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NYS DEPARTMENT OF CORRECTIONS
AND COMMUNITY SUPERVISION
BOARD OF PAROLE

Parole Board Interview

In the Matter

-of-

[REDACTED]

DIN # [REDACTED]
NYSID # [REDACTED]

TYPE OF INTERVIEW: Reappearance

HELD AT: Fishkill CF

HELD ON: November 13, 2013

BEFORE: COMMISSIONER W. SMITH
COMMISSIONER LUDLOW
COMMISSIONER SHARKEY

VERBATIM REPORTER: Christine M. Wolcott

1 BY COMMISSIONER SHARKEY:

2 Q. Sir, would you state your name.

3 A. [REDACTED]

4 Q. All right. Let me start all over. Would you state
5 your name for the record.

6 A. [REDACTED]

7 Q. Good morning. I am Commissioner Sharkey. I'm here
8 together with Commissioner Smith and Ludlow.

9 COMMISSIONER SMITH: Good morning.

10 COMMISSIONER LUDLOW: Good morning,

11 sir.

12 Q. This is a reappearance for you, is that right?

13 A. Yes, sir, it is.

14 Q. You met the Board in 2011 and were denied?

15 A. That's correct.

16 Q. You're presently serving a sentence of 25 years to
17 life as a result of a conviction by verdict of Murder in
18 the 2nd Degree, is that right?

19 A. That's correct, commissioner.

20 Q. I need to caution you that, because you were
21 convicted by verdict, everything we discuss today is
22 being recorded, as you can see. It will become a
23 document when it's completed, which becomes a public
24 document and can be used in proceedings down the road,
25 including Appellate proceedings, do you understand that?

1 A. Yes, commissioner.

2 Q. Are you appealing this conviction?

3 A. Currently, I have a 440 Motion in the Second
4 Department because it's taken 23 years to get the DNA
5 test proved and the results came back coincidentally the
6 same day I got my denial. I was excluded from DNA
7 tests. Now, I have a motion in here to either dismiss
8 the indictment or another trial.

9 Q. Now, have you -- okay. Have you provided that
10 information to the prosecution?

11 A. Oh, yes. [REDACTED] County is not -- they have
12 responded. They're still changing the story of my
13 so-called guilt now.

14 Q. Are you -- were you offered a plea in this case?

15 A. Excuse me. No, sir.

16 Q. Okay. Now, the records reflect that in 1984, in
17 [REDACTED] County, you caused the death of your wife, [REDACTED]
18 by bludgeoning her to death with a fireplace iron,
19 that's the allegation?

20 A. That is part of it, yes, sir.

21 Q. There are also, according to -- according to the
22 other records, the medical examiner's report, it
23 indicates that she was bludgeoned with a fireplace
24 poker, which caused a compound skull fracture, and she
25 suffered multiple puncture wounds in her neck, trachea,

1 breast and hip and her hyoid bone was broken, indicating
2 she was also strangled.

3 A. I read all that. Yes, sir.

4 Q. I take it you -- based on what I see here and your
5 interview for the inmate status report, you're
6 maintaining your innocence?

7 A. That's correct.

8 Q. Now, I read the sentencing minutes and you made a --
9 well, your attorneys made a motion to set aside the
10 verdict on -- against the weight of the evidence
11 grounds, is that right?

12 A. The entire case was circumstantial evidence,
13 commissioner.

14 Q. I understand. My question is they made a motion to
15 set aside the verdict. I saw that the judge denied
16 it --

17 A. That's correct.

18 Q. -- the trial judge. Now, did you -- have you
19 appealed your conviction?

20 A. Yes, sir.

21 Q. And you went to, what, the second department?

22 A. (Inmate nods head.)

23 Q. Did you go to the Court of Appeals?

24 A. The Court of Appeals did not let me in.

25 Q. Was it unanimous, the Second Department, or was it

1 three to two, four to one?

2 A. I don't remember, commissioner.

3 Q. Did you have to apply to the Court of Appeals for
4 leave?

5 A. I believe so.

6 Q. So it must have been unanimous I'm just asking. So
7 you have been through that process and now you're into a
8 second process?

