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1 NYS DEPARTMENT OF CORRECTIONS and COMMUNITY SUPERVISION -
2 BOARD OF PAROLE

3 *****
4 *****

5 Parole Board Hearing

6 In the Matter

7 -of-

8 [REDACTED] [REDACTED]

9 DIN # [REDACTED]
10 NYSID # [REDACTED]

11 *****

12 TYPE OF INTERVIEW: REAPPEARANCE

13 HELD AT: CLINTON C.F.
14 VIDEO-CONFERENCE TO
15 97 Central Avenue
16 Albany, New York

17
18
19
20 HELD ON: APRIL 15, 2014

21
22 BEFORE: COMMISSIONER FERGUSON
23 COMMISSIONER ELOVICH
24 COMMISSIONER J. SMITH

25 VERBATIM REPORTER: SUSAN FISCHLER

1 BY COMMISSIONER FERGUSON:

2 Q. Good afternoon, sir. State your name, please.

3 A. [REDACTED], [REDACTED], [REDACTED]

4 Q. I am Commissioner Ferguson, with me today are
5 commissioners Elovich and Smith.

6 COMMISSIONER ELOVICH: Hello.

7 COMMISSIONER SMITH: Good afternoon.

8 A. How are you doing?

9 Q. Fine, thank you. This is a reappearance before the
10 Board. This is your sixth appearance, is that right?

11 A. Yes, it is.

12 Q. In looking through the prior minutes here, it does
13 not appear that you have met Commissioner Smith,
14 Commissioner Elovich or I before. So it looks like
15 you've got a panel of commissioners you haven't met
16 before, you have a new opportunity to be considered for
17 release.

18 All right. You are here for the offenses of
19 Attempted Murder 1st Degree, 25-to-life; Assault 1st
20 Degree, seven-and-a-half-to-15. Both sentences are by
21 verdict after trial. So I do want to advise you, sir,
22 on this end of the video camera there's a stenographer
23 and she's making a permanent and public record of any
24 statements you may make and those statements are
25 accessible to appellate proceedings. Do you understand,

1 sir?

2 A. Yeah, I do.

3 Q. Your instant offense relates to events in [REDACTED] of [REDACTED]
4 in [REDACTED] when the police observed a blue Chevy whose
5 description and license plate fit the description of a
6 vehicle wanted in a connection with a shots fired call
7 related to a gypsy cab in the [REDACTED]. Officers followed
8 the car, at which time approached the vehicle. You were
9 crouched in the back seat and then appeared in the rear
10 window firing a shot gun which struck Sergeant [REDACTED]
11 in the face. While he survived his injuries, he was
12 completely blind in one eye, and 50 percent blind in the
13 other. Is that correct, sir?

14 A. Yes, it is.

15 Q. So at the time of this event, you were what, 26?

16 A. Twenty-five, I believe.

17 Q. Yup, you are right, you were a little over a month
18 shy of your birthday. Today you are 60?

19 A. That's correct.

20 Q. Now, at the time, you were on parole for a month and
21 22 days for a manslaughter?

22 A. Yes, yes, that's correct.

23 Q. Why don't you explain to us why there's so much
24 violence in your life and why you committed the instant
25 offense?

1 A. I have no justifiable reason. More so I was
2 ignorant, being young, out of control, not taking things
3 serious.

4 Q. All right. The record indicates you were involved in
5 the [REDACTED] and affiliated with the [REDACTED]. Did
6 your criminal activity have to do with either of those
7 organizations?

8 A. I don't know where they got that from, but I deny
9 being involved with either.

10 Q. Why was your cousin killed?

11 A. That was by accident.

12 Q. So it wasn't because he refused to join the Five-
13 Percent?

14 A. No, it wasn't. I don't know where they got that
15 information from. It's relatively new to me.

16 Q. Well, it's in the report which you are given a copy
17 of. I will take a look back here and see if I can see
18 how far back it goes.

19 A. By the way, I always been Muslim, I have never been a
20 [REDACTED] before. And, nothing was presented at
21 trial to indicate I was a member of any [REDACTED]
22 [REDACTED] or whatever organization; that wasn't presented at
23 trial. I don't know where they get that, where that
24 coming at.

25 Q. Well, I mean, it comes from the probation report

1 which you and your attorney are supposed to be served a
2 copy of before sentencing. And it states,

3 "Investigation indicates that all the defendants are
4 members of the [REDACTED], a militant Muslim group,
5 [REDACTED] (phonetic) being the leader of their cell and
6 allegedly having connections to [REDACTED].

7 Local and federal authorities report that the defendants
8 stole automobiles to use in bank robberies to raise
9 funds to buy guns for further robberies and finance
10 political militant activities."

11 A. I don't know if that is in the probation report.
12 Nothing was produced at trial to support those
13 allegations. I have no knowledge of what you just read
14 about, being a part of anything like that.

15 Q. Okay.

16 A. May I add there was no testimony at trial that
17 presented anything like that. I don't know where this
18 information is coming from. You say it's from the
19 probation report, but there was nothing at trial to
20 connect me to anything like that. I am not no [REDACTED]
21 [REDACTED], not no member of any [REDACTED], I
22 don't affiliate with such people.

23 Q. So why did you shoot this officer? The record's
24 indicating that you had the opportunity to leave, that
25 this officer and the other officer were both in uniform.

1 You had to know what you were doing, you were 25 years
2 old, you're on parole, you're with a gun, already
3 responsible for the loss of another life. So why would
4 you get up and start shooting at police?

