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NYS DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

Parole Board Interview

In the Matter

-of-

[REDACTED]

DIN # [REDACTED]
NYSID # [REDACTED]

TYPE OF INTERVIEW: Special Consideration

LOCATION: Sing Sing Correctional Facility
Video-conferenced to NYS DOCCS
314 West 40th Street
New York, New York 10018

INTERVIEW DATE: January 11, 2017
DECISION DATE: January 11, 2017

BEFORE: Commissioner W. Smith
Commissioner Sharkey

ALSO PRESENT: Carysma Smith, SORC
Gwen Jordan, APA

PRESENT AT FACILITY: Eve Simmons, SORC
Michelle Mimms, ORC

COURT REPORTER: Anthony D'Ambrosio
Certified Shorthand Reporter

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

2

1 BY COMMISSIONER W. SMITH:

2 Q. Good morning. Would you tell us your name, for the
3 record, please.

4 A. Good morning. [REDACTED] [REDACTED]

5 Q. Very good. Mr. [REDACTED] I'm Commissioner Smith, I'm
6 joined today by Commissioner Sharkey.

7 COMMISSIONER SHARKEY: Hello.

8 INMATE: Yes. Hello.

9 Q. Good morning. You're appearing today at a DeNovo
10 interview, do you understand that?

11 A. Yes.

12 Q. A panel saw you in August of 2016, that panel had
13 imposed a hold and you had appealed the hold and were
14 successful in that appeal, correct?

15 A. Yes.

16 Q. So, what has happened is, you've been scheduled
17 basically for a new interview. That interview is not
18 valid and considered, so it's a new day, a new panel. We
19 have a lot of questions as we look at your release to the
20 community.

21 A. Yes.

22 Q. You continue to serve sentences for murder in the
23 second degree and criminal sale a controlled substance
24 third. You pled guilty. Do you acknowledge committing
25 those crimes?

DIN# [REDACTED] NYSID# [REDACTED]

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1 A. Yes.

2 Q. Okay. It looks like the first of those two offenses
3 was the sale, that happened in [REDACTED]. Were you
4 arrested right away for that crime?

5 A. I would say about a year later.

6 Q. Okay. So, you actually were still out in the
7 community and you didn't get arrested until later, maybe
8 at the time of the murder?

9 A. Yes.

10 Q. You were out in the community?

11 A. I think it was like five months. They posted bail on
12 me, I bailed and went home.

13 Q. So, you did get released on bail?

14 A. Yes.

15 Q. Why would you then get involved in killing the
16 victim?

17 A. What happened on that day, it's not like I went out
18 to do something stupid or anything. I had a fiance that
19 was living with me, which the record states was my
20 girlfriend, but her ex came along on Thanksgiving Day and
21 we got into a dispute. She called me at the house and I
22 went over, I tried to talk to him, but it started out as
23 a fistfight. After the fistfight, I ended up being
24 stabbed, he ended up being stabbed, and he lost his life
25 around the whole thing.

DIN# [REDACTED] NYSID# [REDACTED]

4

1 Q. Right. Now, it looks like it was around the 23rd of
2 November, so that would be Thanksgiving time.

3 A. Right.

4 Q. You have a COMPAS risk and needs assessment that we
5 have had a chance to review. The COMPAS problems were
6 part of the reason that you had a DeNovo hearing, is that
7 right?

8 A. Yes.

9 Q. Did you have a chance to look at your updated COMPAS?

10 A. Yes.

11 Q. Okay. Good. In many areas you're a low risk. So,
12 for example, risk of violence, arrest, absconding, those
13 scores are all one and two, which is what you want, low
14 numbers, low risk. Do you understand how that works?

15 A. Yes.

16 Q. And sometimes the verbiage is a little strange. As
17 far as your release plans, your family support is
18 actually called low family support, re-entry financial
19 and employment expectations, those are all scores of one,
20 which is what you want it to be. You have some plans as
21 far as being released, I think when I read through your
22 record, you have a niece that you can stay with, is that
23 right?

