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NYS DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

Parole Board Hearing

In the Matter

-of-

[REDACTED]

DIN # [REDACTED]
NYSID # [REDACTED]

TYPE OF INTERVIEW: Reappearance or earlier

LOCATION: Fishkill Correctional Facility
Fishkill, New York

DATE: July 26, 2016
DECISION DATE: July 26, 2016
AMENDED DECISION: July 28, 2016

BEFORE: COMMISSIONER W. SMITH
COMMISSIONER HERNANDEZ
COMMISSIONER SHARKEY

ALSO PRESENT: MARK HEADY, SORC
HEATHER SCOTT, APA

HEARING REPORTER: DIANA FREUND

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1 BY COMMISSIONER SHARKEY:

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

4 A. [REDACTED]

5 Q. I've got the rest of it.

6 I'm Commissioner Sharkey. I'm here today together
7 with Commissioner Smith and Hernandez.

8 COMMISSIONER W. SMITH: Hello.

9 COMMISSIONER HERNANDEZ: Hi, Mr. [REDACTED]

10 THE INMATE: How are you?

11 Q. You were about to say something.

12 A. Yeah. The last time I was here you said you were
13 waiting for records. I was wondering if this was part
14 of it because this was from the [REDACTED]

15 Q. We have an updated [REDACTED] --

16 A. This is the one.

17 (Given to the Commissioners.)

18 Q. We have one from the [REDACTED]

19 A. That's this one here (indicating).

20 Q. I got that. This is from [REDACTED]. I think we
21 have that too.

22 A. The last time I was told that they were postponing it
23 waiting for records and I was led to believe that that
24 was the record they were waiting for.

25 Q. Well, I have it. We will consider it.

1 This is a --

2 COMMISSIONER HERNANDEZ: Did you have something else?

3 THE INMATE: Yeah. Because I know Mr. Smith has seen
4 this a number of times but this is a consolidated one.
5 I gave you a longer one last time.

6 COMMISSIONER W. SMITH: Of what?

7 (Given to the Commissioners.)

8 THE INMATE: I don't know if you have my opening
9 statement. Here's another one.

10 (Given to the Commissioners.)

11 THE INMATE: And one for...

12 (Given to Commissioner Hernandez.)

13 COMMISSIONER HERNANDEZ: Thank you.

14 BY COMMISSIONER SHARKEY:

15 Q. I was wondering about that because it references here
16 a personal statement and parole packet, that you were
17 going to provide one. I saw one from 2015 but this is a
18 more current one.

19 A. Yeah. I kind of like revised it a little bit.

20 Q. You're serving an aggregate term of 25 to life for
21 conviction by verdict in ██████ County of Murder 2nd,
22 Manslaughter 2nd, Grand Larceny 2nd, Burglary 2nd,
23 Criminal Possession of a Weapon 2nd, and a misdemeanor
24 criminal possession of burglar tools, is that correct?

25 A. Yes, sir.

1 Q. I see you're not appealing these convictions or you
2 have --

3 A. I have.

4 Q. They're all done?

5 A. All done.

6 Q. Were you offered a plea?

7 A. No.

8 Q. The record indicates that in 1975 in [REDACTED]
9 in [REDACTED] County, you were engaged in a burglary of a
10 boutique store, is that correct?

11 A. Yes, sir.

12 Q. It says robbery here but I'm going to change that to
13 burglary.

14 During the course of that burglary, you shot a police
15 officer who was in uniform, is that correct?

16 A. Yes, sir.

17 Q. As a result of that, you shot him in the abdomen,
18 correct?

19 A. Yes.

20 Q. From a relatively close distance of 3 to 4 feet,
21 would you agree with that?

22 A. Yes.

23 Q. He subsequently died from those wounds.

24 A. Yes.

25 Q. Now, you were acting in concert with a female, is

1 that correct?

2 A. Yes.

3 Q. Whose idea was it to burglarize [REDACTED] ?

4 A. Actually, I don't recall how that came about but I
5 would imagine -- I read some documents that said I was
6 there prior, like a day or two prior to that.

