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1 NYS DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
2 BOARD OF PAROLE

3 *****

4 PAROLE BOARD HEARING

5 In the Matter of:

6 [REDACTED]
7 DIN # [REDACTED]

8 NYSID # [REDACTED]

9 *****

10 TYPE OF INTERVIEW: Or Earlier/Reappearance

11 LOCATION: Southport Correctional Facility

12
13 Video-Conferenced to

14 Syracuse Parole Office

15 Syracuse, New York

16
17 DATE: November 6, 2012

18
19 BEFORE: COMMISSIONER G. KEVIN LUDLOW

20 COMMISSIONER MICHAEL A. HAGLER

21 COMMISSIONER JARED BROWN

22
23 INTERPRETED BY: SUSAN GRAVES

24
25 HEARING REPORTER: Susan Nicholas Miller, RPR

1 BY COMMISSIONER LUDLOW:

2 Q Good afternoon, sir.

3 A Good afternoon.

4 Q Are you [REDACTED] [REDACTED]?

5 A Yes. Yes, sir.

6 Q Mr. [REDACTED] do you speak English, sir?

7 A A little bit.

8 Q Poquito?

9 A A little bit.

10 Q Okay. We have an interpreter to assist.

11 COMMISSIONER LUDLOW: Interpreter, please note your
12 appearance on the record.

13 INTERPRETER: Susan Graves, acting interpreter.

14 COMMISSIONER LUDLOW: Ms. Graves, you are fluent in
15 Spanish and English, English and Spanish; you've assisted the
16 Board in the past, have you?

17 INTERPRETER: Yes.

18 COMMISSIONER LUDLOW: We thank you for that and we
19 are grateful for your being with us today. Would you please
20 indicate to Mr. [REDACTED] that you are fluent in both languages
21 and are available for your interpretive skills if he so
22 desires.

23 (OFF-THE-RECORD DISCUSSION)

24 INTERPRETER: It's fine with him.

25 (FOLLOWING INTERVIEW CONDUCTED THROUGH INTERPRETER:)

1 Q Sir, you are [REDACTED] [REDACTED]

2 A Yes.

3 Q Good afternoon. I am Commissioner Ludlow. With me is
4 Commissioner Hagler and Commissioner Brown.

5 COMMISSIONER BROWN: Good afternoon, sir.

6 COMMISSIONER HAGLER: Good afternoon.

7 A Afternoon.

8 Q This is your second appearance before the Board of Parole
9 and you're now 50 years old; is that correct?

10 A I'll be 51 on the 15th.

11 Q Yes, I see that. You were found guilty by verdict to
12 murder second and also assault first; is that correct?

13 A Yes.

14 Q Controlling sentence is 22 to life. You've been in about
15 24 now; is that correct?

16 A Yes.

17 Q Are you maintaining your innocence as to the verdict?

18 A They have me as --

19 INTERPRETER: He's using a word I'm not familiar
20 with.

21 A He was involved, but he's -- he didn't do the murder.

22 Q I see. Did you -- do you have any appeals pending or do
23 you anticipate filing any appeals?

24 A No. Maybe in the future, but not right now.

25 Q Well, then I especially call your attention to the fact

1 that we have a certified stenographic reporter here, the best
2 in the business, and every word we discuss is being reduced
3 to a written transcript.

4 A I understand.

5 Q It's possible that that transcript could find its way to
6 public forums.

7 A What do you mean by public?

8 Q It could find its way in any kind of appellate
9 proceedings, any kind of a court proceeding. It may be
10 reviewable by FOIL. And we caution you about what you may
11 say so as not to impede or limit any future opportunity you
12 have for an appeal.

13 A Okay.

14 Q You may decline to discuss the terms and circumstances
15 these crimes if you wish; we will not hold that against you.

16 A Okay, that's good.

17 Q Are you maintaining your innocence as to the verdict --
18 verdicts?

19 A He's explained I am guilty of involvement.

20 Q Okay. Prior to the case going to verdict, did the
21 district attorney in [REDACTED] extend any kind of a plea offer
22 to you?

23 A They offered five to 15, but I didn't take it. My
24 codefendant only was offered the five to 15. I was
25 offered -- I was offered a plea, but I don't remember what it

1 was. I think it was 22 to life, but I don't remember.

2 Q Did Ms. [REDACTED] testify against you at your trial?

3 A No.

4 Q Okay. We have the sentencing minutes on file from State
5 Supreme Court, [REDACTED] County, [REDACTED], 1989, before Judge

6 [REDACTED], [REDACTED]. You at the time were

7 represented by Mr. [REDACTED], [REDACTED]. We have the

8 COMPAS Risk Assessment instrument on file. Have you had the

9 benefit of reviewing the COMPAS Risk Assessment?

10 A I've never heard of that. He doesn't know what that is.

11 Q Do you remember answering questions from staff, risk and
12 needs basis?

13 INTERPRETER: Asking questions on what?

14 Q Risk and needs basis. We have the COMPAS on file. We
15 use the COMPAS to assist us on risk and needs analysis. Do
16 you understand that, sir?