9 A. That's correct.

10 Q. Now, let me ask you this. I see in your sentencing
11 minutes that nobody ever raised an issue with regard to
12 the probation report. Nobody challenged the probation
13 report; there was no motion to correct anything in the
14 probation report?

15 A. Not that I'm aware of. When I read it, I was upset
16 that there wasn't.

17 Q. But my question is do you recall any motions being
18 made to correct the probation report or change it?

19 A. I don't.

20 Q. I don't either. I don't see anything. Now, the
21 probation indicates -- let me back up a little bit. You
22 are now 75, is that right?

23 A. That's correct.

24 Q. You have been in 27 years?

25 A. That's correct.

1 Q. And you were 46 at the time of the event?

2 A. Yes, correct.

3 Q. The probation report indicates this was your third
4 wife, is that right?

5 A. Yes, commissioner.

6 Q. There's some indication in here that you talked to
7 your second wife at one point. What happened to the
8 first wife?

9 A. She was living in [REDACTED]. She came back east to
10 testify at my trial. She passed away three years ago.

11 Q. You got married about two years before this incident?

12 A. To [REDACTED] yes. Yes, commissioner.

13 Q. To [REDACTED] Now, at some point, within a couple of
14 months prior to the homicide, you were -- you had
15 entered into a relationship with a [REDACTED]

16 A. That's correct.

17 Q. In fact, you were spending more time there than you
18 were at home, correct?

19 A. I stopped sleeping with my wife, so to speak, six or
20 seven weeks prior to.

21 Q. Now, you had a drug problem at the time, correct?

22 A. I was using drugs, yes, commissioner.

23 Q. And [REDACTED] was too?

24 A. (Inmate nods head.)

25 Q. Now, there's a reference in here to the fact that you

1 were spending maybe up to 3,000 a month on cocaine and
2 got into debt?

3 A. That is incorrect.

4 Q. Okay. It may be incorrect. Did you ever move to
5 strike that from the probation report?

6 A. I didn't make any official moves. I explained to my
7 lawyer that it was insane, that I could not --

8 Q. Did they ever make any motion to correct the report?

9 A. I don't know, sir.

10 Q. It says in May, about a month before this incident,
11 you moved out of the home and moved into Miss [REDACTED]
12 home.

13 A. That is incorrect, sir. I stopped sleeping with my
14 wife, so I spent most nights at [REDACTED] [REDACTED] home. I
15 was in my own home everyday. I took -- everything I
16 owned was still in my home, except for work clothes and
17 a sports jacket.

18 Q. Now, as I understand it, the home was originally
19 purchased in your name --

20 A. Yes.

21 Q. -- at [REDACTED]?

22 A. Yes.

23 Q. But at some point, as a gift to your wife, you added
24 her name to the deed.

25 A. I don't recall doing that. I had a 13-year-old

- DIN [REDACTED] [REDACTED] NYSID # [REDACTED]

1 daughter. When I retired, I had custody of my daughter.
2 I bought a home to make a home for her. I was dating
3 [REDACTED] at the time. I don't recall making a gift of
4 anything. I would have left my portion of the home, if
5 I were to predecease her, to my daughter and she would
6 have been my wife and, obviously, she would have had her
7 half, or whatever the law calls for. I know how they
8 worded that, but it's weird the way it says.

9 Q. Okay. Having said that, I don't see any motion to
10 strike that from the probation --

11 A. No, sir. Like I said, I can't remember fighting any
12 of that. I'm reading it now --

13 COMMISSIONER LUDLOW: If I can
14 interject. That question could be answered by
15 reference to the official records of the [REDACTED]
16 County Clerk.

17 THE INMATE: It might be.

18 COMMISSIONER LUDLOW: What was the
19 current deed? What was the status of the title as
20 of the date of the crime?

21 THE INMATE: And I have no answer to
22 that, because I don't know that we have looked into
23 it. I can ask Mr. [REDACTED] at this point in time.

24 COMMISSIONER LUDLOW: Well, I mean you
25 should have a recollection of whether you owned the

1 property individually or whether your ownership was
2 shared with another party. I mean how many pieces
3 of property did you own back then?

4 THE INMATE: That was it. That was
5 the only piece of property. I spent 24 years in the
6 navy, I retired in 1979; 1980 I bought a house,
7 first time I ever owned any real estate or done
8 anything in the civilian world.

