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1 NYS DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

2 *****

3 Parole Board Interview

4 In the Matter

5 -of-

6 [REDACTED]

7 DIN# [REDACTED]
8 NYSID# [REDACTED]

9 *****

10 TYPE OF INTERVIEW: Reappearance

11 LOCATION: Fishkill Correctional Facility
12 18 Strack Drive
13 Beacon, New York

14 DATE: January 24, 2017
15 DECISION DATE: January 24, 2017

16
17 BEFORE: COMMISSIONER STANFORD
18 COMMISSIONER W. SMITH
19 COMMISSIONER CRANGLE

20 ALSO PRESENT: J. Arroyo, APA
21 K. Chauvin, SORC
22 Supt. Cunningham

23 HEARING REPORTER: Roberta O'Rourke
24
25

██████████ ██████████ **DIN** ██████████ **NYSID** ██████████

1 INTERVIEW BY COMMISSIONER W. SMITH:

2 Q Have a seat, young man. What is your name?

3 A ██████████ ██████████

4 Q Mr. ██████████ I am Commissioner Smith. I'm
5 joined today by Chairwoman Stanford, on my
6 immediate left and on the far left is --

7 COMMISSIONER STANFORD: Good afternoon.

8 Q -- commissioner Crangle.

9 COMMISSIONER CRANGLE: Hello.

10 A Hello.

11 Q You are reappearing before the Board of
12 Parole. You were seen initially in December 2014
13 and held for 24 months, is that correct?

14 A Yes.

15 Q And then last month you were seen for a brief
16 period of time, your case was put over, is that
17 right?

18 A Yes, sir.

19 Q It's a new day. And we may go over some of
20 the same questions you original had. Why was
21 your case postponed last month?

22 A I believe Mr. Cruse said that my disciplinary
23 folder was incomplete.

24 Q Was there a question that you had?

25 A Well, no. He asked me when was the last time

██████████ ██████████ DIN ██████████ NYSID ██████████

1 I caught a ticket, I told him it was 2006. I
2 don't know if he had it in front of him or not
3 and he asked me to step out, I came back in and
4 then he said it was incomplete, so they postponed
5 me to this month.

6 Q That's what I show. I show a discipline back
7 in March of 2006 at Green Haven, that was direct
8 order?

9 A Yes.

10 Q Is that your most recent discipline?

11 A Yes.

12 Q That's what I understood. In 2001 you had
13 probably your most serious violation a Tier III
14 at Clinton for an unreported illness. There was
15 also a separate IPC but that's just you were
16 probably placed in protective custody, is that
17 right?

18 A Yes, I had slipped and fell and didn't report
19 an injury and I got a Tier III for it.

20 Q So they didn't believe you then?

21 A No, I beat the ticket, I beat the ticket but
22 I lost the IPC and they kept me in IPC and sent
23 me to Attica.

24 Q But the Tier III for unreported illness
25 stood?

██████████ *DIN* ██████████ *NYSID* ██████████

1 A Yeah, yeah, meaning they gave me the warning
2 for not reporting the injury and she said the
3 next time I have a paper cut just report it so I
4 won't go through the whole situation all over
5 again and that was it.

6 Q What actually happened to you?

7 A We had an ice storm up at Clinton and when
8 you have a cooking court you have to shovel the
9 court once it stops snowing or they take the
10 court from you. So I went out there and I was
11 shoveling. Then they called a go-back and I ran
12 and slipped and fell. Didn't even realize I was
13 injured that badly. So when I was coming in the
14 officer asked me to step out, he says you had
15 blood over here. I said well I just fell on my
16 face up the hill and they took me over to the
17 clinic. I believe that was in '99.

18 Q That wasn't the ice storm was it?

19 A In '99?

20 Q There was a gigantic ice storm up there at
21 one point.

22 A Everything was encased in ice. The phones.

23 Q It was when the big trees were coming down,
24 the Thruway, actually it's 87, I think was closed
25 all the way up. You don't recall it then?

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

- 1 A No.
- 2 Q It wouldn't be it because you would have
3 recalled this.
- 4 A I know the snow was about knee deep.
- 5 Q It's always that.
- 6 A The phone was encased in ice. We had to chip
7 the phones out.
- 8 Q It's always knee deep?
- 9 A Crazy there.
- 10 Q Do you know they had a ski jump inside that
11 prison?
- 12 A Yeah, I heard of it.
- 13 Q You heard of it, I don't know if my
14 colleagues ever heard of that.
- 15 COMMISSIONER STANFORD: Only from
16 conversations like this.
- 17 Q So that was a Tier III in Clinton?
- 18 A Yes.
- 19 Q At Downstate you had a gang ticket Tier II.
20 What gang did they think you were part of?
- 21 A I saw an Asian guy that I knew from Rikers
22 Island and he was so excited to see somebody that
23 he knew because he didn't really speak English
24 that well and I said hello him. And the officer
25 wrote me up for doing this to him in the mess

██████████ ██████████ **DIN** ██████████ **NYSID** ██████████

1 hall, hey what's going on, he said I was throwing
2 gang signals.

