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STATE OF NEW YORK EXECUTIVE DEPARTMENT

DIVISION OF PAROLE

Parole Board Hearing

In the Matter

-of-

[REDACTED]

DIN # [REDACTED]
NYSID # [REDACTED]

HELD AT: Sing Sing C.F.

HELD ON: February 22, 2011

BEFORE: Commissioner Hernandez
Commissioner Lemons

REAPPEARANCE

Verbatim Reporter: A. D'Ambrosio

DIN# [REDACTED]

NYSID# [REDACTED]

2

1 BY COMMISSIONER LEMONS:

2 Q. Good afternoon.

3 A. Good afternoon.

4 Q. How are you?

5 A. Good.

6 Q. You are [REDACTED] [REDACTED]

7 A. Yes.

8 Q. I'm Commissioner Lemons, and with me today is
9 Commissioner Hernandez.

10 COMMISSIONER HERNANDEZ: Good
11 afternoon.

12 INMATE: Good afternoon.

13 COMMISSIONER LEMONS: You might have
14 met Commissioner Hernandez before?

15 INMATE: Yes.

16 COMMISSIONER HERNANDEZ: Yes, up in
17 Clinton.

18 Q. I don't think I've met you before, have I?

19 A. No.

20 Q. All right. In any event, this is a new hearing.
21 This is a reappearance for you. You continue -- this is
22 your fourth hearing?

23 A. Yes.

24 Q. You continue to serve a 25 to life sentence for
25 murder second degree. You were found guilty by a jury

DIN# [REDACTED] NYSID# [REDACTED]

3

1 and it involved you shooting -- the shooting death of a
2 uniformed police officer in a subway station in
3 [REDACTED]. We have a stenographer taking a record of
4 everything that we say and that will be a permanent
5 document that can find its way into any proceeding in the
6 future, do you understand that?

7 A. Yes.

8 Q. Okay. Did you shoot this officer?

9 A. Yes, I did.

10 Q. Okay. My records indicate that you were with someone
11 else at the time?

12 A. Yes.

13 Q. The officer was a transit officer, transit police and
14 observed you and your co-defendant or at least you
15 jumping the turn style. You were stopped, the officer
16 asked you to leave the train station. This is Columbus
17 Circle, right, which would be around 59th Street?

18 A. Yes.

19 Q. You were asked to leave. He was either escorting you
20 out of the subway station and you then were able to turn
21 and somehow or another take control of the officer's
22 weapon and you fired striking the officer more than once,
23 striking the officer causing his death. The officer --
24 this happened early in the morning, like 5:30 in the
25 morning and the officer died a few hours later. Is that

DIN# [REDACTED] NYSID# [REDACTED]

4

1 a correct description of what happened?

2 A. That's not what happened, I never jumped the turn
3 style. I thought about going through the door, that's
4 what it was, going down to get on the train to go back
5 home, because I had a job interview that I forgot about,
6 because I wasn't home that long before getting out of the
7 military. As far as the shooting, I didn't just take the
8 gun. He pulled the gun out, Officer [REDACTED] pulled the
9 gun out and through the struggle, that's how I got the
10 gun, because he attacked me.

11 Q. Okay. So, why did he originally stop you?

12 A. Well, first, Officer [REDACTED] he was coming through
13 the gate to say something to me, and Officer [REDACTED]
14 stopped him. So, when he came through, he said, either
15 pay your fare or get the fuck out of here, that's what he
16 said. So, before he even like finished speaking, the
17 person that was with me, [REDACTED], he left, he just left
18 me. So, I'm standing there by myself. So, he asked me,
19 was something wrong, is something wrong with your legs.
20 I said -- I didn't say nothing to him, so I just started
21 walking. When he said, pay your fare or get out, I
22 started walking. While I'm walking, he says, do I have
23 to talk Spanish to you or something, and I said, no, you
24 don't have to talk Spanish to me. So, I kept walking and
25 when I was walking up the stairs, while I'm walking, he

DIN#

NYSID#

5

1 said, I'll break your back, and when I'm walking up the
2 stairs, when I got outside the train station, that's when
3 he swung the stick at me. First, he pushed me and then
4 he swung the baton on me, and I grabbed the baton and I
5 was holding the stick. And when he seen that I didn't
6 let the stick go, that's when he grabbed the gun. He
7 pulled his gun out. It was not that I pulled his gun
8 out. I had no intentions of pulling any gun on any
9 police officer.