7 Q. So was it like casing the joint?

8 A. Actually, that's what it amounts to.

9 Q. Why that location as opposed to other locations?

10 A. I'll tell you the truth, I don't even know why I was
11 out there to begin with. I was with my -- she was my
12 common-law wife, my codefendant [REDACTED]. I would
13 imagine it had something to do with a boutique because
14 it was woman's clothes and she must have said something
15 about wanting something in there.

16 Q. How about walking in and paying cash?

17 A. Yeah. According to stuff that I read, it said I was
18 actually in there and I bought something like a day or
19 two before. I had more than enough money in my pocket
20 to buy from that store at the time. It made no sense.

21 Q. This happened what, about 2:30 in the morning,
22 somewhere in that range?

23 A. Yes.

24 Q. So it was basically in the middle of the night when
25 nobody would be out there.

1 A. Right.

2 Q. Now, it was on [REDACTED], wasn't it?

3 A. Yes.

4 Q. Now, as I understand it, you came out the front door
5 and the officer was there because officers had responded
6 already and there were some at the back and they had
7 detained your common-law wife. You came out the front.
8 Did you have clothes in your hand?

9 A. I don't remember.

10 Q. But you had a gun and it was drawn, correct?

11 A. That I also -- I can't be 100 percent sure but there
12 were two different versions from eyewitnesses. There
13 was a kid named [REDACTED] --

14 Q. I'm asking what you remember.

15 A. I don't remember exactly what happened. All I know
16 is that I shot him and I ran. That's all.

17 Q. Where did they find you?

18 A. Someplace in one of the houses in the immediate area.

19 Q. Hiding in an attic maybe?

20 A. I don't know where it was. A garage.

21 Q. Let me back you up. His gun wasn't drawn. All the
22 records indicate that.

23 A. I don't know.

24 Q. This is a verdict so you went to trial. Was it in
25 front of the jury?

1 A. Excuse me.

2 Q. Jury trial?

3 A. Yes.

4 Q. Did you testify?

5 A. I think I did in my second trial.

6 Q. That's right. I understand the first trial was set
7 aside by the Appellate Division. You had a new trial
8 and were convicted at the second trial.

9 A. The first one, I didn't; the second one, I did.

10 Q. According to your statement to the presentence
11 investigation report, in the presentence report, you
12 indicated that you didn't remember the events of the
13 offense. You were under medication and suffered from
14 amnesia. Do you remember telling them that?

15 A. I don't remember saying it but I remember that's part
16 of the record.

17 Q. Do you remember what medications you were on?

18 A. One was Novo-Gesic Forte, one was Mellaril, and I
19 forget the other one. I think Darvon, something like
20 that.

21 Q. Darvon, that's a pain killer.

22 A. Right.

23 Q. Were you high at the time you committed this crime?

24 A. This happened on a weekend. It was a Saturday or
25 Sunday -- no, it had to be Sunday, or something like

1 that. I went to the pharmacy on a Saturday and I filled
2 the prescription for the Novo-Gesic pills and I don't
3 remember what happened till my lawyer showed me the
4 stuff. He gave me a prescription for 28 pills for a
5 week because I didn't want to stay in [REDACTED], I wanted
6 to go back to [REDACTED]. I had a job pending. He filled
7 out one and I had some left over that my wife was
8 holding, my codefendant, and I was getting migraines,
9 bad migraines, and I just kept taking them, taking them,
10 and I wound up taking 21 pills out of the 28 in less
11 than 24 hours.

12 Q. So is your response you were high or you weren't
13 high?

14 A. I was totally whacked out of my mind.

15 Q. Why did you shoot the officer?

16 A. I have no idea. According to the doctor that
17 testified on my behalf, he said it was reflexes or an
18 accident or something.

19 Q. According to the records, he didn't have his gun
20 drawn. He was just standing there in uniform. Do you
21 dispute the fact that he was in uniform?

22 A. No, I don't. It doesn't make any sense either.

23 Q. How do you feel about that now?

24 A. Reflection, it's something hard to handle and I look
25 at all the things in my life -- first of all, I never

1 used drugs in my life. I was in a rock band in the 60s.
2 All the guys in my band used to get high, I didn't. My
3 mother was an alcoholic, I didn't even drink. So I was
4 the last person in the world to take drugs and I took
5 drugs and look what happened. I should have known that
6 before because I was telling somebody else -- I don't
7 know if I said it in front of a hearing before but my
8 birthday before that in [REDACTED] in [REDACTED], I had a
9 birthday party and I was taking that medication and
10 three days after the party, I went to the refrigerator
11 and opened it up and there was a half a cake in there.
12 I asked [REDACTED] where did the cake come from and she
13 said your birthday party.