3 Q What gang did they think you were part of?

4 A I have no idea.

5 Q Then you had mother disciplinary altered
6 item?

7 A Yeah.

8 Q That was at Clinton. And that's your
9 discipline. So, you know, it's been improved. I
10 guess I'll look at the positive. Much improved
11 since 2006. You're serving a controlling 19 to
12 life so you know there's some concept you should
13 try to behave yourself for 19 years and then go
14 home. We don't start the clock all over again.
15 But part of the reason that I always mention this
16 besides the fact that you know we consider it is
17 that it gives some indications of what you might
18 do on the outside. And if we see you today we
19 can release you. We can impose a hold. What's
20 the longest we can hold you today?

21 A 24 months.

22 Q That's right. Once you're outside what's the
23 longest we can hold you then?

24 A Out in the street? I don't know, I don't
25 know the rules of parole out in the street.

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

1 Q Well, it's important to know that if you're
2 on a life sentence you can be held as long as is
3 deemed appropriate.

4 A Yes because I have the life on the back, yes.

5 Q So we have to approve it as a board but we
6 have approved nearly 10 year holds that I've
7 imposed. So that's why it's important. You need
8 to be aware of these things.

9 A Okay.

10 Q And when we look at your case plan it gives
11 us an indication of some of the things that your
12 counselor sat and talked to you about. Things
13 that you can do to hopefully prepare yourself to
14 go in the community. What programs have you done
15 overall that you feel are most important?

16 A I enjoy doing life without violence. I did
17 AVP One and Two over in Green Haven. I started
18 the Exodus over here but it was stopped for
19 whatever reason, I don't remember why it was
20 stopped.

21 Q What was the Exodus program here?

22 A Exodus, the reverend used to come in, he used
23 to help us acclimate ourselves, get ready for
24 society. Speak to us about what we want to do
25 and help us, you know, from in here try to pursue

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

1 those goals. Help us better, you know, a lot of
2 us been down a long time so we can have a better
3 understanding how things are run out in the
4 street and what we can do to go get help if we
5 need something, we need jobs, help with clothing.

6 Q One of the things in your packet which you've
7 done with the help of the National Lawyer's Guild
8 is kind of written some of the things that are
9 positives. I know one of the areas I wrote down
10 was getting your GED.

11 A Yes.

12 Q On the outside how far had you got in school
13 prior to coming in?

14 A I was actually in the GED course out in the
15 street.

16 Q Okay, so here you are, it shows if you focus
17 you can have some positive results. That was
18 back in 1999.

19 A Yes.

20 Q The case plan also talks about some programs
21 that might relate a little bit to the instant
22 offense including the ART which is aggression
23 program.

24 A Yes.

25 Q Certainly an element of aggression in the
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██████████ ██████████ **DIN** ██████████ **NYSID** ██████████

1 instant offenses. You've got murder second,
2 attempted robbery first and assault in the first
3 degree, is that right?

4 A Yes, sir.

5 Q Your case plan indicates that you've been
6 able to complete that, is that right?

7 A Yes, sir.

8 Q Talks a little bit also about thinking for a
9 change. It talks a little bit about is there a
10 paramedics course here?

11 A No, when I get out I would like to pursue to
12 become an EMT paramedic when I get out.

13 Q All right.

14 A I'm doing some studying on my own in here.

15 Q Had you completed the ASAT program as well?

16 A Yes, sir.

17 Q Looks like your current program assignment is
18 a painter?

19 A Yes, I work with the porter pool in the main
20 building and the new guys coming in we have to
21 already take in new guys, explain to them how the
22 facility ran, give them temporary jobs until they
23 see the program committee. Hand out the caustics
24 to all the areas of the main building, building
25 13, stuff like that.

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

1 Q You've got some letters of support.
2 Including individuals in the, on the inside have
3 written, which you know they have some indication
4 as to what your every day demeanor and character
5 is. Probably more important I see I've got a
6 nice letter, ██████████ that's your father, is that
7 right?

