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August / 2017

1 NYS DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

2 BOARD OF PAROLE

3 *****

4 PAROLE BOARD INTERVIEW

5 In the Matter of

6 [REDACTED]

7 DIN NO. [REDACTED]

8 NYSID NO. [REDACTED]

9 *****

10 TYPE OF INTERVIEW: Reappearance

11 LOCATION: Attica Correctional Facility

12 Video-conferenced to
13 Buffalo Area Office
14 460 Main Street
Buffalo, New York 14202

15 DATE: Tuesday, August 22nd, 2017

17 BEFORE: COMMISSIONER EDWARD M. SHARKEY
18 COMMISSIONER JOSEPH P. CRANGLE
COMMISSIONER OTIS CRUSE

20 ALSO PRESENT: S. SPINK, SORC
J. TORGE, PA

21 AT FACILITY: S. ZIMMERMAN, ORC
22 L. ELEY, ORC
23 K. SZCZPANEK, ORC
S. DEGROAT, ORC

25 HEARING REPORTER: Brittany M. Whelan

1 EXAMINATION BY COMMISSIONER SHARKEY:

2 Q Sir, would you state your name for the record, please?

3 A [REDACTED]

4 Q All right. I am Commissioner Sharkey. I'm here today
5 together with Commissioners Crangle and Cruse.

6 COMMISSIONER CRANGLE: Hello.

7 THE INMATE: How are you doing gentlemen?

8 Q Good. You are [REDACTED] [REDACTED]

9 A That's correct.

10 Q We are here because you are serving a 25 to life for a
11 conviction by verdict in Rockland County to murder
12 second and a one and a half to four and a half
13 concurrent for a plea in New York County to attempted
14 kidnapping second; is that correct?

15 A That's correct.

16 Q This is a reappearance for you. I didn't state that at
17 the beginning. It looks like this is about your fourth
18 appearance?

19 A This is my fifth board.

20 Q Okay.

21 A The last one I went to was in April of this year.

22 Q You got a 21 month hold from Commissioner Smith?

23 A Yes.

24 Q He told you to come back with a clean disciplinary?

25 A Yes.

1 Q And it would be beneficial with at least two years of
2 compliant history -- compliant behavior which apparently
3 you have?

4 A Yes, I have.

5 Q Because your last ticket was a Tier III in 2015?

6 A Yes.

7 Q And that's the subject of a parole packet that you
8 submitted in April?

9 A Right.

10 Q Okay. We also have your recent parole packet for this
11 board.

12 A Right.

13 Q There's a letter from [REDACTED]?

14 A Yes.

15 Q And then there's Commissioner Smith's decision, there's
16 an interview, there's an antiviolence summit letter,
17 there's your Bachelor of Arts certificate and a number
18 of other certificates, a letter from an attorney
19 [REDACTED] and there is questions about conditions 12 and
20 27 and there's a letter from your aunt. We will
21 consider that.

22 The records indicate that with regard to these --
23 well, let me ask you about the verdict. Are you
24 appealing that?

25 A No.

- 1 Q You've exhausted your appeals?
- 2 A I went all the way to the Court of Appeals with that.
3 That was like years ago.
- 4 Q Okay. Now, the record indicates that with regard to the
5 kidnapping, you and others kidnapped and assaulted a
6 male victim; is that correct?
- 7 A That's correct. I mean, my part in it is that I
8 physically assaulted the person.
- 9 Q You what?
- 10 A I beat him up with my hands.
- 11 Q How badly was he injured?
- 12 A I mean, I've been in fights worse with my brother.
- 13 Q Did he wind up going to the hospital?
- 14 A No, he didn't go to the hospital. I said I've been in
15 fights worse with my brother.
- 16 Q I heard that. Okay. Now when did that happen, in '84?
- 17 A Yeah, [REDACTED] of 1984.
- 18 Q Okay. And then subsequent to that in '85 -- am I
19 correct?
- 20 A Yes.
- 21 Q Okay. You acting in concert shot a victim in the head
22 and neck causing his death with a rifle; is that right?
- 23 A That's correct.
- 24 Q Okay. Now, who was the victim of the kidnapping?
- 25 A [REDACTED].