10 Q. Okay. So, your depiction of what happened differs
11 from what I have.

12 A. That's on there, too, as far as my sentencing
13 minutes, as far as the two witnesses, the District
14 Attorney's witnesses said the same thing, that he pulled
15 the gun out.

16 Q. Okay. So, your statement is that you didn't remove
17 the gun from his holster?

18 A. No, not at all, not at all.

19 Q. Okay. But I assume that you will admit that this
20 thing totally escalated much further than it should have?

21 A. Yes, but I shot him with no intent of pointing at him
22 and I didn't know he got shot until after the police told
23 me he got shot.

24 Q. How many times did he get shot?

25 A. One time.

DIN# [REDACTED]

NYSID# [REDACTED]

6

1 Q. How many shots were fired?

2 A. Two shots.

3 Q. But you didn't have any idea you shot him?

4 A. I didn't know he was shot.

5 Q. Well, you had the gun in your hand?

6 A. But it's not like I aimed the gun at him, because
7 when I fired the gun, the only thing I was thinking about
8 was trying to get away from him. I figured by me firing
9 the gun would cause a distraction that I can get away
10 from him, that's why I fired the gun. It wasn't to try
11 to kill him or harm him, but it didn't happen that way.

12 Q. Now, why were you out at that time in the morning,
13 where were you going?

14 A. Like I said, I had just came home, I had been home
15 about maybe like about two months from when I graduated
16 from the Army, and I was going on job interviews at the
17 time, but I was out and I was with a couple of females
18 and just hanging out, that's all.

19 Q. Okay. Well, I don't understand where the job
20 interviews are coming at. At 5:30 in the morning, you
21 weren't going to a job interview, you were hanging out?

22 A. I was hanging out at that time, but I said later on.

23 Q. Had you been drinking?

24 A. What's that?

25 Q. Had you been drinking?

DIN# [REDACTED] NYSID# [REDACTED]

7

1 A. I don't drink, but I had a drink that night, I had
2 drank some.

3 Q. So, why didn't you just stop and address the officers
4 when they stopped you originally, I don't understand.

5 You weren't a child, you spent some time in the military,
6 so, you know, there is nothing wrong with being out, but
7 if the officer stops you over whether or not, you know,
8 you didn't pay your fare or something, why didn't you
9 just stop and address that and try to handle it, either
10 pay the fare or not?

11 A. Mr. Lemons, at the time, I didn't have no more money.
12 I had spent my money, that's why.

13 Q. Okay.

14 A. When he addressed me as far as paying my fare, if I
15 would have had the money, I would have paid it.

16 Q. How much time did you do in the service?

17 A. I did about eight months.

18 Q. Okay.

19 A. It was peacetime, it wasn't like a war.

20 Q. Well, you said you graduated, were you in the Army?

21 A. I was in the Army Reserves.

22 Q. You were in the Reserves, okay. But police officers
23 understand that sometimes people are out and can't get
24 home and allowing them to get on the train is not
25 something -- that's beyond their ability, you know, I

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

8

1 seen it happen, I've done it myself, if you have no
2 money. It depends on how you address someone. I don't
3 understand how this whole situation escalated to where an
4 officer lost his life. It just doesn't make sense to me.
5 A gun -- under any circumstances, even if the officer had
6 pulled his weapon out, what was your -- what was your
7 mindset to try to disarm the officer?

8 A. My mindset was not trying to get shot, because he
9 already tried to hit me in the head with a stick. So, I
10 figured, if he pulled a gun out, he's going to shoot me,
11 there was no asking no questions, that's why, because his
12 actions' already proved that already, by pulling a stick
13 on me.

14 Q. Well, the officer is not here to defend that issue or
15 whether or not he swung at you or if he did, why he did,
16 but, okay, your explanation is noted. Okay. Let me just
17 go over some things, I'm sorry. Were you arrested right
18 at the scene?

19 A. I was arrested some hours later.

20 Q. Some hours later. Were you home at that time?

21 A. No, I was in Central Park at the time.

22 Q. Why didn't you go home?

23 A. I couldn't go home at the time. I just stayed in the
24 park.

25 Q. Did you still have his weapon with you?

DIN# [REDACTED] NYSID# [REDACTED]

9

1 A. No, I had got rid of the weapon.

2 Q. Okay. Now, you said the person who was with you had
3 left?

4 A. He had left.

5 Q. Okay. How old were you at the time of this crime?

6 A. I was 22 years old.

7 Q. Okay, sir. Now, we have your history, it's mostly
8 disorderly conduct, a couple of disorderly conducts and
9 an adjudicated criminal possession of a controlled
10 substance. Did you use drugs at the time, were you a
11 drug user?