14 (The court reporter asked the inmate to slow down.)

15 A. She said your birthday, a couple of days ago. I said
16 wow, and I didn't even remember it. So at that point
17 right there, I should have stopped using all medication
18 because if I do something and not remember, then there's
19 obviously a problem there. So I'm totally responsible
20 for that.

21 Q. But this is more than, say, a shoplifting, or
22 something else. This is a serious crime.

23 A. It is. I was 29 years old. I was a brazen kid -- a
24 kid. I was 29 years old. I was doing pretty good. I
25 was a fence. I dealt with stolen property. I was an

intermediary. Believe it or not, I thought it was kind of honorable as a crime because I wasn't hurting anybody.

Q. Was this on [REDACTED]?

A. Excuse me?

Q. On [REDACTED]?

A. Well, [REDACTED], [REDACTED], [REDACTED]. My cousin was a [REDACTED] on [REDACTED] so I used to deal with him with the [REDACTED].

Q. Where did you live at the time?

A. I had dual residency. I lived in [REDACTED] and I lived in [REDACTED], [REDACTED].

Q. So you ventured out of those areas to go to [REDACTED] County.

A. I'm trying to figure out -- I don't know why I went out to [REDACTED]. I think I was supposed to meet somebody at that time.

Q. Where did you get the gun?

A. In [REDACTED].

Q. Why did you bring it to the burglary?

A. Well, I carried it with me all the time because I always had a lot of money. Being a fence, I always had a lot of money. I went from [REDACTED] to [REDACTED], back and forth, and I always had a lot of money so I always had the gun for protection.

1 Q. How many times did you shoot the officer?

2 A. I don't remember.

3 Q. You're basically indicating that the drugs overtook
4 your conscious reflection to, for example, just stop
5 when you came out the boutique and saw the officer
6 there?

7 A. I'm going to tell you, first of all, I'm not an
8 idiot. I didn't think I was an idiot. It would be a
9 lot simpler to be arrested for possession of a gun or
10 attempted something.

11 Q. Or even Burglary 3rd.

12 A. Yeah. I mean, I wasn't really dumb. Common sense
13 would have said you got caught, you know, okay, what's
14 the most you could get. You wouldn't be where I am
15 right now. It doesn't make any sense at all. I know if
16 I wasn't -- I blame it in part on not being able to
17 rationalize what was going on, to make a conscious
18 decision what was going on. None of that entered my
19 mind at the time.

20 Q. Any convictions in [REDACTED]?

21 A. No.

22 Q. Anything in [REDACTED] besides this?

23 A. [REDACTED]

24 Q. [REDACTED]

25 A. Yeah. [REDACTED]

1 that.

2 Q. We do have your sentencing minutes from [REDACTED]
3 County, Judge [REDACTED], [REDACTED]. You were represented by

4 [REDACTED] --

5 A. [REDACTED].

6 Q. -- [REDACTED], [REDACTED].

7 I notice that in reading it at page 24, the judge
8 said to you: The bottom line in this case and the
9 underlying fact is that the defendant has been convicted
10 of killing a policeman in the performance of his duties.
11 The policeman was in uniform. The evidence is clear
12 that his weapon which he was carrying was not drawn, it
13 was holstered, and the record seems to indicate that at
14 the time of the killing, the policeman had a flashlight
15 rather than a weapon in his hand. The testimony is that
16 at the trial as to the effect that the officer was shot
17 at point blank range in a very vulnerable area of his
18 body. He was grievously wounded as a result of the
19 shooting and he lingered for 10 weeks thereafter before
20 he tragically died. There probably is no crime in our
21 society that society condemns more than the killing of a
22 policeman in the performance of his duties.

23 Do you recall the judge saying that?

24 A. I read it.

25 Q. We do have your Risk Assessment. It indicates your

1 risks are low.