1 Q Okay. And why was he kidnapped and assaulted?

2 A Well, as far as I know -- to make a long story short, he
3 had an issue with my former employer, [REDACTED].

4 [REDACTED] used to sell drugs for him and he had an issue with
5 him because he claimed that he had paid me the money to
6 give to [REDACTED] and he didn't. That's where my dispute
7 was with him. He called me a liar. He tried to make me
8 look bad in front of [REDACTED]. I felt that I had to prove
9 myself to [REDACTED] and at the time that's the type of

10 person I was at the time. I had to prove myself. So

11 [REDACTED] says settle this out with him or it's on you. I
12 beat up on him and he told me to F myself and I beat up
13 on him. I was more or less -- I'm not saying I'm
14 completely innocent here. I know what I did was wrong.

15 Q To settle a dispute, it seems to me there's other ways
16 to do it?

17 A Oh, no. I understand that. I'm saying at the time
18 because he was a worker, he sold drugs for him, I had to
19 like -- I don't know what the word for it is. I had to
20 -- he called me a liar and he tried to make it look like
21 I took the money which I didn't, I had to stand up for
22 myself. That's the way I was thinking at the time I did
23 this. The life I was leading back then was I was
24 running with a bunch of jackals. If I didn't try to --
25 I projected this tough guy image and so in order to take

1 their respect, I had to be like them. I'm not saying
2 that justifies what I did or excuses what I did, but
3 that's the mind set, you know, the emotional values that
4 I carry.

5 Q Do you have anger issues back then?

6 A Back then, I did. I was impulsive. My moral reasoning
7 skills were not properly developed.

8 Q Were you taking drugs at the time?

9 A I used drugs at the time.

10 Q What were you using?

11 A Coke.

12 Q Okay. Now with regard to the murder -- well, strike
13 that. How long did you know [REDACTED]?

14 A Since I was 15.

15 Q So you knew him quite a while?

16 A I was working for one of my uncles and I met him then.
17 Then back in '82, I went to a job interview and that job
18 interview I said in my previous hearing -- I went to
19 that job interview and I was drugged and sexually
20 assaulted. After that it left me messed up. What man
21 allows that to happen to himself? Subsequent to that, I
22 tried to kill myself. When I survived that, I went to
23 [REDACTED] because I wanted justice against the person that
24 did that which is [REDACTED]. Now, regarding the
25 murder, that would not have happened had [REDACTED] not told

1 me that [REDACTED] was there on the night that this happened
2 to me, the sexual assault. So I'm not saying this is an
3 excuse in any way. As I said in the last hearing my
4 actions and my conduct was a result of all of that
5 emotional baggage. If I did not have that baggage and
6 not using coke and everything at the time, this murder
7 would have never happened.

8 Q Okay. As I understand it, this murder happened at your
9 parents' country home?

10 A Yes.

11 Q On [REDACTED]?

12 A Yes, sir.

13 Q And that was in [REDACTED] County?

14 A Yes.

15 Q Now, as I understand it, the records indicate -- well
16 tell me where did you get the gun from?

17 A I had -- we had it in the house and the reason that I
18 had the gun in my hand, we were shooting at targets off
19 of the porch and a couple of guys fired shots and we had
20 cars parked in the woods. I went and took the gun with
21 me. I didn't want to shoot anybody in the back. I ran
22 in the woods. All the way back, coming back up the hill
23 they were there in the woods. They said oh, what's
24 this, and I said it's an old smoke house. I went to
25 look inside and that's when [REDACTED] rushed me. Now at

1 that time it should have been a fight and I walk away
2 from it, but I pulled a gun on him and I said take
3 another step or come near me again, I'm going to shoot
4 you and he told me I don't have the balls for it at
5 which point I shot him.

6 Q Why was he there?

7 A [REDACTED], we were supposed to go to a party and I was
8 supposed to take pictures of [REDACTED] and I was
9 supposed to take pictures of the paintings that he
10 wanted exhibited in [REDACTED]'s gallery in [REDACTED].

11 Q So were you in [REDACTED] first and then went --

12 A Yes. I'll start from the beginning again. I was in
13 [REDACTED] with [REDACTED]. We went to [REDACTED]'s house.
14 [REDACTED] called my friend [REDACTED] a fag. [REDACTED] and I
15 went to school not with so much upper classman, and the
16 teachers and the like, I would say unwanted sexual
17 advances. So that made us more or less homophobic.
18 When he did that with [REDACTED], I got mad at him. [REDACTED]
19 and I fought then, but that was it. It was over. I
20 took [REDACTED] home. When I came back, [REDACTED] decided that
21 he's going to bring him up. I worked for [REDACTED] so I
22 couldn't tell him.