12 A. Sometimes.

13 Q. Marijuana?

14 A. Yes.

15 Q. Now, how long have you been in prison now?

16 A. I've been in prison for 30 years now.

17 Q. 30 years. Okay. Let's talk about what you have been
18 doing. First of all, I'll note you have no tickets since
19 your last board, correct?

20 A. Yes.

21 Q. Okay. Let's talk about what you have been doing.
22 You have completed a lot of the mandatory programs,
23 including ASAT and A.R.T., correct?

24 A. Yes.

25 Q. Where are you working at now?

DIN# [REDACTED]

NYSID# [REDACTED]

10

1 A. Right now, I'm a porter, that's in the afternoon.

2 Q. Okay. Is that the only thing you're doing now?

3 A. I had -- I was a porter in the school building, but
4 when I finished the Phase II, I wasn't given the program
5 back. So, I was stuck with the afternoon program.

6 Q. Now, I'll note that you reached out to some programs,
7 including Uplifting Men, is that correct?

8 A. Yes.

9 Q. And the Fortune Society. Have you gotten any
10 responses back from them?

11 A. That's the only response I got back, but I have this
12 letter from J-Cap, too, that they -- if the possibility
13 I'm paroled, that I can be an in-patient in J-Cap.

14 Q. Okay. Do you have the letter with you?

15 A. Yes.

16 COMMISSIONER HERNANDEZ: How old are
17 you now, Mr. [REDACTED]

18 INMATE: I'm 53.

19 COMMISSIONER HERNANDEZ: 53. And, of
20 course, you read the inmate status report so you
21 know what it says?

22 INMATE: Yes, yes.

23 COMMISSIONER HERNANDEZ: Because the
24 way that it's reading here, it's indicating there
25 were witnesses that say the officer didn't have a

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

11

1 chance to do any -- pull anything out for
2 protection, and it's saying that you went and -- I'm
3 just saying what it says here. You're disputing
4 that whole situation?

5 INMATE: I'm going to answer you when
6 you finish your question, and when you're
7 finished -- are you finished?

8 COMMISSIONER HERNANDEZ: I may be, but
9 what's your question?

10 INMATE: No, I'm talking, when you get
11 finished, I'll answer your question.

12 COMMISSIONER HERNANDEZ: Okay. I
13 thought you had a question for me.

14 INMATE: No.

15 COMMISSIONER HERNANDEZ: Okay. Now,
16 your friend that you were with, did he testify in
17 court?

18 INMATE: Yes.

19 COMMISSIONER HERNANDEZ: Did he
20 testify on your behalf?

21 INMATE: No, he didn't.

22 COMMISSIONER HERNANDEZ: Okay. What
23 happened to that friend?

24 INMATE: He just -- he didn't do no
25 time, because I told them that he had nothing to do

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

12

1 with it. So, what happened was, the District
2 Attorney had him change his statements as far as
3 what he said he seen and said that the police
4 officer, Officer [REDACTED] had his hands up, but the
5 autopsy says something different though.

6 COMMISSIONER HERNANDEZ: Okay.

7 INMATE: They called him, they said
8 he's the friend, but I said he has nothing to do
9 with this, so he didn't do no time, but he still
10 testified against me twice. He came to court twice
11 and changed his story around.

12 COMMISSIONER HERNANDEZ: Did they
13 offer you a plea?

14 INMATE: They offered me 20 to life.

15 COMMISSIONER HERNANDEZ: 20 to life.

16 Okay. Thank you.

17 Q. And I'll note that you have a letter from J-Cap and
18 it's dated January 3rd actually of last year. Is this
19 the first time you produced this letter?

20 A. I had sent a copy to the P.O., Ms. [REDACTED], but I have
21 Fortune Society, a letter from Fortune Society, a letter
22 from Uplifting Men, and I have a letter from Great.

23 Q. Okay. We'll note this letter. There might be a
24 copy, I don't see it, but we'll note this letter also, a
25 letter of reasonable assurance from J-Cap.

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

13

1 COMMISSIONER HERNANDEZ: Do you want
2 the letter back or do you want to make it part of
3 the record?

4 Q. You can make a copy of it and send it to me so we
5 know it's in the folder. I'll note that there are some
6 letters -- you have a letter that you wrote to the
7 Chairwoman of parole, is that correct?