2 Your case plan which is your list of goals you hope
3 to achieve while incarcerated, we have. It indicates
4 that you want to reestablish solid communication with
5 your daughters.

6 A. I have already.

7 Q. Good.

8 Obtain inmate grievance resolution position as a
9 clerk and chairperson?

10 A. While I'm in, yes.

11 Q. And obtain volunteer position at the law library?

12 A. Right.

13 Q. How are they working out?

14 A. I go to the law library five nights a week and I work
15 the grievance office five days a week.

16 Q. If you are released -- I know that you have a letter
17 from -- you have a lot of letters but there's a letter
18 from the [REDACTED] which

19 we will consider. There's a letter that's one of the
20 letters you referred to earlier. There's also a letter
21 from [REDACTED], the President and CEO of the [REDACTED]

22 [REDACTED] which is another letter you referred to earlier
23 which we also have and will consider. There is a letter
24 from [REDACTED] director of the [REDACTED]

25 [REDACTED]. There is a letter from [REDACTED]

1 [REDACTED] from the lead organizer, [REDACTED]
2 [REDACTED], [REDACTED]. There's one from 2015
3 and one from 2016. There is a letter of reasonable
4 assurance from [REDACTED] for both employment and
5 residence, [REDACTED]. There is a letter
6 from [REDACTED]. There are a
7 significant number of letters in here. There's one from
8 [REDACTED].

9 A. I think Mr. [REDACTED] should know Mr. [REDACTED].
10 [REDACTED]. He was the director of the [REDACTED]
11 [REDACTED]. He did the first Victim Defender Mediation
12 Program.

13 COMMISSIONER W. SMITH: You may have mentioned his
14 name before. I don't actually recall him. There's
15 another Commissioner that worked for the [REDACTED]
16 [REDACTED] so it might have been him that knew him. There
17 was a different commissioner that worked for the [REDACTED]
18 [REDACTED].

19 BY COMMISSIONER SHARKEY:

20 Q. There is your personal statement. Actually, there's
21 one from last year and one from this year. You said you
22 tweaked it for this year?

23 A. Yeah. After the Osborne Workshop.

24 Q. So if you are released, what do you plan to do with
25 your life?

1 A. I'm glad you asked because I also think Mr. Smith
2 might remember [REDACTED].

3 COMMISSIONER W. SMITH: I had met [REDACTED]. We
4 had talked about --

5 THE INMATE: [REDACTED].

6 COMMISSIONER W. SMITH: [REDACTED] who I'm
7 familiar with and [REDACTED] I met before.

8 THE INMATE: It was [REDACTED] who got me
9 involved with the victims stuff to begin with in Attica
10 in 1984 but it was [REDACTED] who was sitting in a
11 group with me and I didn't know who he was, the chairman
12 of the Crime Victims Board, and during that meeting, we
13 were talking about victims and I was representing
14 inmates. He thought I did a very good job, that I had
15 all my stuff together, and at that point in time, I was
16 still sort of a rebel. I just came into the system. I
17 thought I got a bad deal. I thought because the jury
18 came back and found me guilty of manslaughter in the top
19 two counts that that was a mitigating circumstance
20 because they took into account that I was under
21 prescribed medication and that affected my ability to
22 rationalize all forms of reckless intent. So I'm
23 thinking like, okay, so I tell my story and the jury
24 believed it and they gave me a shot at it and I thought,
25 okay, now I'm thinking of doing 25 to life and I'm in

1 prison and I was kind of still -- how would you say -- a
2 little bitter, I guess, and not realizing my whole life
3 is thrown away. I didn't think victim at all until this
4 particular meeting. In that meeting after I spoke to
5 [REDACTED], he said to me straight up, if victims had
6 an advocate like you, they'd have the strong support and
7 advocacy for victims' rights, and it didn't dawn on me
8 until I went back. I thought about it and that's when I
9 started doing research on victims' awareness and I
10 really got involved with it and I started -- it took me
11 from 1984 to 1996 to get a victims program started. I
12 got a grant from the Opal Society. Originally it
13 started out at 10,000. Then they said if you go
14 before -- lower than 10,000 you can get the money before
15 December, I think it was, so I went down to 8,000 and
16 the [REDACTED] -- I think it was [REDACTED]
17 [REDACTED] at the time, he got a little upset that I wound up
18 getting funding for this and I'm thinking why would you
19 get upset, it's a program. It was one of the interns at
20 [REDACTED] whose brother was killed in a robbery and
21 her mother was with Parents of Murdered Children and I
22 asked if she would be interested in coming in to give a
23 story about her son and how it was, the impact, and
24 stuff like that, and she said okay. So she came in.
25 Then I had Mother's Against Drunk Driving. I don't know

