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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: Reappearance

LOCATION: Great Meadow Correctional Facility
Video-conferenced to NYS DOCCS
97 Central Avenue
Albany, NY 12206

DATE: May 17, 2017
DECISION DATE: May 17, 2017

BEFORE: COMMISSIONER STANFORD
COMMISSIONER ELOVICH

ALSO PRESENT: J. LOVETT, SORC
K. EDWARDS, APA

AT FACILITY: C. GREENE, ORC
S. WETHERELL, ORC

HEARING REPORTER: AnnMarie Testa
DURR COURT REPORTING

1 BY COMMISSIONER ELOVICH:

2 Q Hi. Are you [REDACTED] [REDACTED]

3 A Yes, I am.

4 Q Hi, Mr. [REDACTED] I am Commissioner Elovich. With me today is Commissioner Stanford.
5 How are you?

6 A I am fine.

7 COMMISSIONER STANFORD: Hello.

8 BY COMMISSIONER ELOVICH:

9 Q Good. You are serving a controlling sentence of seventeen-to-life for robbery first,
10 attempted murder second, and burglary first, is that correct?

11 A That is correct.

12 Q And you are here today for a reappearance interview. Are you ready to proceed today?

13 A Yes, I am.

14 Q First let's start with what you have been doing since your last Board appearance. How
15 have you been spending your time? You were last seen in May, May 11th of 2016, held
16 twenty-four months, what have you been doing since that time? And I did receive a
17 recent letter from the National Lawyers Guild, they wrote a very nice letter on your
18 behalf with a parole plan, so we'll consider that letter and we'll talk about it in a moment.
19 But, tell us how you have been spending your time. I do have a list of your printout, I see
20 you have education accomplishments, you have done AVP, you have done ASAT and
21 ART, worked as teacher's aide. You spent a lot of time writing. Did you write this parole
22 preparation guide?

23 A Yes, I did.

24 Q Very good job with that, very interesting. Especially being a Parole Board member and
25 our perspective and reading it, you covered a lot of key points in there.

1 A Thank you.

2 Q Let's talk about your efforts toward rehabilitation and what you have been doing,
3 spending your time doing since your last Parole Board?

4 A I have been spending my time reading a variety of books. I get money from my family
5 and half of it is spent on books in the area of medicine, area of business, in the area of
6 philosophy, study a lot, and then I write from my studies. However, the last year things
7 have changed dramatically because my health has been declining, so I have not studying
8 as consistently as I have done previously.

9 Q What are your medical issues, Mr. [REDACTED]

10 A Well, two months ago, about two-and-a-half, three months ago I was having a lot of pain
11 constantly and I had went to the medical staff here on numerous occasions, they gave me
12 some basic pain killers, Tylenol, Ibuprofen, that was ineffective and I explained I was not
13 going to the bathroom normal.

14 Q So, you are having prostate issues?

15 A That is the second issue.

16 Q I don't need you to tell me every medication you are taking, what are your medical issues
17 in a nutshell?

18 A In a nutshell, I have enlarged prostate, Dr. [REDACTED] made me aware of that fact can get
19 prostate cancer and number one to die from it and scheduled me for biopsy because my
20 PSA is very high.

21 Q We wish you good luck in that regard and hope everything heels with you smoothly. You
22 have a prostate issue, any other medical issues?

23 A Yes, I have tumors on both sides of my stomach. When I went to the colonoscopy the
24 enterologist, she informed me that I should have been given a scope where they went in
25 through the mouth and went down to the stomach and looked at the tumors and done a

1 biopsy.

2 Q Did you apply for medical parole, sir?

3 A At this point, no, I did not. I am here for regular parole consideration.

4 COMMISSIONER ELOVICH: Can we mute for a second?

5 (Whereupon a brief discussion was had off the record.)