24 A. Yes.

25 Q. Is that still your proposed address?

DIN# [REDACTED]

NYSID# [REDACTED]

5

1 A. No. What they did, I met with a Commissioner from
2 Albany of the Department of Medical for Corrections,
3 because I was just recently diagnosed with cancer, stage
4 four.

5 Q. I see that.

6 A. So, they suggested I go into a nursing care.

7 Q. Is that the Hope, the Hope Center?

8 A. Yes, the Hope House, and agreed with them, because I
9 need a lot of treatment, to be with them, and I don't
10 think my family will be able to be there. They are all
11 working and doing different stuff, and I need to take
12 care of my health.

13 Q. Okay. We have correspondence from the Hope Center.
14 We do get medical records and, you know, we have
15 information as it relates to your cancer. What have they
16 told you as far as your prognosis?

17 A. It's stage four, they want to start me on chemo and
18 radiation, 35 weeks of radiation and three chemo
19 sessions.

20 Q. And it's carcinoma, where is it at?

21 A. Throat cancer.

22 Q. Throat?

23 A. Yes.

24 Q. All right. So, obviously that's going to require
25 some medical treatment and that's something again that we

DIN# [REDACTED] NYSID# [REDACTED]

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1 also consider. Your -- you probably won't likely be
2 employed during that time. You were born in '58, so you
3 are about 58 years old now, right?

4 A. Yes.

5 Q. How would you support yourself, have they talked to
6 you about going on SSI or SSD?

7 A. They told me about SSI, but I also told them I have
8 Osborne, Exodus House, a job to work with them.

9 Q. Okay. We do have a letter from Osborne dated June of
10 this year, which of course is just before when you would
11 have appeared. They help ex-offenders in a number of
12 ways. The COMPAS also has your scores that start to move
13 up. Your prison misconduct score is five out of ten,
14 kind of right in the middle. Your last discipline was
15 February of 2013, so, again, from your hold in 2014, you
16 have had two good years, but prior to that, you
17 struggled.

18 A. The last ten years I've had two misbehavior reports
19 in ten years.

20 Q. Okay.

21 A. The one you're talking about, it's a bottle of water
22 that was above 16 ounces. They told me I'm not allowed
23 to have it. I said, why, and when I questioned it, he
24 gave me a ticket, and he said the bottles were no longer
25 allowed.

DIN# [REDACTED]

NYSID# [REDACTED]

7

1 Q. Okay. Overall, it looks like you have probably in
2 excess of 25 misbehavior reports. You did have drug use,
3 that was the ten year ago Tier III. Why do you think you
4 struggled at times with behavior?

5 A. Well, I was real stupid, I'm not going to lie to you,
6 Commissioner, I was real dumb, naive, I didn't really
7 think about no consequences through my incarceration
8 until about 15 years ago when I said I have to start
9 changing, I have to start doing this. And I had no
10 education, so I really thought I was a smart ass and I
11 just kept saying, no to this, no to that. And then when
12 I finally got educated, I started thinking, and I tried
13 to utilize the gift God gave me, communicate with people,
14 respect people, and stay focused on the main goal, which
15 was my transformation.

16 Q. Okay. You mentioned the education. I think you got
17 your GED early in the sentence, is that right?

18 A. No. '94 I got the GED, and then I went thereafter to
19 college and then they terminated the college program.

20 Q. Right, but that was during this sentence, is what I
21 meant, while you were here on this sentence you got your
22 GED?

23 A. Yes.

24 Q. So, that's a positive. You mentioned your health and
25 that's also discussed in your case plan, where your

DIN# [REDACTED]

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1 counselor is working on what will help you progress.
2 They also mention the discipline, they want you to
3 continue positive discipline, and the other area, the
4 area that's probably the highest concern is the history
5 of violence. Not only the instant offense, where we
6 talked about the murder, but you had a youthful offender
7 adjudication which was your first contact with the law,
8 and it looks like that led to probation. That was quite
9 a while ago.