1 if you know a [REDACTED]. The reason of this is because
2 when she came in the presentation, she went around the
3 group and all that and she said her husband was a police
4 officer and my heart dropped and I froze and I didn't
5 know what to do and she said "What's the matter?" I
6 said "Your husband is a police officer and that's why
7 I'm here." And, anyway, she thought what I was doing
8 was pretty good. So my whole life was on the victims
9 stuff. This was going really good. They transferred me
10 to Woodbourne. There I couldn't get the program
11 started. In fact, I think it was [REDACTED] asked me why
12 I couldn't get the program started in Woodbourne and I
13 told him one word. Politics. Nobody wanted me to get
14 this thing.

15 BY COMMISSIONER W. SMITH:

16 Q. You mentioned a span of time and I had a question
17 about from June of '83 to 10 of '85 -- and I'm just
18 looking at a computer report, so that's why I'm asking
19 the question -- it said there were some programs you
20 were removed for [REDACTED]

21 A. I'm glad you said that. That's called an
22 employability profile and I take exception to all of
23 that because I was never removed from the job anyplace.
24 What happened was I had [REDACTED] a couple of times and
25 that's what they put in the record until my boss was

1 talking about it. Where was I removed?

2 Q. Hold on a second. Hold on. It's probably nothing
3 that's been negative. I'm wondering, sometimes people
4 need to be hospitalized. It could be [REDACTED] it could
5 be [REDACTED]. That's what it is a lot. So just sort
6 of focus on that so I know what it is. Were you removed
7 because you had some [REDACTED] or something?

8 A. Yeah.

9 Q. Is that what was going on?

10 A. Every job I ever had --

11 Q. Don't tell me about the jobs. I just want --

12 A. You said from what date?

13 Q. There were a couple of entries from June of '83 to
14 October of '95 and they list on a computer printout
15 removal for [REDACTED] reasons and I'm just
16 wondering if you know what that was. For example,
17 there's all sorts of computer entries on different DOCCS
18 data screens. Like there's a recent one that has to do
19 with -- and it's not with you, but just as an example --
20 it has to do with one violation but because they didn't
21 have an updated violation, they used it. So, for

22 example, I'm looking at porter, Attica 6/83 to 7/85. It
23 says end reason -- the reason it ended -- removed for
24 [REDACTED] reasons. Now, we have ones that
25 say removed for discipline or refusal. That's not what

1 this is. It just says removed for [REDACTED]
2 [REDACTED] reasons and there's a couple of those. So
3 my question is did you have some kind of [REDACTED] thing
4 going on --

5 A. No.

6 Q. -- or sometimes you have to go to a different
7 facility. Like here because there's an RMU, so if
8 somebody has a medical condition, they have to come
9 here. So I'm just wondering. Does that make sense to
10 you? Is there a reason you can think of?

11 A. From Attica in '83? I'll tell you everything that
12 happened.

13 Q. I don't need to know everything there.

14 A. I came back --

15 Q. Focus on what I'm saying, though.

16 A. I'm going to tell you.

17 Q. Is there a [REDACTED] thing?

18 A. No.

19 Q. Good. Briefly, if you have something else.

20 A. I worked as an inmate nurse in Attica. I went to the
21 bakery after that because I had -- there was -- truth?

22 And you can -- oh, boy. One of the nurses up there came
23 on to me in Attica and I flat out turned her down.

24 Q. So they used it as a movement --

25 A. She got upset and I was supposed to take an inmate,

1 Muslim inmate to services and she told me to make the
2 bed, or something like that first, and I said I have to
3 take the inmate to services. So the sergeant who was
4 Sergeant [REDACTED] told me to take the inmate to services
5 and I did that.

