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September 2021

Parole Interview Transcript/Decision - FUSL000077 (2012-05-16)

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[REDACTED]

I.

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

3 *****

4 PAROLE BOARD INTERVIEW

5 In the Matter of

6 [REDACTED]

7 DIN NO. [REDACTED]

8 NYSID NO. [REDACTED]

9 *****

10 TYPE OF INTERVIEW: Reappearance

11 LOCATION: Wende Correctional Facility

12 Video-conferenced to
13 Rochester Area Office
14 350 South Avenue
Rochester, New York 14620

15 DATE: May 16th, 2012

17 BEFORE: COMMISSIONER GERALD J. GREENAN, III
18 COMMISSIONER WALTER WILLIAM SMITH
19 COMMISSIONER LISA BETH ELOVICH

20 ALSO PRESENT: Karen Adriane, APA
21 David Post, SORC

22 HEARING REPORTER: Carrie A. Fisher
23
24
25

1 BY COMMISSIONER ELOVICH:

2 Q Hi, please state your name for the record?

3 A [REDACTED]

4 Q Mr. [REDACTED] I am Commissioner Elovich. With me today
5 are Commissioners Smith and Greenan.

6 COMMISSIONER GREENAN: Hello.

7 Q How are you?

8 A Hello. Good afternoon.

9 Q You are here for your reappearance before the Board of
10 Parole. You have seen the Board on previous occasions.
11 You have a new Board today, and we are not bound by the
12 past Board's decisions.

13 A Okay.

14 Q Now, you are incarcerated for two counts of murder in
15 the second degree and attempted murder second degree,
16 and you are serving a controlling sentence of 25 to
17 life; is that correct?

18 A Yes, that's correct.

19 Q Okay. And how much time have you served so far?

20 A Almost 35 years.

21 Q Okay. Your instant offense involves you shooting and
22 killing a police officer with a shotgun and attempting
23 to kill another police officer with the gun. Is there
24 anything you want to say about the instant offense? I
25 see this is by verdict after trial. Have you exhausted

1 all of your appeal?

2 A Yes, ma'am.

3 Q The reason I ask you that is because we have a
4 stenographer taking down everything you say so any of
5 your statements could potentially be held against you in
6 a postconviction proceeding.

7 A I understand that.

8 Q What would you like to say regarding the instant
9 offense?

10 A In that regard, I am just very sorry for what I did. I
11 know that what I did was very wrong, and I know that I
12 put the family through a lot, a lot of pain, and for
13 that I am very sorry.

14 Q Why did you kill this police officer and attempt to kill
15 another one?

16 A Well, when I was leaving, the officer came into the
17 house. I was in the bedroom.

18 Q The detective sergeant was investigating a burglary and
19 his deputy were investigating a burglary that occurred
20 that weekend?

21 A Yes, that's true.

22 Q They had made an appointment to talk with your
23 girlfriend?

24 A Yes. And they did talk to my girlfriend at the time,
25 yes.

1 Q And she agreed at that time to turn over stolen property
2 to the police; is that correct?

3 A I don't know if she agreed to return any stolen property
4 because I was never accused of any stolen property at
5 all. They found some stolen property on the first
6 floor, but I was living in the second.

7 Q Okay. So the officer then asked you if your house or
8 where you lived was upstairs and you said, yes.

9 A Yes, that's true.

10 Q You then ran up the stairs and the two police officers
11 followed you.

12 A Yes.

13 Q The officers confirmed that that was in fact you, and
14 asked if they could enter the apartment. The sergeant
15 at that time heard a shot fired and saw that Deputy
16 [REDACTED], [REDACTED], had been shot and Sergeant [REDACTED]
17 [REDACTED], grabbed for Deputy [REDACTED]. A second shot
18 was fired through the door, and it struck the wall
19 between Deputy [REDACTED] and Detective Sergeant [REDACTED].
20 Another gun was then heard or the sound of a gun was
21 heard being locked and assumed you were reloading a gun.

22 He then attempted to pull Deputy [REDACTED] away from the
23 door. Detective Sergeant [REDACTED] attempted to call for
24 assistance on his portable radio but got no response, so
25 he ran to the front of the apartment and broke the

1 window and called to a police officer who was stationed
2 in the front of the house. He told him to get an
3 ambulance that the officer had been shot.