17 INTERPRETER: No, he doesn't.

18 A I don't understand what you're saying.

19 INTERPRETER: That's what he says.

20 Q The COMPAS has you at a low risk.

21 INTERPRETER: What's a COMPAS, sir? I have a
22 question.

23 COMMISSIONER LUDLOW: A COMPAS is a
24 computer-generated assessment.

25 INTERPRETER: Okay.

1 COMMISSIONER LUDLOW: It's a -- COMPAS is the
2 acronym and it's a computer-generated assessment for his risk
3 and needs assessment to reenter the community.

4 INTERPRETER: All right. To find out his danger to
5 society, is that what it's about?

6 COMMISSIONER LUDLOW: A risk and needs assessment,
7 it's a measure of his rehabilitation.

8 A I understand now.

9 Q Okay. The COMPAS has you at a low risk if you're on
10 parole. Do you agree with that?

11 INTERPRETER: That means he's not a threat to
12 society or he is a threat to society?

13 COMMISSIONER LUDLOW: I am just going to say what
14 it says.

15 Q He's a low risk with respect to felony violence, arrest
16 and absconding, that's what the COMPAS says.

17 Okay. The underlying offense relates back to [REDACTED]
18 '88 in [REDACTED]. You were 27 at the time?

19 A Yes, sir.

20 Q You and your codefendant, Ms. [REDACTED], apparently beat her
21 five-year-old child, causing the child's death.

22 A Yes.

23 Q Did you beat the child as well as Ms. [REDACTED] ?

24 A I hit the child, but not like they said.

25 Q Did you testify at your trial?

1 A I didn't testify.

2 Q Do you think you should have as you look back 24 years?

3 A I think so, because she had a history of child abuse back
4 in 1983. I didn't know that. I know it now.

5 Q We discussed your criminal history. You have some
6 misdemeanors in your background as well, petit larceny.

7 A I was young and ignorant.

8 Q Over 24 years would it be fair to say you've completed
9 all recommended programs?

10 A I only need ART.

11 Q Are you in ART now, sir?

12 A No.

13 Q Has it been recommended for you?

14 A Yes, sir.

15 Q Are you wait listed for ART?

16 A When they transferred me to population, I was on waiting
17 list, but I got my ticket and came here.

18 Q I see. Okay. Do you have a GED, sir?

19 A No.

20 Q Have you tried to obtain it?

21 A Because of my English. I tried. I was in school. I
22 tried hard. You can check the record.

23 Q All right. Since your last appearance, you've incurred a
24 Tier 3 ticket?

25 A Yes.

1 Q August 15th at Southport, and that involved unhygienic
2 act, direct order, urinalysis?

3 A I'd like to explain that, what happened.

4 Q You're in the SHU now through February 15th, is that the
5 case?

6 A I'm pretty sure, yeah.

7 Q Okay. What did you want to say about the Tier 3?

8 A I have a problem. I cannot urinate in front of people.
9 The guard called me that day to urine. I had the glass, the
10 cup, okay, I had the cup and I tried to urinate in it. The
11 guard says I urinated in the cup in front of them and threw
12 it on the floor. That's not true, because I can't urinate in
13 front of them. Then 24 hours later they called for me again
14 to urinate and the officer kept me in the bullpen and he
15 ordered me to urinate and I was able to urinate.

16 Q Do you have a diagnosed medical condition in that regard?

17 A Yes, I have a record.

18 Q What's the nature of the diagnosis?

19 A It just says I have shy bladder. It's in the records of
20 the mental health and in the medical.

21 Q Okay, sir. We appreciate that clarification. You're
22 going to need a shelter if paroled; is that correct?

23 A I'm going to live with my aunt.

24 Q Where is that?

25 A [REDACTED], [REDACTED] The parole people have it on

1 record. I wrote the lady.

2 Q Is that [REDACTED]?

3 A No, it's [REDACTED].

4 Q Okay. What about work? You've been locked up a long
5 time. Despite that, what do you think you could do that's
6 legitimate and positive if in the community?

7 A I learned electricity. I'm hoping to do something with
8 electricity, building maintenance. I've learned quite a few
9 trades.

10 Q Very good.

11 A I also weld.

12 Q Weld. Very good.

13 COMMISSIONER LUDLOW: Commissioner Hagler?

14 COMMISSIONER HAGLER: I have no questions.

15 COMMISSIONER LUDLOW: Commissioner Brown?

16 COMMISSIONER BROWN: Likewise, I have no questions.

17 Q Mr. [REDACTED] anything additional for us today, sir?

18 A Yes. From the bottom of my heart, I'm so sorry and
19 please forgive me.

20 Q Okay. Thank you, sir. We wish you good luck at age 50
21 in getting your life turned around in a positive,
22 constructive way. We will advise you in writing. Good luck,
23 Mr. [REDACTED]

24 COMMISSIONER LUDLOW: Ms. Graves, thank you.
(Inmate excused.)

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

Verbatim Reporting (800) 368-3302

[REDACTED] - [REDACTED] - [REDACTED]
1 C E R T I F I C A T I O N
2

3 I, Susan Nicholas Miller, Court Reporter and Notary
4 Public in and for the State of New York, do hereby certify
5 that I attended the foregoing proceedings, took stenographic
6 notes of the same, that the foregoing, consisting of 11
7 pages, is a true and correct copy of same and the whole
8 thereof.

9
10 Dated: 11/6/12

11 *Susan Nicholas Miller*

12 _____
13 SUSAN NICHOLAS MILLER, RPR
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