23 Q Why did you go to the country property?

24 A Because [REDACTED] is nearby and I wanted to go -- I was
25 supposed to go up there and get my camera equipment

1 which is in the house and I told everybody to wait in
2 the car for me. They wanted to shoot guns and I said
3 all right. If I let you shoot guns, we'll leave.

4 Q That was the night, wasn't it?

5 A No. It was the daytime.

6 Q Okay. There were other people around. Why would you
7 feel the need to shoot them if other people were there
8 and could have intervened?

9 A They were goading me to do it. You know, are you going
10 to let him talk to you like that. Oh, are you going to
11 let him do that to you. He was there when [REDACTED]
12 did that to you. At the time -- that doesn't justify
13 what I did, but at the time I felt if I don't react and
14 do something, you know, stuff is going to happen to me.

15 Q Well, were you angry -- you had a fight with him?

16 A I was angry -- I was very upset of the fact that I was
17 sexually assaulted. Here's the man standing before me
18 that was so-called part of that. I thought to myself --
19 at the time I felt justified at the time. I didn't know
20 that I was going to kill him. I felt justified being
21 angry at him and stuff.

22 Q Now, you said you fought with him earlier in that night?

23 A Yeah, that evening.

24 Q So --

25 A [REDACTED] saw I was already mad at that guy from that time.

1 So he just, like, was trying to push my buttons the
2 whole time. He was mad at me because I took [REDACTED] home.

3 Q Okay.

4 A I know that at that time I should have not gone back
5 there. I deprived the [REDACTED] family so much in the last
6 32 years. I've taken their son away from them. I've
7 taken away somebody that had a potential in life to do
8 something positive. Just like I tried to do in the last
9 32 years, change and turn my life around. I know what I
10 took away I can never replace.

11 Q You said in your statement for the parole board report I
12 know that it will be hard to look at what I did to poor
13 Mr. [REDACTED] and consider me for parole?

14 A Yes, I agree with you. That's what I said. I mean
15 that.

16 Q These are your only crimes of conviction, correct?

17 A Yes.

18 Q We do have your sentencing minutes from [REDACTED] County,
19 Judge [REDACTED], [REDACTED]. You were represented by
20 [REDACTED]?

21 A That's correct.

22 Q Okay. We will consider the sentencing minutes. We have
23 your risk assessment. All of your risks are low,
24 reentry substance abuse is probable. When's the last
25 time that you used drugs?

- 1 A More than 32 years ago.
- 2 Q We have your case plan, list of goals that you hope to
3 achieve while incarcerated, complete the substance abuse
4 program. I think you've done mostly everything.
- 5 A I did, yes, except for Phase 3.
- 6 Q Acquire a vocational skill, obtain employment, complete
7 ART which you've done. We will consider all of your
8 goals and the case plan as it is in the file. If you're
9 released, you're going to live with your father in [REDACTED]
10 [REDACTED]?
- 11 A That's correct.
- 12 Q What will you do to support yourself if you're released?
- 13 A You should have a letter in there. I have a thing from
14 NYU in there. Do you see it, New York University?
- 15 Q In the parole packet?
- 16 A It should be in one of those packages. I got one right
17 here.
- 18 Q There's a lot here.
- 19 A Oh, I'm sorry. I'm sorry.
- 20 Q Are they offering you employment?
- 21 A Yes, sir.
- 22 Q I haven't found it.
- 23 A It could be in the package that was sent for the April
24 board.
- 25 Q Okay. That's in here. No. I don't have it in there

1 either. These are both the same. I'll take your word
2 for it.

3 A I have a copy right here.

4 Q I don't dispute that. I just can't find it. But
5 there's a lot of paperwork in here.

6 A Yes.

7 Q I can't put my finger on it. I'll keep looking for it
8 though and I'll take your word for it.

9 A Can I have it faxed to you?

10 Q Yeah, sure.

11 A I have it right here.

12 Q Have the staff fax it over here. All right. I note
13 that you in addition to your bachelor's degree, you've
14 -- you've earned a vocational trade. You completed
15 ASAT, legal research certificate in July of 1990,
16 completed ART and Phase 2, you've taken several elected
17 programs during your incarceration?