4 Shortly thereafter, the police officer in front of
5 the building informed Detective Sergeant [REDACTED] that
6 [REDACTED] you, had jumped out of the window of the
7 apartment and had run in the direction of the railroad
8 tracks. You then fled, and you went to the home of a
9 friend. You informed that friend that you killed the
10 police officer. You then, the next day, gave yourself
11 up to the police.

12 A Mhmm.

13 Q Okay. You still had the shotgun with the live shell in
14 it. That still doesn't explain why you killed one
15 police officer and attempted to kill another. What was
16 going on here?

17 A I was afraid of being returned back to [REDACTED], and
18 that's what I was saying before. There's no reason. I
19 just grabbed the shotgun, and I shot afraid of them to
20 arrest me and deport me and send me back to [REDACTED].

21 Q So because you were afraid of being sent back to [REDACTED]
22 [REDACTED], you decided to kill a police officer?

23 A I was not aware --

24 Q That doesn't seem to make much sense.

25 A I was not aware that anybody was in the area at the

1 time, you know, that's why I shot.

2 Q Why not run away if you're afraid of being deported?

3 Why shoot and kill an officer?

4 A Yes, I cannot explain how. At that moment, I just did

5 it. And for that I am very sorry, but it's nothing I

6 can explain.

7 Q Well, that's a pretty scary thing.

8 A Yes, it is.

9 Q That you don't have -- after all these years, you don't
10 have a whole lot of incite into why you did this. One
11 of the things that we look at before releasing somebody
12 is their incite into the instant offense. Because if
13 they don't really know why they committed the crime,
14 then how do we know they're not going to go out and
15 commit another crime. They haven't figured out why they
16 did the first one.

17 A Okay. I don't know how I can explain because I was
18 afraid of them. That's the fact, and I just grabbed the
19 shotgun. I turned around and I shot twice, and I jumped
20 through the window and run away. When I found out that
21 the officer had died, I surrendered. I gave up myself
22 because I never had any intention of killing anybody.

23 COMMISSIONER SMITH: I have just one question as
24 to that.

25

1 BY COMMISSIONER SMITH:

2 Q Were you born in [REDACTED] [REDACTED]?

3 A Yes, sir.

4 Q Is there any restrictions from traveling between the

5 mainland of the United States of America and [REDACTED]

6 [REDACTED]?

7 A No, I don't think so.

8 Q I don't think so either. I am at a loss to your
9 comments.

10 COMMISSIONER SMITH: Thank you, Commissioner.

11 COMMISSIONER ELOVICH: Thank you, Commissioner
12 Smith.

13
14 BY COMMISSIONER ELOVICH:

15 Q As commissioner Smith said, it doesn't really make any
16 sense, your explanation for committing such a heinous
17 act that affected not only the family of the police
18 officer that was killed and the one that was shot but
19 the entire community surrounding.

20 A I understand that.

21 Q All right, sir. Let's talk about what you've been doing
22 since your last Board appearance. You are currently
23 assigned as an administrative clerk in the library. You
24 have been a student in physical education, program aid
25 in the library, and you have asked for hospital/hospice

- 1 care program, you requested to participate in that?
- 2 A Yes.
- 3 Q Okay. Are there any other programs that you would like
4 to bring to our attention or things that you have done
5 in the last 24 months that you would like us to know
6 about?
- 7 A In the last 24 months, most of the time those two years
8 I worked in the general library and that's it. It's the
9 only program they had me participate in in the last ten
10 years really.
- 11 Q Okay. Now we have a letter that was sent to the file
12 from [REDACTED], Corporate General Counsel of Saving
13 Grace Ministries.
- 14 A Yes.
- 15 Q We will consider that letter as well. She said that
16 they would possibly admit you to the Grace House. We
17 also have another letter from you that you sent to
18 Chairwoman Evans which was a letter for parole release
19 consideration to the Board.
- 20 A Yes, that's true.
- 21 Q This is a recent letter, so we will consider this letter
22 as well. If you were released, you would like to go
23 back to [REDACTED] to live with your family?
- 24 A Yes. That would be upon my release go to [REDACTED].
25 But in the meantime, also the Cephas program sent a

1 letter to the Parole Board. And they are agreed to
2 Cephas Program in Erie County, Buffalo, New York.