8 A. Yes.

9 Q. I see that in here. I must say that you indicated
10 some things somewhat a little disturbing, that you are
11 indicating in this letter that white inmates are
12 released, I don't understand what you meant by that. You
13 started out the letter by saying Kathy Boudin was
14 released, it was no surprise, by Governor Pataki and you
15 go on, you go on to state that all of these above white
16 individuals are home after being released from prison
17 years ago. I did not write down all of the names and
18 cases of ex-white police officers, but the police -- but
19 the PBA and Parole Commissioners know who they are. We
20 don't base -- we don't base whether a person is white or
21 black or the person -- the victim is white or black.
22 That's not part of our -- of what we make decisions of
23 release upon. I will state that this -- the police
24 represent a visible representation of the line between
25 law and order, you know, law and disorder, I should say,

DIN# [REDACTED]

NYSID# [REDACTED]

14

1 and when a crime is committed on a police officer, it
2 does heighten the level of, you know, heighten a
3 situation which we might assume a person's behavior, you
4 know, disrespect for the law. Excuse me for fumbling my
5 words, but basically there's a difference between
6 committing a crime against an individual and a person in
7 uniform, and I think that's only common sense. It shows
8 that a person might have a different respect for the law,
9 do you disagree?

10 A. You're talking about a job title.

11 Q. Not only a job title, a person standing in uniform is
12 there representing what the law represents, what society
13 represents. We all have to live under a law, correct?

14 A. I understand that.

15 Q. Okay.

16 A. But my point is this though, it's not like I was
17 attacking the law. When that happened between me and
18 Officer [REDACTED] all I seen was another human being trying
19 to harm me. You can't kill a uniform, you can't harm a
20 title. So, when he attacked me, that's the only thing I
21 thought about at the time. I just came out of the
22 military and that's what they trained me for. If I
23 couldn't defend myself, how can I defend a country if
24 there was a war? That's what doesn't make no sense to
25 me. So, to say it's -- one part it's okay to kill

DIN# [REDACTED]

NYSID# [REDACTED]

15

1 someone to fight, but then --

2 Q. No, I never said that.

3 A. No, I'm talking -- you asked me a question, I'm
4 trying to answer the question as best possible as I can
5 though.

6 Q. Okay.

7 A. I'm talking about as far as my actions. I did it,
8 but the reason why I did it was not because he was a cop
9 or because I had no respect. If that was the case, if
10 that was my intentions, I would have never asked him if
11 he was all right though, if that was the case.

12 Q. So, you didn't see him as a police officer?

13 A. I seen him, at that time, as another individual
14 trying to harm me, that's how I thought.

15 Q. Do you feel that there are a lot of people out there
16 trying to harm you?

17 A. A lot of people?

18 Q. Yeah, I mean, I don't know what your mind thoughts
19 are, some people thing everyone is out to try to hurt
20 them.

21 A. At that time, I was 22 years old, trying to figure
22 out what I needed to do with my life at the time. That's
23 why I went in the military.

24 Q. But you graduated from high school, I assume?

25 A. I didn't graduate, I stopped going to school in the

DIN#

NYSID#

16

1 12th grade, because I started hustling on the street.

2 Q. Did you get your GED?

3 A. I got my GED in prison.

4 Q. Okay. I only assume that because if you went to the
5 National Guard or joined the military, that they normally
6 require that you receive your high school equivalency
7 degree. So -- but you were apparently a reasonable
8 person, you know, getting to that level in life, which
9 means that you were able to go into the military in some
10 form or fashion. It's just hard for me to understand how
11 a reasonable person would get himself into a position in
12 which you end up grabbing a police officer's gun.

13 A. I said the same thing, Mr. Lemons, and I would never
14 have thought that would happen, but it's like I never
15 fathomed attacking a police officer or anybody, because
16 if I were to do that to a police officer, then that would
17 mean I have no respect for anybody else then at that
18 time, but I wasn't doing that. I wasn't killing people,
19 I wasn't robbing people. So, for me to do that to a cop,
20 that means that I didn't have no respect for nobody else
21 either.

22 Q. Okay. Okay, sir. Now, we're going to go through --
23 you have done a lot and there's a lot of information in
24 your folder that I want to talk about. You have family
25 out there, first of all?

DIN# [REDACTED]

NYSID# [REDACTED]

17

1 A. Yes, I have family.

2 Q. Who is out there if you are released?

3 A. I got family in [REDACTED], I got family in the
4 [REDACTED], [REDACTED].

5 Q. And who would you want to live with if you were
6 released?

7 A. If I'm released, I want to go to a rehab place, like
8 I said, on J-Cap, instead of just going to a person that
9 I put down for an address. I would rather go there, like
10 an in-patient program, something like that.