18 A I also have 350 hours of certified alcohol and substance
19 abuse training.

20 Q Okay.

21 A All I need is the OASIS certificate which I think I take
22 a three hour exam for.

23 Q You've completed ASAT, ART, vocational, Transitional
24 Services. We've talked about that. Commissioners?

25 COMMISSIONER CRUSE: No questions. Thanks.

1

2 BY COMMISSIONER CRANGLE:

3 Q I think you covered everything. Once that's faxed over
4 we'll review that letter, okay?

5 A Okay.

6 Q You've been in for how many years now, 33?

7 A 32 and five months.

8 Q Okay. How old were you when this happened again?

9 A 22.

10 Q 22, okay.

11 A I got a lot older, right? Last time I saw you I was in
12 South Port.

13 Q Oh, was I --

14 A You were there with Commissioner Smith, like November
15 2015.

16 Q Oh, okay. So you've moved -- how many facilities have
17 you been to?

18 A Clinton, Downstate, Franklin, Otisville, Marcy,
19 Fishkill, South Port, Attica, seven.

20 COMMISSIONER SHARKEY: Commissioner Cruse, any
21 questions?

22 COMMISSIONER CRUSE: No questions. Thanks.

23

24

25 BY COMMISSIONER SHARKEY:

1 Q Sir, is there anything you and I have not discussed or
2 you think we missed that you would like to bring to our
3 attention?

4 A Nothing that I haven't already addressed in both the
5 hearing I had in April and now with you. I don't think
6 that there's anything more I can add a part from the
7 fact that I'm sorry this ever happened. I'm sorry to
8 drag everyone through this. I wish that I could go back
9 in time and undo everything that I did, but I can't.
10 I'm sorry about that. That will forever remain with me.
11 If I'm ever released, I will try to do everything in my
12 life to properly atone from what I did, what I took away
13 from that [REDACTED] family. Apart from that, I have a son.
14 Of course I'd like to tell you -- just as I would like
15 to see my son, I've deprived the [REDACTED] family from
16 seeing their son. I'm in no position to ask for
17 anything. It's obscene for me to ask. I thank you for
18 hearing me out here. I know it's really lengthy and at
19 times it's hard to talk. I'm a little tired. That's
20 it. Thank you.

21

22 BY COMMISSIONER CRANGLE:

23 Q Why -- just going back, did you testify at trial?

24 A With the [REDACTED] case?

25 Q The murder?

1 A No, I did not.

2 Q Why?

3 A Well, if I did I would put -- not just put myself at
4 risk at the time, I felt that I would put my family at
5 risk. That was before [REDACTED] turned informant against
6 the [REDACTED] crime family. I had reasonable fear if you
7 don't hurt me, you're going to hurt my family and I
8 couldn't allow that to happen.

9 Q You had stuff going on behind the scenes you mean?

10 A [REDACTED]?

11 Q Well, you had your own reasons of why you weren't -- you
12 couldn't testify you felt because of consequences
13 outside of your case is what I'm getting at?

14 A Absolutely outside of my case.

15 Q Okay.

16 A If I told the truth, right, I would -- it would get
17 [REDACTED] and them indicted and I couldn't do that.

18

19 BY COMMISSIONER SHARKEY:

20 Q Were you -- was your victim armed?

21 A Not that I remember. It's wrong. It's wrong. Like I
22 said, it was wrong in the sense that I should have just
23 let it go. At the time 32 years ago I was not mature
24 enough to let things go. I had to prove myself.

25 BY COMMISSIONER CRANGLE:

1 Q Okay. Are you admitting today that you in deed shot
2 this victim?

3 A Yes, I did.

4 Q Okay, but you did you bring the gun?

5 A We had the gun -- the gun was in the house.

6 Q Okay.

7 A And I had it with me because we were shooting at targets
8 and I had the gun in my hand when I went down to the
9 woods because I didn't want somebody shooting me in the
10 back. Everybody was drugged up and acting wild and no
11 sense of order.

12 Q But [REDACTED] was the person you worked for?

13 A My employer, my boss.

14 Q Okay. How old was he?

15 A At the time 40 something years old.

16 Q Bad influence?

17 A I would say so, yes. In retrospect I see that. What
18 happened is there's a lot of cases that people that work
19 for him and he -- get them at a young age. Like, they
20 don't groom them, but condition them. It's a lot of
21 problems at home, problems with families and whatever
22 and he would capitalize and exploit it. That's the type
23 of person he was. I don't know where he is now.