8 A Yes, sir.

9 Q Your mother ██████████ ██████████ writes. You've got
10 other family members, cousins. And one of the
11 things is these individuals, you've got another
12 uncle, these individuals know you and among other
13 things have written about the willingness to help
14 you. As we look at your risk and needs
15 assessment some people call it the COMPAS gives
16 an indication of areas of strengths, other areas
17 there might be some concerns, it's a scale one to
18 10. One is low risk, 10 is high risk. You want
19 to be low risk.

20 A Right.

21 Q Majority of your scores are ones. You have
22 like a score of two on re-entry substance abuse.
23 You have scores of three which are still low but
24 three for history of violence, risk of felony
25 violence, those are the highest score you've got.

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

1 Do you think you're a violent person?

2 A Me myself no I don't think so.

3 Q Do you have a temper?

4 A No.

5 Q In terms of the instant offense obviously an
6 a lot of violence in that.

7 A Yes, sir.

8 Q We've had a chance and what we do is we get
9 the presentence investigation report. We also
10 get sentencing minutes. You were sentenced out
11 of the court of the Honorable ██████████, a
12 ██████████ ██████████ was the
13 Assistant District Attorney and your attorney was
14 it looks like ██████████, is that
15 right?

16 A Yes, sir.

17 Q Now, you've given a statement so and
18 obviously we've read the last time that you
19 appeared. Again you were found guilty of these
20 at trial?

21 A Yes, sir.

22 Q You had spoken about the matters, all of
23 these, the murder second, attempted robbery first
24 and assault in the first degree. Do you have any
25 appeals outstanding in court on these?

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

1 A No, I don't.

2 Q Anything that you say today this young lady
3 is taking down what you're saying that could be
4 used in a post conviction proceeding. Do you
5 have any reservations talking about the instant
6 offenses?

7 A No, sir.

8 Q A lot of what I'm going to talk about here is
9 kind of a summary. You admit your involvement in
10 the crime, right?

11 A Yes, I do.

12 Q And how would you briefly characterize your
13 involvement?

14 A My role in the crime even though I'm not
15 diminishing my role in the crime because I was
16 the lookout in the robbery.

17 Q I'm going to read from the presentence
18 investigation report, this is not you this is
19 what the probation department says, the instant
20 offense or in the instant offense Defendant
21 ██████████ was the trigger man while Defendant
22 ██████████ acted as a lookout. Now, as you say that
23 doesn't minimize, obviously you've been convicted
24 of the charges that we see here. Were you
25 offered a plea at any time?

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

- 1 A Yes, I was, sir.
- 2 Q What was the plea offer?
- 3 A I believe it was 10 to 20.
- 4 Q And after you were you were actually it looks
5 like you were arrested last out of you and there
6 was an ██████████ that was the shooter?
- 7 A Yes.
- 8 Q It says in our paperwork he got 29 and a half
9 to life, I don't know if that's true. It appears
10 that maybe about that, because he has a May '25
11 initial interview. The other guy's name was
12 ██████████ is that right?
- 13 A Yes, he was never arrested.
- 14 Q He wasn't arrested or he was and got away,
15 acquitted or just wasn't arrested?
- 16 A He was never arrested.
- 17 Q And as I read through the presentence report
18 and what was said at sentencing it appears that
19 you were arrested awhile after, I don't know if
20 it was several days at least, and then you made a
21 statement, you made statements, right?
- 22 A Yes, sir.
- 23 Q And the judge talks about this, probation
24 report talks about it, and then you recanted
25 those statements?

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

- 1 A Under the advisement of my father and my
2 attorney at the time Mr. ██████████ she just
3 basically told to shut-up.
- 4 Q Did you recant them?
- 5 A No, I just, I wasn't thinking about anybody
6 but myself. And basically when they told me to
7 shut-up I just didn't change from what I said. I
8 just didn't say, didn't repeat it again. So
9 that's the reason why I went to trial.
- 10 Q Did you testify at trial?
- 11 A Yes.
- 12 Q Did you lie?
- 13 A No.
- 14 Q Not at all?
- 15 A No, I told them my role in the crime.
- 16 Q The statements made include from the victim
17 who was shot and injured that was ██████████
18 is that right?
- 19 A Yes, sir.
- 20 Q And a representative of the other victims
21 family who was killed last name ██████████
22 ██████████, do you recall those?
- 23 A That's Mr. ██████████, yes.
- 24 Q First name was ██████████. And again I'm looking
25 at the presentence investigation report. Pretty

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

1 powerful words from both of those. Your
2 involvement with this was as a lookout man but in
3 a sense more than that because you knew it was
4 going to be a robbery, right?