9 COMMISSIONER SMITH: When in 1980?

10 THE INMATE: I believe it was in the
11 spring; March, April.

12 COMMISSIONER SMITH: You don't find it
13 a little unique that you can remember that, but not
14 if someone else was on the title?

15 THE INMATE: It was six or eight
16 months after I retired. I don't remember exactly
17 which month it was, no, sir.

18 COMMISSIONER SMITH: That's not my
19 question. My question is you can remember that, but
20 you can't remember --

21 THE INMATE: I can't remember changing
22 the title to include [REDACTED] Although, it may have
23 been that I did so. She was my wife.

24 COMMISSIONER SMITH: Very interesting.

25 BY COMMISSIONER SHARKEY:

1 Q. You had only been married two years at the time of
2 her death?

3 A. Yes.

4 Q. Okay. Now, [REDACTED] was a nurse, correct?

5 A. That's correct.

6 Q. Worked at [REDACTED]?

7 A. Yes.

8 Q. Worked 4:00 to 12:00?

9 A. Yes.

10 Q. So she would get off at midnight, and this incident
11 occurred allegedly about 1:00 a.m.?

12 A. I believe it was close to 2:00 a.m.

13 Q. Okay. 1:00 to 2:00. Now, was anybody in the home at
14 that time staying? Her son was there, correct?

15 A. Her son was living with her. He was in the home up
16 until 10:00 or 10:15 the evening previous because he
17 came in when I was there, so --

18 Q. Right. And he had -- isn't it true that he had
19 started a job at a [REDACTED] gas station that night?

20 A. I don't know if it was that night, but that's where I
21 found out he was working. I didn't know he had that
22 job.

23 Q. So he wouldn't have been home at the time?

24 A. The record reflects he was working that night.

25 Q. And that was his first night on the job?

1 A. I don't know that, sir.

2 Q. Now, one of your neighbors was a state trooper, true?

3 A. Yes, he is.

4 Q. Who was that?

5 A. Mr. [REDACTED].

6 Q. And that was the first time he went from a different
7 shift to a midnight shift, is that correct?

8 A. I don't know that.

9 Q. It just seems kind of coincidental that you -- you
10 were really friendly -- let me finish.

11 A. Yes.

12 Q. In fact, they stood up for you at your wedding.

13 A. Yes, sir. That's what I was going to say.

14 Q. So it's coincidental to me that the only person in
15 the home was her son and he was on his first day at work
16 at [REDACTED] gas station that night, and the trooper, who
17 was your next door neighbor, who had been working a
18 different shift, all of a sudden, started working
19 midnights and that left nobody home, do you find that
20 odd?

21 A. Yes. The way you put it, commissioner, yes, I do.

22 Q. Now, in the PSI it also indicates that you were --
23 when you were convicted, you were particularly appalled
24 at the speed with which the jury convicted you and
25 intimated that there was a police conspiracy to cover up

1 what actually happened and that the jury had been
2 tampered with. I'd like your reaction to that.

3 A. I was pretty upset at the time. If you read -- my
4 lawyer that -- the attorney wrote -- he stated in --
5 after the trial's results, he spoke with Judge [REDACTED],
6 who also indicated he was very surprised at which the
7 speed the jury came back with a verdict, had the
8 verdict. You know, like I said, I spent 24 years in the
9 navy; I joined at 17. I'm now an adult then, in my 40s.
10 This is not the America that I was serving and then grew
11 up in. You don't convict people just because you come
12 up with stories and things that look bad.

13 Q. Well, you chose not to testify, isn't that correct?

14 A. My problem, yes, sir. Maybe you can see it in me. I
15 have a problem with public speaking, and I sometimes
16 really freeze. I just --

17 Q. You don't seem to be having a problem freezing here.

18 A. Well, I am.

19 Q. Was that on the advice of counsel?

20 A. Not --

21 Q. Not to testify?

22 A. Not that I remember. I just told him I was afraid.

23 Q. You said in the PSI and, they quoted you, "I did not
24 want to badmouth [REDACTED] in front of her children."

25 A. It would occur to me that they would ask me the

1 question of who else could have done it, and the answer
2 is anybody. She was already having an affair with one
3 person we found out during the trial. She had had an
4 affair with a police officer for 11 years prior to my
5 marrying her. The way it sounds, if I say it, is that
6 I'm badmouthing my wife. I don't mean that at all. She
7 was a grownup woman with normal appetites.