24

25 BY COMMISSIONER SHARKEY:

- 1 Q Where did you keep the gun?
- 2 A At the house.
- 3 Q Okay. Had it been kept in other locations?
- 4 A No. The gun was in the house the whole time. I mean,
- 5 we have -- my father had hunting rifles and all sorts of
- 6 stuff. That's one of the rifles that was in the house.
- 7 Q You never kept it at your grandmother's house?
- 8 A No. I never kept it there. I never brought it to the
- 9 city or anything else like that, no. One time when they
- 10 were looking for the weapon, they were looking for it in
- 11 [REDACTED] at my apartment. But no, I didn't have it
- 12 there. I had it in the country the whole time.
- 13 Q Okay. Why did you feel like you had to show your
- 14 elegance to [REDACTED], though?
- 15 A History refines it's roots from back when I was a kid
- 16 and my older brother [REDACTED] came to live with us. [REDACTED]
- 17 was ten years older than me and him and I we -- we had
- 18 problems from my father's intentions. So I always felt
- 19 to gain [REDACTED]'s respect, I had to do stuff to make him
- 20 proud of me as a younger brother. That was the type of
- 21 mentality I had at the time.
- 22 Q Okay.
- 23 A That's the best way that I can describe it. With
- 24 proving myself and [REDACTED], I felt that was the way for
- 25 it. I felt that fear and respect were equal and I felt

1 that if they feared me, they'll respect me. By acting
2 the way I felt they wanted me to act that I would gain
3 their respect which is really twisted as you can see.

4 Q You shot him twice, didn't you?

5 A I shot him once. I can send you --

6 Q No, that's okay?

7 A I can send you the autopsy. There are three wounds and
8 one shot. What my thinking is two were fragments, the
9 two fragments split and came out two separate areas. I
10 have an autopsy report that will back that up in case
11 you ask. Do you want to see it or not?

12 Q No. I'm okay.

13 A All right. That doesn't change the fact that I killed a
14 man.

15 Q I understand that. This wasn't a planned shooting?

16 A No, sir.

17

18 BY COMMISSIONER CRANGLE:

19 Q You guys were shooting outside targeting, you shot some
20 parked cars?

21 A Yeah. My brother and I used to repair and fix up cars
22 and we had those in the woods. A couple of shots, I
23 don't know if it was the coke or whatever, but a couple
24 of shots went in that direction and I wanted to check
25 and make sure so I went down the woods to look and

1 that's why I brought the rifle with me.

2 COMMISSIONER SHARKEY: All right, sir. We'll let
3 you know in writing in a couple of days. Thanks for
4 coming in. Good luck to you.

5
6 INTERVIEW CONCLUDED
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1 (After due deliberation by the Parole Board Panel, the
2 following Decision was rendered:)

3 DECISION

4
5 Denied 15 months. Next appearance November
6 2018.

7 After a review of the record and interview, the
8 panel has determined that your release would be incompatible
9 with the welfare of society and would so deprecate the serious
10 nature of the crime as to undermine respect for the law. The
11 panel has considered your institutional adjustment including
12 discipline and program participation. Required statutory
13 factors have been considered, including your risk to society,
14 rehabilitation efforts, and your needs for successful reentry
15 into the community. Your release plans have also been
16 considered, as well as your COMPAS Risk and Needs Assessment
17 and case plan.

18 You are serving time for the serious offenses of
19 murder second and attempted kidnapping second in which you
20 acting in concert and engaged in a course of conduct resulting
21 in a shooting death of a victim who was shot in the head and
22 neck and then the victim was doused with gasoline and the body
23 burned. Additionally, according to records, you acting in
24 concert kidnapped and assaulted a male victim. During your
25 interview you admitted factual details of one offense and

1 minimized your involvement in the other which are concerns for
2 this panel.

3 The panel notes your positive programming and
4 program completions, your educational accomplishments, legal
5 research certificate, letters of support/reasonable assurance
6 and participation in elected programs. Your institutional
7 discipline is noted and reflects no tickets since your last
8 ticket in 2015 which was a Tier III which was prior to your
9 last parole board appearance. The panel also notes your
10 parole packet. Your course of conduct actions leading to the
11 death of a male victim and the kidnapping and assault of
12 another male victim reflect a lack of concern for the sanctity
13 of human life.

14 The panel questions your judgement and disregard for
15 the law. The parole board commends your personal growth and
16 productive use of time. However, discretionary release on
17 parole should not be granted merely as a award for good
18 conduct or efficient performance of duties while confined.
19 Accordingly, discretionary release at this time is not
20 warranted. Parole is denied.

21

22

(All Commissioners concur.)

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CERTIFICATION

I, Brittany M. Whelan, 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 22 pages, is a true and correct copy of same and the whole thereof.

Dated: Wednesday, September 6th, 2017

Brittany M Whelan

Brittany M. Whelan, Court Reporter