5 A Yes, sir, I did.

6 Q And you knew, your co-defendant or did both
7 of your co-defendants have guns or just one?

8 A I didn't see or speak to Mr. ██████████ I spoke
9 to Mr., ██████████ ██████████

10 Q Did ██████████ go in?

11 A Yes. He met me and ██████████ over there and
12 I stood across the street.

13 Q And you guys had developed this plan of where
14 you were going to go, what you were going to do.
15 Did they attempt to conceal themselves? Did they
16 have masks?

17 A Yes, they did.

18 Q And what were you going for get away? How
19 were you going to get away, what was the plan?

20 A We didn't really plan too smartly.

21 Q Well, what was the plan?

22 A Just get away on foot.

23 Q And where did you guys go after the shooting?

24 A When I heard the gunshots I just left, I
25 didn't wait for anybody. I just, I didn't know

██████████ ██████████ **DIN** ██████████ **NYSID** ██████████

1 what was going on. Was under the impression that
2 they were going to go in. I didn't really
3 sign-up for anybody getting hurt even though I
4 was naive to that fact. When I heard the first
5 gunshot I just got so afraid I ran home.

6 Q Where did you guys meet up after that?

7 A I didn't meet up with anybody.

8 Q Didn't see either of those co-defendants?

9 A No. I saw Mr. ██████████ probably about a
10 week later.

11 Q Why didn't you go to the police right away?

12 A Because I was afraid.

13 Q Afraid of what?

14 A I was just afraid of the whole situation. I
15 was afraid of you, you know, being in this
16 trouble that I'm in now. I was afraid of what
17 really happened. I don't know if you can say I
18 was in denial or anything like that, I just, I
19 was just hoping that it wasn't as bad as I came
20 and found out it really was. I was just scared
21 back then. I didn't know what was going on. For
22 me to just go to the cops I was a part of it I
23 was just, I didn't know what was running through
24 my mind is guess I was more selfish than anything
25 because I didn't want to help. I didn't do

██████████ ██████████ **DIN** ██████████ **NYSID** ██████████

1 anything to stop it. I'm sorry for what I did,
2 sir. The families of ██████████ and ██████████'s and
3 my community, my family, I put everybody through.

4 Q How did you choose the place that you were
5 going to do this at?

6 A Mr. ██████████ told me that Mr. ██████████ came up
7 to him with the idea of it. And Mr. ██████████
8 came to me.

9 Q Why would he think you would get involved in
10 it?

11 A He and I were friends from childhood when we
12 were very young. And he just basically wanted
13 somebody there that he can trust and he came to
14 me.

15 Q The one family member in sentencing said on
16 page 12, then I really believed you, really
17 believed when you said on that videotaped
18 confession that you really hoped that the
19 detectives catch ██████████ ██████████ I really believed
20 that 40 minute videotaped confession. I thought
21 you were going to come over to our side and help
22 us tell the truth here and catch the real people
23 that we want. We don't want the lookout guy, we
24 want the trigger man. But not only want the
25 trigger man but we want, it says, the woman that

██████████ ██████████ DIN ██████████ NYSID ██████████

1 supplied the information to this trigger man that
2 made them go into ██████████ that night. What's
3 that about?

4 A When I made my statements they was asking me
5 questions about how Mr. ██████████ knew about it,
6 some girlfriend that he had that supposedly
7 worked in there and I couldn't give them
8 information that I didn't have. I just gave them
9 the information that I did have from
10 conversations I had with me and Mr. ██████████

11 Q And then it goes on, he says so yes now he
12 made you an offer to do a short time in jail for
13 the exchange of your information and to help us
14 resolve this case. Then Mr. ██████████ comes
15 into the picture, you remember he says my lawyer,
16 you know, the one that my tax dollars pay and you
17 recant everything, everything you said on the
18 videotape you recant just like ██████████ ██████████
19 Do you remember that?

20 A Yes. Mr. ██████████ (phonetic spelling) was
21 very, very upset. He had every right to be. And
22 unfortunately he wanted me to give information
23 that I just, I didn't have. I didn't know
24 ██████████ girlfriend or how he found out about it,
25 whatever the case would be. I just knew from

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

1 ██████████

2 Q Was there a single trial?

3 A No, we had separate trials.

4 Q Did you testify at his trial?

5 A No, sir.

6 COMMISSIONER CRANGLE: Was there a plea offer
7 prior to trial?

8 A For me?

9 COMMISSIONER CRANGLE: Yes.

10 A Yes, sir.

11 COMMISSIONER CRANGLE: What was it?

12 A 10 to 20.

13 COMMISSIONER CRANGLE: Why didn't you take
14 it?

15 A Back then it seemed like a life time to me.
16 And once again I was being selfish and wasn't
17 thinking about the family or anybody else. I was
18 just, my first instinct was no, you know. If I
19 knew then what I knew now I would have definitely
20 jumped on it to put everything to rest and give
21 the family some peace but I wasn't thinking about
22 them.