6 Q. Hold on. Hold on. Make a long story short. I don't
7 need to know all the details.

8 A. Anyway --

9 Q. Hold on. Is it basically they used it for movement
10 to move you to a different facility?

11 A. No. I moved on my own. I asked the guy, I said I
12 can't stay here any longer. In fact, the superintendent
13 actually apologized to me because the guy that she got
14 caught with eventually, his name was [REDACTED] also so he
15 thought I was the [REDACTED].

16 Q. It's helpful as we sort of fill in blanks.

17 A. This is why I like to make a comment about records
18 because if there's something in the record there's a
19 question of and it's not accurate, that a person should
20 be able to see that before I come in here and say that's
21 wrong or supposing I didn't know that you were looking
22 at that.

23 COMMISSIONER W. SMITH: Thank you, Commissioner.

24 BY COMMISSIONER SHARKEY:

25 Q. You have no disciplinary infractions which is --

1 A. I haven't had any since 1980.

2 Q. What about programming? What have you done with your
3 time while you've been in?

4 A. Do you have the package?

5 Q. Yes, I do. Briefly.

6 A. I ran the YAP Program in Attica for 3 years. It was
7 the Alpha Program then. It was the Rochester Police
8 Department. I also worked with [REDACTED] and
9 [REDACTED]. I became a tutor for Niagara University
10 College Program for algebra and computers. I got the
11 computers -- in 1980 I got the computers into the
12 college program because I was in the student body. I
13 got three degrees. It's all in the other package which
14 I'm sure Mr. Smith has already saw that I got my
15 bachelor's degree and associate's degree. In other
16 words, I programmed as much as I possibly can. I wanted
17 to better myself. I wanted to help other people and
18 when one of the victims' issues came up, I wanted people
19 to experience and learn what the impact was on crime,
20 their crime had on people, their families, including my
21 own kids. My daughter's going through hell right now
22 with her mother all because of me. All the things that
23 happened, they're all my responsibility.

24 Q. There is opposition to your release, community
25 opposition. You're aware of that?

1 A. You said community opposition and I know -- I knew
2 the last time I was here with you (indicating
3 Commissioner Hernandez), I got really disappointed
4 because I found out the day before at 2:48 p.m., a
5 reporter said that I wasn't scheduled -- that I was
6 going to be scheduled to see the Board now, and that's
7 when I said that I knew you were going to postpone it
8 the last time I was here and I couldn't figure that out
9 and then it turned out it was because [REDACTED] [REDACTED]

10 [REDACTED] -- I don't remember if [REDACTED] was there. They
11 mentioned something about a [REDACTED], his [REDACTED].

12 BY COMMISSIONER HERNANDEZ:

13 Q. I don't even know who those people are.

14 A. That's [REDACTED] family. [REDACTED] had three children.

15 [REDACTED] --

16 Q. We haven't talked about the impact on them. You've
17 been in a long time.

18 COMMISSIONER HERNANDEZ: Commissioner, I'm sorry. I
19 know you usually ask.

20 Q. You've been in a long time --

21 A. Yeah.

22 Q. -- and you've done everything you can to try and turn
23 this around.

24 A. I can't turn it around.

25 Q. To rehabilitate yourself is what I mean by that.

1 A. Yes.

2 Q. Because you're right, there's nothing you can do to
3 undo what brought you here.

4 A. Yes.

5 Q. But, you know, how do you think that family deals
6 with this? When you talk about victims -- you spend a
7 lot of time talking about victims but you really haven't
8 talked about them. I'm asking you --

9 A. I'm glad you said that because I reached out to
10 [REDACTED], a friend of mine from [REDACTED]. I reached
11 out to [REDACTED] from [REDACTED] who worked with
12 another reporter. I wanted to do something for the
13 family to tell them how sorry I was and what I can do.
14 I worked for years and years. I kept -- people tried to
15 help me reach out to them, at least four or five
16 people -- an investigator, a detective that I grew up
17 with who has a show called the [REDACTED]. He
18 tried to get in touch with the family and they didn't
19 want -- the PBA kept on interfering saying they didn't
20 want the family to get involved.