11 Q. Now, you mentioned your friend --

12 A. [REDACTED].

13 Q. [REDACTED]?

14 A. Yes, he used to work for the hospital and the welfare
15 office. He's got a house.

16 Q. And that's in [REDACTED]?

17 A. Yes.

18 Q. You also completed some advanced educational. You
19 attended programs headed by Syracuse University, is that
20 correct, in Auburn?

21 A. I was in the college program, I went to college for
22 three years.

23 Q. Okay. You completed -- you completed counseling
24 training and group therapy, alcohol?

25 A. Yes.

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

18

1 Q. A lot of vocational training, including drafting and
2 ceramics. AIDS awareness. You completed the A.R.T.,
3 RSAT programs, Phase I, Phase II and Phase III.
4 Alternatives to Violence program. So, you stayed busy,
5 that's a good thing. And you list all of your
6 certificates that we will consider. You have also --
7 there are also copies of transcripts in here from the
8 trial, I believe, is that correct?

9 A. Yes, the transcripts that the jury didn't get to hear
10 though.

11 Q. Okay. That the jury didn't get to hear. Okay. And
12 we will note those also, and some of it indicates there
13 was almost a fight between you and the officer, correct?

14 A. There was, yes.

15 Q. Okay. I don't think I have any questions.
16 Commissioner, anything further?

17 COMMISSIONER HERNANDEZ: I don't have
18 any questions.

19 Q. A lot to consider, sir. I know you've been in a long
20 time, I don't know what we're going to do. We will have
21 to talk about this case. Is there anything that you
22 think we might have missed or anything important that you
23 would like to state to this panel before we conclude?

24 A. Well, as far as, you talk about police officers, I
25 have family members that are police, so that's why when I

DIN#

NYSID#

19

1 got arrested, somebody asked me, was it me that did it
2 and they was like -- like they didn't understand me doing
3 it and trying to find a reason why I did it, and I
4 explained it and I explained it to them, and that was the
5 outcome of the situation. My family, too, I got family
6 members that are police and I got friends where I grew up
7 that are police, too. So, it was like, it was a hard --
8 it was somewhat hard to deal with, but I have to deal
9 with it any way, the consequences of what happened, I
10 still have to live with that.

11 Q. And let me just clarify, for the record, what I
12 meant. The taking of anybody's life is wrong, whether
13 the person -- no matter what the age, what the person's
14 occupation or skin color is, taking of anyone's life is
15 wrong. However, with that said, the visual reality of a
16 person in a uniform, he's out there, he or she is out
17 there representing society, representing civilization,
18 representing law, and when a crime is committed against
19 that person, as stated earlier, it kind of represents --
20 it kind of indicates that the person has no respect for
21 the law, he would have -- have no respect for anything
22 else, that's what I meant by that. But we'll take into
23 consideration what you've said, everything you've said,
24 all the years you've been in prison, all of the
25 accomplishments that you made and we'll try to come up

[REDACTED] [REDACTED] DIN# [REDACTED] NYSID# [REDACTED] 20

1 with a reasonable answer and have an answer for you
2 shortly. I want to thank you for coming and thank you
3 for everything else.

4 A. Thank you.

5 Q. All right.

6 COMMISSIONER HERNANDEZ: Good luck.

7 INMATE: Thank you.

8 (After due deliberation by the Parole
9 Board Panel, the following decision has been
10 rendered:)

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DIN# [REDACTED] NYSID# [REDACTED]

21

DECISION

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2
3
4 Denied 24 months. 2/2013. Following a careful
5 review of your records and of the interview, it is the
6 conclusion of this panel that if you were released at
7 this time there is a reasonable probability that you
8 would not live and remain at liberty without violating
9 the law and that your release would be incompatible with
10 the public safety and welfare of the community. This
11 decision was based on the following: You continue to
12 serve time for your conviction of murder second degree.
13 After being instructed by a uniform police officer to
14 leave a transit platform, you argued with the officer,
15 escalating into a point in which you gained control over
16 the officer's gun. You then used that gun to shoot him
17 causing his death. Your actions against a uniform law
18 enforcement person displays your lack of respect for the
19 law and for society. The escalation of a minor
20 infraction resulted in the death of a police officer
21 remains disturbing. The panel notes your many program
22 achievements, any letters of support, and all relative
23 matters required by law. However, your criminal act
24 against a uniform representative of the law and society
25 leaves this panel to conclude that if released there

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

22

1 remains a probability that you would not live and remain
2 at liberty without re-offending. Parole is again 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.

Anthony Dambrosio

Anthony D'Ambrosio, CSR