6 BY COMMISSIONER ELOVICH:

7 Q Okay, Mr. [REDACTED] I am just checking to see what your medical level was designated and
8 it is Level 3 and under the explanation it says that you indicated that you had small cell
9 tumors on both sides of your abdomen, we'll take that into consideration, as well as your
10 prostate issue. I see that you are not medical parole. As you know, your mental health is
11 ISY, which is very serious. In terms of your mental health, your diagnosis is bipolar
12 disorder?

13 A Yes.

14 Q And it says that you have been cooperative and receptive to mental health treatment and
15 recipient in terms of your programming and overall effort of rehabilitation. What would
16 you say is the most significant program and effort that you made in that regard?

17 A The most significant effort that I have made, to be perfectly honest and frank with you, is
18 the audio test study that I do. I study so much on my own, it is something that I enjoy. I
19 appreciate acquiring knowledge. My greatest, and also you know as far as the
20 programming is concerned, I make it a benefit to myself to try to gain everything that I
21 can gain outside from other people as far as knowledge.

22 Q I did see in the National Lawyers Guild letter, it says that you are trying to create more
23 meaningful relations with family members that you have been involved with, is it your
24 sister?

25 A Yes, I speak to her regularly. She was recently briefing me on Spanish, she is very fluent,

1 she is Jehovah Witness and married.

2 Q Where is she living?

3 A In [REDACTED].

4 Q Would you live with her if you are released?

5 A Yes.

6 Q On the Parole Board Report it says undomicile, so has your living situation changed, has
7 she agreed to take you in to live with her?

8 A She has agreed, yes, she agreed to take me. Not only take me in, but she has everything
9 set up with the extra room. She only has three criterias.

10 Q Okay.

11 COMMISSIONER STANFORD: What are they?

12 THE INMATE: I have to go to Bible study and I have to go to the Hall and
13 there is no cursing in her house.

14 BY COMMISSIONER ELOVICH:

15 Q Those all sound like reasonable criteria.

16 A I agree.

17 Q And we have your COMPAS, it scores you low risk overall future felony violence,
18 rearrest, and absconding. In terms of your need, it has medium risk of history of violence
19 based on your history of violence. It also has probable reentry to substance abuse based
20 on substances that you were using out in the community. I did read the prior transcript
21 about your substance abuse and the instant offense does involve substance abuse that was
22 being done at the time of the instant offense, is that correct?

23 A That is one-hundred percent correct.

24 Q In fact, in one transcript you said that you were in a drug induced psychosis?

25 A That's correct.

1 Q And you thought someone was trying to steal cocaine and money from you and that was
2 in offense that involved the hatchet, you were hitting someone with a hatchet numerous
3 times [REDACTED] of '92. You also have another offense stealing a victim's handbag
4 that contained money and then stabbing her with a knife and then another offense
5 involved you stealing money again. Is there anything that you would like to say regarding
6 the instant offense?

7 A Yes, I would like to.

8 Q In looking back at your pattern too, your criminal history, you have a long history of
9 robbery related offenses and dangerous, aggressive behavior toward multiple victims.
10 First tell us anything that you would like to say regarding the instant offense and then
11 what you think about, what you think about the pattern that you had and the history?

12 A Okay. Would you like me to start with the offense first?

13 Q Sure.

14 A I was involved with drugs and drugs led me to crime sprees to obtain drugs. To be
15 specific, if you take Ms. [REDACTED] situation, I committed that robbery of stabbing because I was
16 trying to obtain money for drugs and I was already high at the time that I committed that
17 crime back in 1984. I later found out that, I had called my mother and I found out that
18 Ms. [REDACTED] went to the same Kingdom Hall as my mother and my mother told me that she
19 was going to kill that boy.

20 Q I saw that you had mentioned that in a prior transcript and you said that you ended up
21 getting in touch with the victim?