21 Q. Maybe the family doesn't want to get involved.

22 A. I did a video once for the family and they saw it and
23 I saw their reaction to it and [REDACTED] said -- youngest
24 [REDACTED] said he didn't understand how I could not
25 remember the gun. That was his first comment. I

1 understand that [REDACTED] -- that was his wife -- she
2 recalled her wedding, and stuff like that, and all those
3 things, but personal things to me, now I could say
4 eventually -- I said I couldn't imagine how someone
5 would feel like that because I didn't experience that
6 and then when people started dying in my family, I
7 started thinking how much it impacted on them and I have
8 grandkids now I didn't know I had. I'm thinking like
9 they thought about their father not being able to see
10 their grandkids. Every time something happens, I keep
11 thinking about that. I kept thinking how can I make
12 amends to them. If you read in there in my statement, I
13 don't know what I could possibly do. There's nothing I
14 could do for them because you've got to experience the
15 pain when somebody you love dies and that happened to me
16 with my niece, my nephew, my brother-in-law, my
17 sister-in-law, my mother, my grandmother, my uncle.
18 Everybody died. Every time that happened to me, I can't
19 imagine what they were going through. And not having
20 their father and what my daughter is going through now
21 not having me there, and I'm not even dead. I see what
22 they're going through and it's my fault. So I always
23 relate to [REDACTED] kids. I call them [REDACTED], [REDACTED],
24 [REDACTED], his wife [REDACTED] and I don't know what
25 his sister's name is but I remember his twin sister said

1 if [REDACTED] were alive today he would forgive him. I
2 don't want to be forgiven. I'm responsible for what I
3 did but I can't change it. That's who I was back then
4 but that's not who I am right now. I'm a totally
5 different person. I was 70 years old Friday, my
6 birthday. I'm still guilt-ridden of what happened. I
7 still can't make amends. I can't redeem myself in the
8 eyes of anybody. Everybody keeps saying this is the
9 crime, this is the crime. Okay, that was the crime. I
10 can't change it.

11 Q. I know. I know.

12 How long have you been incarcerated at this point?

13 A. It will be 41 years. October 7, 1975. It's 40 right
14 now.

15 The only way I can show them, his family, is to do
16 something in his name and I started this in memory for
17 [REDACTED] I made that clear from day one. All the
18 people that were with me, I did that to try to do
19 something that's impossible.

20 Q. Okay.

21 A. And I can't possibly make amends to his family no
22 matter what I do but I want to do it anyway in memory of
23 [REDACTED] and I'm sure God, if he can hear me, I want to
24 do something positive and the only thing I can do in
25 memory of him is to get this victim program statewide

1 which it should have been a long time ago. A lot of
2 people said that but they stopped me from doing it.

3 BY COMMISSIONER SHARKEY:

4 Q. What are you qualified to do if you go into the
5 [REDACTED] when they can find work for
6 you? Obviously, you can't be a fence anymore.

7 A. I taught computers for Marist College for 7 years. I
8 taught for -- the National Trust came up from
9 Washington, D.C. I forgot his name. I forgot his name.
10 Anyway, I taught the first one for National Trust. I'm
11 not that good in algebra anymore but computers I still
12 can probably handle, but, also, work with youth. And
13 the programs, if you look at the program for the [REDACTED]
14 [REDACTED] it's a very structured program that deals with
15 community service. I have a lot to offer as far as
16 getting stuff done.

17 COMMISSIONER HERNANDEZ: Can I ask a question,
18 Commissioner?

19 BY COMMISSIONER HERNANDEZ:

20 Q. So [REDACTED], do they have a room for you at [REDACTED]
21 [REDACTED]?

22 A. Did you read it? Did you read the letter?

23 Q. I'm asking you.

24 A. Oh, yeah. They said it.

25 Q. They're willing to put you up at [REDACTED] in

1 [REDACTED], right?

2 A. First sentence: This is not the standard practice of
3 the [REDACTED] to guarantee a bed at release.

4 (The court reporter asked the inmate to slow down.)

5 A. "Though it is not the standard practice of the
6 [REDACTED] to guarantee a bed upon release, in his
7 case we are willing to make an exception to that and
8 guarantee him a bed immediately upon his release at the
9 [REDACTED]," and then it lists all the program
10 stuff.