8 Q. You were asked what might have happened to your wife,
9 in view of the fact that you are maintaining your
10 innocence, and you believe that there was more than one
11 assassin and you also wondered if, quote, "Maybe a cop
12 was involved." Do you remember that?

13 A. I can answer your questions too. They said during
14 the trial two rear doors were open, and they kept saying
15 that I was probably the perpetrator because I had my own
16 key. We didn't even close the rear doors. There was a
17 sliding glass door in the den and there was another door
18 where the washer and dryer was. It was left open. We
19 didn't live in a society where you had lock every door.
20 They found blood at both rear entrances. Given the
21 testimony of the officer on the scene, he arrived,
22 walked around the side of the house and heard somebody
23 fleeing through the backyard. I don't see how one
24 person could've gone out two doors simultaneously, all
25 at once.

1 Q. You -- according to the pre-sentence investigation
2 report, you never expressed any remorse or sadness at
3 your wife's death or with the brutal way in which she
4 died?

5 A. That was somebody's take on how I feel. I was very
6 remorseful. I did not wish anything whatsoever.

7 Q. Then my question to you is, if that was wrong, why
8 didn't you try to correct it?

9 A. I didn't think I read that until I was in Sing Sing,
10 sir. I honestly don't remember that.

11 Q. You told me earlier that you read it.

12 A. Yes, recently.

13 Q. No --

14 A. I hope I didn't -- I was not familiar with that until
15 I was well convicted.

16 Q. You had some pretty bitter arguments, like two days
17 before on the front lawn with your wife?

18 A. They were not bitter.

19 Q. Neighbors heard it.

20 A. Obviously, it was summertime.

21 Q. Let me ask you something. There's some information
22 in the file I'd like to ask you about. The next door
23 neighbor that night, during the attack, heard the victim
24 scream, "Oh, my God, . Stop. Somebody help me.
25 He's killing me. He's killing me." I'd like your

1 reaction to that.

2 A. Yes, sir. To clarify, while I was in the police
3 station during the 21-hour interrogation, after they
4 picked me up, I read [REDACTED] statement and she
5 said, and I quote, "I heard stop, stop, stop or "Stop,
6 [REDACTED], stop. I don't remember which." That was the total
7 statement. She said that in writing three hours -- made
8 that in writing three hours after the crime. A week
9 later she was interviewed by the district attorney. She
10 said the same thing. "I heard either, Stop, stop, or
11 stop, [REDACTED]. I don't know which." Somewhere's between
12 then and 16 months later, when they finally arrested me,
13 apparently she changed her story, because I'm assuming
14 she said to the grand jury what we're reading and that's
15 what she said at trial, and it was brought up at trial.
16 This woman has completely changed her testimony.

17 Q. Well, she was cross-examined at trial by your
18 attorneys concerning that statement.

19 A. Yes, it was all brought out.

20 Q. You understand that the jury is the one who assesses
21 the credibility -- do you understand it's the jury that
22 assesses the credibility of the witnesses?

23 A. I do, sir; much to my chagrin.

24 Q. Let me ask you this, and I'd like your reaction to
25 it, evidence at the trial established that you had

[REDACTED] [REDACTED] [REDACTED]

1 powerful motives for murdering your wife. You were
2 involved in a bitter, ongoing dispute which erupted into
3 an argument in the front yard of their house just two
4 days prior to the murder. You wanted to avoid a long
5 costly divorce trial, obtain sole possession of the
6 marital home and hoped in doing so to relieve yourself
7 of your financial situation, fueled in part by a
8 3,000-a-month cocaine habit.

9 A. Number one, 3,000-a-month cocaine habit is incorrect.
10 I was in total debt of about \$15,000 which, considering
11 I had just bought a home and furnished it entirely well
12 within the last few years, I thought was quite good. I
13 was spending some money on cocaine, more than I should
14 have. I was breaking the law; I was using cocaine. I
15 understand it was against me, but there was no motive to
16 kill my wife. What would I have gained? I don't
17 believe I had her as a beneficiary; I certainly don't
18 believe she had me as a beneficiary. There was no
19 insurance fight, there was no reason for either one of
20 us to wish that upon each other. We argued like two
21 people who were now breaking up. When we entered into
22 this marriage, we were very fond of each other; we loved
23 each other, no question about it. Like I said, I was
24 having an affair; she was having an affair.