10 A. I was 15 years old at that time.

11 Q. You had a weapon, it looks like it started off with
12 kidnapping, unlawful imprisonment was the charge, but you
13 were found guilty of the youthful offender of a dangerous
14 weapon and probation, and you were young and we give a
15 benefit to youth in a sense of being understanding that
16 they don't have a full awareness of what their actions
17 are, and they don't necessarily project what's going to
18 happen, but when the Judge gives you probation and
19 youthful offender, they're hoping you behave yourself.
20 Then you had a local jail term it looks like for stolen
21 property. Another local term, criminal trespass, and
22 then your first time in state prison was a manslaughter
23 first that ran along with a, I believe, sodomy in the
24 third, is that correct?

25 A. Yes. The sodomy happened at Riker's Island.

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9

1 Q. You sodomized another inmate, right?

2 A. No. I pleaded guilty to it, but the issue is, I
3 don't like making excuses for nothing, they gave us
4 information on the inmate that he was incarcerated for
5 rape and for doing this and that, and like an idiot I
6 acted like I was the Judge on him and started condemning
7 him and everything. And I'll be honest, I had him
8 perform oral sex for what he had did, and I was a hundred
9 percent wrong and I regret everything I did when I was a
10 youth on that day. There's nothing that I can do to go
11 back and correct it, but I'm sorry for what happened that
12 day. The manslaughter charge, that was a relative to a
13 family, he was a drug addict like I was at the time, he
14 was taking money from my mother, pushing her around. I
15 hit him with I think a two by four and like a month later
16 he passed away. I took responsibility for it. I entered
17 a plea of guilty on it and I came up and served my time.
18 I had no education, I was a real dumb kid, I was real
19 stupid, I didn't understand much of the stuff I was
20 doing, and in a sense I thought it was right until I got
21 older and learned everything I did was wrong, and I face
22 it everyday and I live with it everyday. Who I was then,
23 Commissioner, is not the person I am today before you. I
24 transformed everything in me, my way of thinking, my way
25 of communicating with people, how to understand

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

1 situations, how to walk away from violent situations.
2 Since incarcerated, I have no violent conduct whatsoever.
3 I've been working hard. I did it through AVP,
4 facilitating it for like 20 years. I did it through
5 A.R.T., getting the tools that the department gave me to
6 help me. Many officers inside the facility have helped
7 me. When they see me depressed or something, they say,
8 what's going on, and we talk. It's something that I
9 learned, that if I have a problem or an issue, to
10 communicate it, let it out rather than act on it.

11 Q. Okay. I've asked you a lot of questions. We've had
12 a chance to review what was said by the Judges, the
13 Honorable [REDACTED] was the sentencing Judge for the
14 murder. The drug charge was, the sentence was the
15 Honorable [REDACTED]. I don't know if Commissioner
16 Sharkey has any additional questions at this time?

17 COMMISSIONER SHARKEY: I have none.

18 Thank you.

19 Q. All right. Mr. [REDACTED] we thank you for coming in.
20 We will discuss what you said as we look at the record
21 and give you a decision. Did I miss anything, anything
22 else?

23 A. Yes. I just want to say, please, don't look at who I
24 was in the past. I'm not who I was, and if you grant me
25 the opportunity to go home, I can promise, just based on

DIN# [REDACTED]

NYSID# [REDACTED]

11

1 my health alone and what I have to do with my health, I
2 will never be involved with the judicial system again.
3 There's nothing for me in prison. I've learned
4 everything that I had to learn. I'm just asking for an
5 opportunity to return to society and be with my family
6 and so I can take care of my health. You know, I
7 accomplished much, there are officers who wrote many
8 letters in there, in the parole packet stating who I was
9 throughout the years. I'm just asking to please consider
10 it and don't look at me for who I was. I'm not perfect,
11 I never was perfect, none of us are perfect, we're all
12 working on ourselves, and I made every change that the
13 Department of Corrections has asked of me, the
14 Commissioners have asked of me. I've done everything
15 possible, and I'm willing to continue to do even more of
16 what I'm asked to do and where to go and what not to do,
17 because it's something I believe in, which is change, and
18 I'm just asking look at the changes that I've done,
19 they're before you. I'm not who I was when I committed
20 this crime 34 years ago.