23 COMMISSIONER CRANGLE: Thanks.

24 Q What about work, what are your plans for that
25 in the future?

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

1 A Well, if I do make parole I have a friend who
2 works at PSE&G in the electric company and he's
3 the foreman over there where he works at, he's
4 willing to offer me a job.

5 Q We have again the National Lawyer's Guild
6 packet. We have a letter from Appellate
7 Advocates. We have a letter from Mr. ██████████
8 although that generally basically goes into there
9 was an open New Jersey matter I believe, is that
10 right? Well, it was unclear, I don't know that
11 it was open but he basically gave information as
12 to it not being --

13 A What happened was I shared the same birthdate
14 and last name with somebody and his charges were
15 popping up on my, when I went to go do my COMPAS
16 so I had to get that straightened out. So it
17 popped up on my paperwork over there.

18 Q A lot to look at, not just the record but
19 certainly we take into account your comments as
20 well.

21 COMMISSIONER STANFORD: I'm not sure if, I'll
22 ask Commissioner Crangle if he has any other
23 questions?

24 COMMISSIONER CRANGLE: No, I don't, thank
25 you.

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

1 COMMISSIONER W. SMITH: And Chairwoman

2 Stanford, do you have anything else?

3 COMMISSIONER STANFORD: No, thank you.

4 Q All right, again a lot to look at. I don't
5 know if there's anything else I've missed or
6 anything else you want to tell us now is the
7 time, sir.

8 A I would just like to say that, you know, back
9 in 1996 I was a kid. I made the single worst
10 mistake of my life accepting to be a part of
11 something that caused Mr. ██████████ to die and
12 Mr. ██████████ to get seriously injured. And I take
13 full responsibility for that because I'm sorry.
14 I didn't do nothing to help those gentlemen. I
15 didn't tell nobody or anything. And I'm sorry
16 for that. That's something I've got to live with
17 for the rest of my life. Since then I've done
18 everything I can to change myself and who I was.
19 And the person I am now I have a wonderful
20 support system, my family, they are willing to
21 help me with whatever, you know, whatever I want
22 to do when I get out. And I truly believe that I
23 can be a productive member of society when I get
24 out. And I'm confident that I can accomplish my
25 goal to become an EMT paramedic, give back to the

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

1 community. Again, I would like to say I'm sorry
2 for what I've done. Thank you for listening to
3 me.

4 Q I think you were 18 I see?

5 A 19.

6 Q 19 on the day of the crime, that's right.

7 A Yes.

8 Q How old are you now?

9 A I turned 40 this past September.

10 Q And of course we look at, you know, the
11 changes that occur over a period of time. That's
12 part of the reason we look so closely at
13 discipline. Because you know we hope that
14 individuals can show maturity as they go through.
15 All right, thank you, we'll let you know our
16 decision in writing, sir.

17 A Thank you.

18 COMMISSIONER CRANGLE: You look good today
19 too. You dress well. We appreciate that.

20 A Thank you.

21 COMMISSIONER CRANGLE: All right, take care.

22 A Drive safely.

23 (After due deliberation by the Parole Board
24 panel, the following Decision was rendered:)

25

██████████ ██████████ *DIN* ██████████ *NYSID* ██████████

1 D E C I S I O N

2 BY COMMISSIONER W. SMITH:

3 Denied 18 months, next appearance June 2018.

4 This panel has concluded that your release to
5 supervision is not compatible with the welfare of
6 society and therefore parole is denied. This
7 finding is made following a personal interview,
8 record review and deliberation. Of significant
9 concern is your course of conduct during the instant
10 offense where you in-concert participated in a
11 gunpoint robbery. During the crime mask(s) were
12 used to conceal identities. Other factors
13 considered including that two male victims were shot
14 resulting in one death. You admit to fleeing the
15 scene and not being arrested for several days. In
16 addition we note your COMPAS, case plan, document
17 submissions and program accomplishments. We note
18 your low COMPAS scores with the highest being three
19 out of 10 for both history of violence and risk of
20 felony violence. While your behavior has improved
21 since March 2006 we note that it was marginal prior
22 to that time. Required statutory factors have been
23 considered, including your risk to the community,
24 rehabilitation efforts, and your needs for
25 successful community reintegration. To grant your

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

4 (All commissioners concur.)

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CERTIFICATION

I, ROBERTA O'ROURKE, 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 25 pages, is a true and correct copy of same and the whole thereof.

Dated: February 2, 2017

Roberta O'Rourke

Roberta O'Rourke, Court Reporter