3 Q Yes.

4 A And they also agreed to receive me over there, and they
5 have a very intense program.

6 Q Okay.

7 A They will help me, yeah.

8 Q We will take that into consideration. You will also
9 have possible employment from your uncle who has his own
10 business in [REDACTED] [REDACTED]. And if you were allowed to go
11 to [REDACTED] [REDACTED], that would be something you would
12 consider as well.

13 A Yes.

14 Q All righty. And you hope to finish college and work as
15 a counselor for AIDS?

16 A Yes.

17 Q Okay.

18 COMMISSIONER ELOVICH: Commissioners, any
19 questions?

20 COMMISSIONER GREENAN: No other questions.

21 COMMISSIONER SMITH: No questions.

22 Q All right, sir. We have your sentencing minutes in the
23 file. We will consider those. We also have your COMPAS
24 reentry risk assessment tool. We will consider that as
25 well.

- 1 A Okay.
- 2 Q Thank you.
- 3 A Now, can I say --
- 4 Q Yeah. Anything else that you would like to say before
- 5 we close?
- 6 A Yes. In the event that the Parole Board decided to hold
- 7 me again, I would like, you know, a reason of what can I
- 8 do in the near future to better my chances to be
- 9 released. I have completed many programs. I
- 10 participate in many programs, ART, AVP, and a violence
- 11 program, I am willing to participate in different
- 12 programs in the streets, finish the college like I said.
- 13 But if I am held, I would like to know what else can I
- 14 do because I have completed every single Department of
- 15 Corrections service requests me to do, and I lot more
- 16 than that. I would appreciate if you can explain or
- 17 give me a reason what do I need to do in the near
- 18 future.
- 19 Q All right, sir. We have not made a decision on your
- 20 release yet. That is something we have to do. We have
- 21 to deliberate, and we have to look at a number of
- 22 statutory factors that we are required to look at by
- 23 law. And then we give weight to different factors, but
- 24 we are required to consider many factors.
- 25 A Yeah.



1 Q We will do that. And after we do that, we will notify
2 you within the next couple of days. Okay?

3 A Okay. Thank you very much for your time.

4

5 INTERVIEW CONCLUDED

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[REDACTED] [REDACTED] [REDACTED] [REDACTED]

1 (After due deliberation by the Parole Board Panel, the
2 following Decision was rendered:)

3 DECISION

4
5 Denied hold 24. Next appearance 5-14.

6 After review of the record and interview, the panel
7 has determined that if released at this time, your release
8 would be incompatible with the welfare of society and would so
9 deprecate the serious nature of the crime as to undermine
10 respect for the law.

11 The Board has considered your institutional
12 adjustment including discipline and program participation.
13 Required statutory factors have been considered including your
14 risk to society, rehabilitation, efforts, and your needs for
15 successful reentry into the community. Your release plans
16 have also been considered. More compelling, however, is the
17 complete disregard for the life of Deputy [REDACTED] [REDACTED],
18 [REDACTED], after you shot him while he was on duty protecting
19 Erie County. This heinous crime shocked the entire Western
20 New York community. You also attempted to kill another
21 officer during the commission of the instant offense. Your
22 crime exhibited extreme violence and disrespect for the law,
23 the family of the victim, and society.

24 During the interview, you demonstrated little incite
25 into your crime and minimized your violent actions. The Board

1 notes your past parole packets which include letters of
2 support, certificates of completion, program evaluations, and
3 letters seeking employment. The Board also notes your recent
4 letter from Saving Grace and your personal letter to the
5 Board. The Board also notes your COMPAS reentry risk
6 assessment scores and needs. All factors considered, your
7 release at this time is not appropriate.

8

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(All Commissioners concur.)

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CERTIFICATION

I, Carrie A. Fisher, 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 13 pages, is a true and correct copy of same and the whole thereof.

Dated: Monday, May 28th, 2012

Carrie A Fisher

Carrie A. Fisher, Court Reporter