5 A. It wasn't intentional, I didn't know it was a police,
6 I didn't hear no siren cars or anything like that. I
7 was bent over and next thing I know is someone coming
8 over to the car with a gun.

9 Q. How do you know they were coming with a gun?

10 A. Because somebody said so in the car, somebody said so
11 in the car.

12 Q. So they could see the gun but not the uniform and not
13 the police car?

14 A. They didn't say it was the police. I didn't know
15 what was going on, I just panicked.

16 Q. Well, I don't know how somebody could be in a car and
17 see a gun this small and not see a man in uniform and a
18 police car. It doesn't make any sense.

19 Nonetheless, you are here. You have been in how
20 long total now, sir?

21 A. Thirty-five years.

22 Q. Just under 35, right? Correct?

23 A. Yes.

24 Q. Okay. Now, since you've been in it looks like you
25 have been making some positive efforts towards your

1 rehabilitation. Is that fair to say, sir?

2 A. Yes, that's true.

3 Q. Including ART, ASAT, program assistant, vocational,
4 electrician's helper. You got your GED in 2011?

5 A. Yes.

6 Q. Congratulations. Now, you're the president of The
7 Lifers and you are in the honors block?

8 A. Yes.

9 Q. It looks like you haven't had a ticket going on six
10 years, is that right?

11 A. Yes, that's true.

12 Q. And, if released, you are looking to go to the Castle
13 with Fortune Society?

14 A. Yes, that's correct.

15 Q. What else are your plans if released?

16 A. To enter the Castle program and participate in all
17 the programs they have outlined, including job training,
18 et cetera.

19 Q. We have the sentencing minutes. They are rather
20 lengthy. I have gone through them. It looks like the
21 judge was pretty vocal, it went on for quite awhile,
22 including saying that he thinks you will remain in
23 prison for the rest of your life, and actually went on
24 for quite awhile about the offense and shooting police
25 officers, et cetera. So, it's one thing we have to

1 consider.

2 We also have your COMPAS Risk assessment. Your
3 COMPAS Risk Assessment is something you helped create
4 when you responded to questions put to you by
5 Corrections' staff. That, along with other information
6 in the record, is put together to give us an idea of
7 what your risks and needs would be if released to the
8 community.

9 The results for you are positive. They indicate
10 across the board a low risk for future violence,
11 rearrest and absconding. Do you understand that, sir?

12 A. Yes, I do. I also submitted a letter to Officer
13 [REDACTED] and his family. Is that part of the record,
14 too?

15 Q. I have multiple letters including letters to the
16 Fortune Society. When did you submit that letter, sir?

17 A. Last -- 2012.

18 Q. Okay, yeah, [REDACTED], 2012, a handwritten letter
19 submitted by you to the officer and his family, right?

20 A. Yes, sir.

21 Q. And in fact, you had it notarized, correct?

22 A. Yes.

23 COMMISSIONER FERGUSON: Commissioners,
24 anything additional?

25 COMMISSIONER ELOVICH: Nothing

1 further. Thank you.

2 COMMISSIONER SMITH: I have nothing
3 further. Thank you.

4 Q. Anything else you want to let us know, sir?

5 A. Um, I would like to know in the event if I am not
6 paroled, what can I do to be possibly be considered
7 seriously about getting paroled? I mean I accomplished
8 what I could accomplish, I expressed my remorse for any
9 actions, I vow not to violate the law in the future
10 should I be released.

11 Q. All right, sir, we will discuss your case. If it
12 turns out you are denied release and there's something
13 one or more of the commissioners thinks you should do
14 inside instead of do outside, we will mention that in
15 the decision.

16 COMMISSIONER FERGUSON: All right,
17 sir. We will consider everything, make a decision
18 and let you know. Thanks for coming in to see us.

19 INMATE: Thank you.

20 (Inmate was excused.)

21 (After due deliberation by the Parole
22 Board panel, the following decision has been
23 rendered:)
24
25

DECISION:

1
2 Denied. Hold 24 months. Next appearance April 2016.

3 After a review of the record and interview, the panel has
4 determined that, if released at this time, there is a
5 reasonable probability that you would not live and remain
6 at liberty without again violating the law and your
7 release would be incompatible with the welfare of society
8 and would so deprecate the serious nature of the crime as
9 to undermine respect for the law. This decision is based
10 on the following factors: Your I.O. is Attempted Murder
11 1st Degree and Assault 1st Degree in which you crouched
12 down in the rear seat of a vehicle as officers approached
13 the car which was suspected in being involved in a
14 shooting. You then popped up and fired a shotgun at
15 Sergeant [REDACTED] blinding him in one eye and causing
16 50 percent vision loss in the other, and you did so
17 fleeing another shootout and while on parole less than
18 two months for manslaughter. Your record dates back to
19 1972, includes two felonies, six misdemeanors, prior
20 violence, prior prison and jail and failure at prior
21 community supervision. Note is made your sentencing
22 minutes, COMPAS Risk Assessment, rehabilitative efforts,
23 risks, needs, letters of support, disciplinary record,
24 lack of remorse, lack of insight, parole plan, poor
25 presentation and all other factors required by law. You

1 clearly failed to benefit at prior efforts at leniency
2 and rehabilitation. Parole is denied.

3 (All commissioners concur.)
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C E R T I F I C A T I O N

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the above cause and that this is a correct transcript of the same to the best of my ability.

Susan Fischler

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