11 Q. We're very familiar with the [REDACTED].

12 A. And I know a lot of people in the organizations out
13 there that I've been working with for years.

14 Q. You have a lot of support, sir. You do.

15 COMMISSIONER SHARKEY: Anything else?

16 COMMISSIONER W. SMITH: Nothing else. Thank you.

17 BY COMMISSIONER SHARKEY:

18 Q. Sir, is there anything we haven't discussed that
19 you'd like us to know?

20 A. Actually, I wanted to go over my statement with you.
21 If you read it, if there's any questions.

22 COMMISSIONER HERNANDEZ: We've read it.

23 THE INMATE: Have you read it?

24 COMMISSIONER HERNANDEZ: Yes.

25 COMMISSIONER W. SMITH: It's right here. I went

1 through it earlier and some of the things, as you've
2 talked, I followed it through.

3 COMMISSIONER HERNANDEZ: I even highlighted stuff. I
4 already talked to you about that.

5 COMMISSIONER W. SMITH: Thank you.

6 THE INMATE: I'd like to say why I chose to sit here
7 today in front of you again. Believe it or not,
8 although the court -- I read the court -- it said that I
9 was supposed to get a de novo hearing in front of
10 different panel members. I found that you were here and
11 I said maybe I changed his mind. Maybe he read
12 something in my favor and it changed his mind. I didn't
13 say anything when I came in here because I was hoping
14 that's what happened.

15 COMMISSIONER W. SMITH: Part of the thing too is
16 you've got -- you made an appeal. You had originally
17 appealed it and then were successful in the appeal and
18 then that final -- the appeal after that, the Department
19 of Corrections is appealing to a higher court. We would
20 always encourage you, always encourage you to take
21 whatever legal steps that you can take. I think we
22 talked about it. In 20 years, I just kind of go
23 wherever they send me and have never had anywhere that
24 I've gone that I've asked to go to. Obviously, you were
25 here last month and then for whatever reason the case

1 was postponed but it's a new day. It always is.
2 There's always new things. You've brought up some
3 things and certainly everything from the letter that you
4 just described to your update, there's a lot to look at,
5 and it's a tough decision but we're going to give you a
6 fair shot at it. Thank you.

7 THE INMATE: By the way, there was a hearing today in
8 court and I said listen, I'm going.

9 COMMISSIONER SHARKEY: Thank you.

10 COMMISSIONER W. SMITH: Thank you for coming in.

11 COMMISSIONER HERNANDEZ: Good luck.

12 THE INMATE: Thank you very much.

13 (After due deliberation by the Parole Board Panel,
14 the following decision has been rendered:)
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D E C I S I O N

Denied 24 months. Next appearance, June 2018.

After a review of the record and interview, the panel has determined that if released at this time, there is a reasonable probability that you would not live and remain at liberty without again violating the law and your release would be incompatible with the welfare of society and would so deprecate the serious nature of the crime as to undermine respect for the law.

The panel has considered your institutional adjustment including discipline and program participation.

Required statutory factors have been considered, including your risk to society, rehabilitation efforts, and your needs for successful reentry into the community.

Your release plans have also been considered as well as your COMPAS Risk and Needs Assessment, case plan, and sentencing minutes which are in the file.

You are serving multiple sentences, the controlling term of which is 25 to life for the crime of Murder 2nd in which you acting in concert during the course of a robbery in ██████ County shot and killed a uniformed police officer.

The instant offenses are your only felony convictions

1 of record and reflect an escalation in your negative
2 behavior.

3 This panel notes your numerous letters of support and
4 your program and educational accomplishments, your
5 letter of reasonable assurance, and clean disciplinary
6 record.

7 During your interview, you showed little insight into
8 your criminal behavior.

9 This panel remains concerned about your violent
10 conduct in the instant offense, shooting and killing a
11 uniformed police officer, reflecting a callous
12 indifference to human life, your history of negative
13 behavior, and your willingness to transport guns over
14 state lines. You have demonstrated a willingness to
15 place your own self-interest above those of society.

16 Parole is denied.

17 (Commissioner Hernandez Dissents.)
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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.

Diana Freund

Diana Freund