22 A My mother gave me her number and I called her and apologized. We used to talk
23 regularly. My main word when I called her all the time, when I asked her how you doing,
24 just bumming around here trying to live, and go on with our conversation. And in 1991
25 when I got reversal and got out, I brought my son and my son went over to the house and

- 1 had dinner with her because she was Jehovah Witness.
- 2 Q What about the other offense, anything that you want to say regarding those?
- 3 A Yes. I knew very well, I had been in that house two days smoking crack.
- 4 Q Was the one that you hit in the head with a hatchet?
- 5 A Yes, he is. I did not bring that in the house, had it in the house to keep the crack
- 6 heads in line. I went to the bathroom and came back and highly paranoid from two days
- 7 smoking and plus I had personality where I had high anxiety, that is why I am into yoga,
- 8 to try to take it slow and relax.
- 9 Q Yoga is a very positive activity.
- 10 A Yeah. But anyway, my hyper personality with the drugs led me to believe that she had
- 11 stolen from me, her and the female that was there.
- 12 Q Where did you get the hatchet?
- 13 A The hatchet is on the floor in the room.
- 14 Q It is on the floor?
- 15 A Right. And we were all smoking, people coming in, leaving, we were smoking and
- 16 hatchet is there to keep people in line. He had it there, I did not bring it with me. So
- 17 anyway, what happened was when I thought that they had robbed me I started arguing
- 18 with him. When they didn't give my what I thought they took from me, my cocaine, we
- 19 started to fight. I picked up the hatchet and hit him a couple of times in the head with the
- 20 hatchet and left the apartment.
- 21 Q Go ahead, finish your thought?
- 22 A At which time I came back to the apartment and apologized to him and we smoked again.
- 23 The strangest part of this I think is that he accepted my apology and then after that we get
- 24 into a situation where he is claiming or his wife is claiming that I committed this act.
- 25 Q Mr. this is your fourth time in State prison, you have violated parole in the past,

1 we realize you have been in a long time, over thirty years, do you think you have broken
2 your pattern of behavior?

3 A I definitely have aged out of crime, there is no crime. I have aged into an awareness that I
4 want to make a difference in a positive way, but I want to improve myself. I don't know
5 how much time I got left, so I want to do some productive things.

6 Q I do have your case plan, which you pointed out some of the things that you want to do,
7 plans, goals, activities. You have continued legal work appeal. Your goal is to reunite
8 with your family?

9 A That was two years ago.

10 Q Well, actually this is a case plan that is date and signed by you March 24th, 2017, it says
11 client's signature.

12 A Can I comment on that, please?

13 Q Yes.

14 A I would like to take a moment to comment on it. I never stated that at that time, I stated
15 that way back in 2015.

16 Q Let's update some of your goals, outline it for us. A few of your goals are somewhat
17 outlined in the National Lawyers Guild letter that was sent, but what are some of the main
18 goals that you would like achieve on the outside?

19 A What I would like to do is work with my adoptive family there, the three women involved
20 in the letter that you received, they have adopted me and I have adopted them, meaning
21 that I want to help them with social issues, issues involving some of the things that people
22 that are under privilege have, people that are suffering from certain situations, I want to
23 work with them. For instance [REDACTED] that is there, [REDACTED] also works at a rape crisis center,
24 she volunteers.

25 Q What about employment, sir, do you have any jobs that are outlined for you that you have

1 identified?

2 A Well, my circumstances, the three women that you have there explained to me because of
3 my circumstances, what they are setting up for me to make sure that I get to my mental
4 health medication out there, I get my mental health therapist out there, they want that
5 process done first. My family, my sister is going to make sure that I have the financial
6 support that I need and housing that I need.

7 Q I see that you wrote to Osborne Associates and Fortune Society?

8 A I did.

9 Q You have transitional letters.

10 COMMISSIONER ELOVICH: Commissioner Stanford, any questions?

11 COMMISSIONER STANFORD: No. Thank you.

12 BY COMMISSIONER ELOVICH:

13 Q All right, sir. We have a lot to think about here. You have done some positive things
14 with your time and your writing, as I said before, is impressive in terms of your ability to
15 write. You do have a significant history and instant offense, as you know. There is a lot
16 that we need to weigh here and discuss. We'll deliberate for a while after you leave the
17 room and make a decision and get back to you in a couple of days.