21 Q. All right, sir. Thank you for coming in.

22 A. Thank you very much.

23 (After due deliberation by the Parole Board
24 Panel, the following decision has been rendered:)

25

DIN# [REDACTED]

NYSID# [REDACTED]

12

DECISION

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2
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4 Denied. Hold 24 months. Next appearance August 2018.
5 This panel has concluded that your release to supervision
6 is not compatible with the welfare of society and
7 therefore parole is denied. This finding is made
8 following a personal interview, record review and
9 deliberation. Of significant concern is the escalation
10 of unlawful conduct the instant offenses of criminal sale
11 and murder second represents. We note that your record
12 dates from a 1974 probation sentence for a youthful
13 offender adjudication. Other factors considered include
14 you later received a state sentence for manslaughter.
15 Despite those sanctions, you stabbed a man causing his
16 death during the instant offense of murder. Your COMPAS
17 history of violence score is high. In addition we note
18 your marginal behavior and COMPAS prison misconduct
19 score. Your behavior since February 2013 has improved.
20 We also note your positive programming, case plan,
21 community support, and your medical needs related to
22 stage four cancer. Required statutory factors have been
23 considered, including your risk to the community,
24 rehabilitation efforts, and your needs for successful
25 community reintegration. To grant your release at this

[REDACTED] [REDACTED] DIN# [REDACTED]

NYSID# [REDACTED]

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1 time would so deprecate the seriousness of your offense
2 as to undermine respect for the law.

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

EXhibit "C"

FUSL000073

INMATE COPY NYS Dept. of Corrections and Community Supervision Date: 01/13/17
FORM 9026 Parole Board Release Decision Notice

Name: [REDACTED]
DIN: [REDACTED]
Nysid: [REDACTED]

Facility: SING SING
Interview Date: 01/11/2017
Interview Type: SP CONSDR

Earned Eligibility Certificate : INELIGIBLE
Supervision Fee: ELIGIBLE
Certificate of Relief from Disability: INELIGIBLE

Parole Decision:
DENIED - HOLD FOR 24 MONTHS, NEXT APPEARANCE DATE: 08/2018

Conditions of Release/Staff Instructions/Reasons for Denial:

THIS PANEL HAS CONCLUDED THAT YOUR RELEASE TO SUPERVISION IS NOT COMPATIBLE WITH THE WELFARE OF SOCIETY AND THEREFORE PAROLE IS DENIED. THIS FINDING IS MADE FOLLOWING A PERSONAL INTERVIEW, RECORD REVIEW AND DELIBERATION.

OF SIGNIFICANT CONCERN IS THE ESCALATION OF UNLAWFUL CONDUCT, THE INSTANT OFFENSES OF CRIMINAL SALE AND MURDER 2ND REPRESENTS. WE NOTE THAT YOUR RECORD DATES FROM 1974 PROBATION SENTENCE FOR A Y.O. ADJUDICATION. OTHER FACTORS INCLUDE YOU LATER RECEIVED A STATE SENTENCE FOR MANSLAUGHTER. DESPITE THESE SANCTIONS YOU STABBED A MAN CAUSING HIS DEATH DURING THE INSTANT OFFENSE OF MURDER.

IN ADDITION, WE NOTE YOUR MARGINAL BEHAVIOR AND COMPAS PRISON MISCONDUCT SCORE. YOUR BEHAVIOR SINCE FEBRUARY 2013 HAS IMPROVED. WE ALSO NOTE YOUR POSITIVE PROGRAMMING, CASE PLAN, COMMUNITY SUPPORT AND YOUR MEDICAL NEEDS RELATED TO STAGE IV CANCER.

REQUIRED STATUTORY FACTORS HAVE BEEN CONSIDERED, INCLUDING YOUR RISK TO THE COMMUNITY, REHABILITATION EFFORTS, AND YOUR NEEDS FOR SUCCESSFUL COMMUNITY REINTEGRATION.

TO GRANT YOUR RELEASE AT THIS TIME WOULD SO DEPRECATE THE SERIOUSNESS OF YOUR OFFENSE AS TO UNDERMINE RESPECT FOR THE LAW.

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I N M A T E C O P Y

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