue for you going  
22 forward, or any drug use?

23 A I have a life-time history, at least 20 years, of  
24 alcohol abuse. I had quit drinking before, and the  
25 last time I had quit, I managed to stay sober for over



DIN# [REDACTED]

NYSID# [REDACTED]

1 three years and I chose to go back to drinking.  
2 It's not so much stopping. It's not a problem for me.  
3 It's staying sober after I have stopped.  
4 I think that a program where I can speak to  
5 professionals and likely people, you know, who are in  
6 my -- who are in my experience as far as addiction  
7 goes, I think I can a long ways towards keeping sober.

8 Q So you think that would be beneficial for you to  
9 continue to the program?

10 A Alcohol is a disease and it's --

11 Q I'm well aware of that.

12 A Yeah. It's something that has to be monitored, and  
13 that's exactly what I found out the first time that I  
14 quit drinking.

15 Q We have your statement that you prepared for the Parole  
16 Board relative to the nature of the law. We have a  
17 letter from Appellate Advocates. Also your recent  
18 transcript and your parole application package, with  
19 various letters of support contained within.  
20 Now, if you are to be released, absent of programming  
21 where would you go?

22 A Immediately, if I'm granted parole, I would get in  
23 contact with the Veteran's Administration. They have a  
24 comprehensive program for reentry for veterans coming  
25 out of prison. And I would look forward to trying to

[REDACTED], [REDACTED] DIN# [REDACTED] NYSID# [REDACTED]

1 get into a substance abuse program, as well as  
2 employment and housing services with them. So I would  
3 get in contact with them, see exactly what programs I  
4 could get in to specifically and then get back for  
5 parole approval.

6 Hopefully I could get right into a substance abuse  
7 program, and would take care of my housing.

8 And if not, the V.A. does have very good services for  
9 housing for veterans.

10 Q Okay. We have multiple letters of support contained  
11 within the file for you. And as far as work, what  
12 would like do to work?

13 A I would like to see exactly what my opportunities are.  
14 I'm looking forward to doing something in the field of  
15 a clerk, just to start out. But as I continue my  
16 education, I would expect better work to come from  
17 that.

18 Like, you know, after being in prison for 16 years, I'm  
19 going to start at entry level. So I think -- I think  
20 the way to go would be for some sort of a clerk  
21 management services.

22 Q Okay. Who do you have for family on the outside?

23 A I have a -- I have a -- I have a cousin who is in  
24 [REDACTED]. She lives out of state. I have an uncle who  
25 lives in [REDACTED] and a sister. And both my uncle and

DIN# [REDACTED]

NYSID# [REDACTED]

1 my sister have their own families, so I don't think  
2 staying with them would be an option.

3 I have a brother that I haven't spoken to. I lost  
4 contact with him right after I became incarcerated.  
5 And he did a stretch in prison himself. He's recently  
6 been released. So I think that -- that staying with  
7 family is not really a -- it's not really a very good  
8 option.

9 Q Okay.

10 A And that's why I'm looking forward to the V.A.  
11 services.

12 COMMISSIONER J. SMITH: All right. Commissioner  
13 Smith, any questions?

14 COMMISSIONER W. SMITH: I have nothing else.  
15 Thank you.

16 BY COMMISSIONER J. SMITH:

17 Q Sir, what else should we know today that we have not  
18 discussed that you feel is important for us to  
19 consider?

20 A When I look back at my transcript, I look back at the  
21 sentencing minutes and there was something that I had  
22 said, and this came from Judge [REDACTED] as well. And Judge  
23 [REDACTED] had said that I was wrapped up with my own  
24 situation. And even -- even while I was talking at my  
25 sentencing he said that I was completely -- I was

DIN# [REDACTED]

NYSID# [REDACTED]

1 completely obsessed with --

2 THE COURT REPORTER: I'm sorry. Please say that  
3 again. Completely obsessed?

4 A Judge [REDACTED], in the sentencing minutes, he had spoken  
5 about how -- me made a comment about how I was wrapped  
6 up in my own situation, even at sentencing. There's a  
7 page number here if you'd like.

8 Q Continue on. Continue on.

9 A Okay. Well, it's been 16 years and the only way to get  
10 past this literally is -- is just to put it behind you.  
11 The fact that I killed someone, as bad as it was, that  
12 is something that I have to live with.

13 But what I can say with any sort of insight that I  
14 gained over the years -- and this is why I had to go to  
15 prison. Because I had to go to prison to understand  
16 where [REDACTED] [REDACTED] came from.

17 That's what I didn't understand. And I don't think  
18 anyone else, not even his family knows, he was in pain  
19 at the time that he was dead. And at the very point of  
20 that is why did he go to my apartment at all. Why did  
21 he go and feel that I was his last resort? Because I  
22 don't think he wanted drugs. I think he just wanted a  
23 place to stay.

24 Well, the fact of it is that he was in pain and he was  
25 scared. And it's taken me all this time to realize

[REDACTED], [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

1           that. I had to put myself in his shoes and I had to do  
2           a stretch of prison, because there is where he came  
3           from. I had to figure that out for myself, a little  
4           bit by walking in his shoes. And that's the worst part  
5           about what I did to him. I took away his chance to  
6           deal with his own pain. And that's -- that, in a nut  
7           shell, has to be the biggest lesson I've learned in the  
8           past 16 years.

9    Q       All right, sir. We'll let you our decision. Thank you  
10           for coming in.

11   A       Thank you for your time.

12                               (The inmate was excused)

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DIN#

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

3  
4 D E C I S I O N

5  
6 Hold 15 months. Next appearance is 9/2018.  
7 Parole is denied. This decision is based on the  
8 following factors:

9 The instant offense of murder second wherein you  
10 shot and killed the victim while he was sleeping. This  
11 crime shows the depraved indifference for the value of  
12 human life. You indicated you were afraid of the  
13 victim and feared he would not leave your home.  
14 However, he was asleep.

15 After a review of the record and interview, note  
16 is made by this Board of your sentencing minutes,  
17 COMPAS case plan, COMPAS risk assessment, which  
18 indicates a low risk of felony violence with reentry  
19 substance abuse as highly probable, rehabilitative  
20 efforts, letters of support and/or reasonable  
21 assurance, disciplinary record and all other required  
22 factors.

23 Additionally, your release at this time would be  
24 incompatible with the welfare of society and would so  
25 deprecate the serious nature of the crime as to

[REDACTED], [REDACTED]

DIN# [REDACTED]

NYSID# [REDACTED]

1           undermine respect for the law.

2                   (Commissioner W. Smith concurs)

3 (HEARING CONCLUDED)

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CERTIFICATION

I, EILEEN M. SHARP, Court Reporter and Notary Public in and for the State of New York, do certify that I attended the foregoing proceedings, took stenographic notes of the same, that the foregoing, consisting of 14 pages, is a true and correct copy of same and the whole thereof.

*Eileen M. Sharp*

Dated: June 26, 2017