18 A Can I say something as of close?

19 Q Absolutely.

20 A I would like to say that, you know, I wake up every morning and I look at the obituary
21 column and my name is not in it and I get ready for chow. This is the cause of my life. I
22 want to be a productive citizen and finish my life to help the quality of life of my fellow
23 in such a partisan world, partisan America, excuse me. I see so much suffering and I am
24 suffering too. I want to do as much as I can with all the knowledge that I have acquired
25 with limited time that I have left to make a difference in people's lives. I cannot change

1 the past, the past will always be what it is. I can make a difference in the future of myself
2 and others, mostly that for me would suffice. That is all I can do. But what you don't
3 have to worry about if you decide to release me, is committing a crime again or using
4 drugs again.

5 Q All right, sir.

6 A There is a close to that. By the way, father time put a close on me too, not just a close
7 because of the fact, you know, I am saying it is close, I am a different person biologically,
8 mentally, and I just want to get an opportunity to prove not to only you, my family, I did
9 not mention to you there is eleven women that want me out of here, eleven. I have five
10 sisters that is alive, those three women there that want me out, there is two women --

11 Q Just for the record, those three women that you are referring to are the women from the
12 National Lawyers Guild that have written on your behalf.

13 A My five sisters and my wife that --

14 Q Now, I notice that the letter from your wife was from a while ago, are you still married
15 and is she still in support of your release?

16 A What happened, that is what I mean by updated the file in 2015, after my last denial my
17 wife asked me for divorce after eighteen years of marriage, twenty-one years together,
18 and I granted her the divorce. I noticed that when I read the risk assessment they had me
19 still married, I granted her the divorce and I allowed her to keep everything that she had,
20 including her retirement and her 401K and everything. I did not want lawyers to make
21 any money off the situation. But we are divorced now, but she makes, every now and
22 then she makes sure I have some financial help and writes me a note and let's me know
23 she is okay.

24 Q Very good.

25 A Yeah. But she could not deal with the denials over and over again, just wore her out. So

1 the suffering is all around, it has been a mess, so please whatever you do, could you try to
2 end it for me, I would appreciate.

3 Q We'll consider everything that you said, everything that you submitted, all the factors that
4 we are required to consider, and we'll get back to you in a couple of days. Thank you.

5 A Thank you.

6 Q Take care.

7 (Whereupon the inmate was excused.)
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1 (After due deliberation by the Parole Board Panel, the following Decision was rendered:)

2 DECISION

3 DENIED 18 months. Next appearance 11/18.

4 Despite your low Correctional Offender Management Profiling for
5 Alternative Sanctions, after record review and interview the Panel has determined that if
6 released at this time there is a reasonable probability that you would not live and remain
7 at liberty without again violating the law and your release would be incompatible with the
8 welfare of society and so deprecate the serious nature of the crime as to undermine
9 respect for the law. This decision is based upon the follow factors:

10 Your instant offenses, robbery first degree, attempted murder second
11 degree, and burglary first degree, for which you are serving controlling sentence of
12 seventeen-to-life. This crime is a continuation and severe escalation of a pattern of
13 robbery related offenses. This is your approximate fourth time in State prison. You have
14 violated parole in the past. Your crime shows a pattern of aggressive and violent
15 behavior towards multiple victims.

16 The Panel suggest that you document your residence to coincide with what
17 we discussed during the interview and in addition document specific ways of complying
18 with your serious mental health needs.

19 The Panel notes your letter of support, letter from Transitional Program, and
20 National Lawyers Guild parole packet. The Panel also notes your educational
21 accomplishment, Aggression Violence Program, Aggression Replacement Therapy, work
22 as teacher's aide, and Alcohol & Substance Abuse Treatment also. All factors
23 considered, discretionary release is not appropriate at this time.

24 (Commissioner Stanford concurred.)

25

[REDACTED], [REDACTED]

DIN# [REDACTED]

NYSID# [REDACTED]

CERTIFICATION

I, ANN MARIE TESTA, 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 whole the thereof.

Dated: June 5, 2017

AnnMarie Testa

AnnMarie Testa