25 Q. Were you supplying [REDACTED] [REDACTED] with drugs?

1 A. We bought drugs sometimes together, not that I was
2 supplying. I was never a seller; I never did that.

3 Q. Was the financial debt that you were involved in or
4 your addiction to drugs, which I assume was cocaine --

5 A. Yes, sir.

6 Q. -- did that involve also buying drugs for her, I
7 guess is my question?

8 A. No, I wouldn't put it that way.

9 Q. Now, did [REDACTED] [REDACTED] move into the house that your
10 wife [REDACTED] was killed in?

11 A. After -- about a year after I think it was changed.
12 I was prevented from going into the house after the
13 crime.

14 Q. Sure, because it was a crime scene.

15 A. Right. And two or three weeks later, when I went in,
16 it had been pretty well destroyed, and the carpeting was
17 gone and this was gone, that was gone. It took me quite
18 a while to start rebuilding and refinishing it, and I
19 didn't know if I was going to sell it or stay there or
20 whatever; I had no idea. About a year later we decided
21 that she can move in, it would be all right. That's
22 probably where a lot of the problems started with the
23 next door neighbors. I didn't realize at the time,
24 after the crime, the stove, barbecue that I had just
25 purchased last -- barbecue, the lawn mower and I believe

1 the refrigerator, four major items were missing, and it
2 took my lawyer about five months or so of going back and
3 forth with police and investigators to find out it was
4 next door. My -- state trooper, so-called friends, had
5 taken these things. I don't know what the cause was or
6 why because it was mid-winter before it was returned to
7 me. I should have known something was wrong then.

8 Q. Well, I mean the motive would be enhanced if your
9 wife was on the deed and you wanted her off, because you
10 wanted to bring your --

11 A. It may be. I can't honestly say whether I did or
12 not. If it was the normal thing to do, somebody
13 probably said, you know, do you want your wife on the
14 deed? I can't remember.

15 Q. Now, you say you weren't even there at the time?

16 A. No, sir. I left the house between 10:00 and 10:15.

17 Q. The awl that was used in the stabbing was found in
18 the backyard, correct?

19 A. They said the neighbors' yard, so I'm assuming it was
20 the next door neighbor.

21 Q. Okay. Isn't it true you had an awl in the house?

22 A. We had ice picks, awl, tool chest was right there.

23 Q. This is your only conviction, correct?

24 A. Yes, commissioner.

25 Q. We have your sentencing minutes from ██████████ County.

1 A. Yes, you do, sir.

2 Q. Judge [REDACTED] you were represented by [REDACTED] [REDACTED] [REDACTED]
3 [REDACTED].

4 A. [REDACTED].

5 Q. And [REDACTED]?

6 A. [REDACTED].

7 Q. He was Appellate counsel?

8 A. Yes, sir.

9 Q. I want to read from the record on page 29, the Court
10 made the following statement: "Before making a
11 determination of what sentence the Court felt was
12 appropriate, the Court thoroughly examined the probation
13 report, thoroughly examined what is now marked Court
14 Exhibit 1, the Summary of Context and Psychological
15 Evaluation of Defendant. It has gone through copious
16 notes that the court took during the trial and examines
17 the exhibits from the trial. Based on all of the for --
18 a foregoing, the Court, of course, found this to be a
19 vicious and brutal murder. The Court further found that
20 the Defendant was given a fair trial and the 12 members
21 of this jury, peers of the Defendant, chose to find that
22 the Defendant was guilty of this vicious and brutal
23 murder." Do you remember the judge saying that?

24 A. Probably, yes, sir.

25 Q. We have your COMPAS risk assessment -- we will

1 consider the sentencing minutes, by the way. COMPAS
2 risk assessment, a document that was prepared by your
3 help by answering a series of questions. Did you get a
4 copy of it?

5 A. Yes, sir.

6 Q. Did you get a chance to look at it?

7 A. Yes, I did.

8 Q. Any comments on the scoring?

9 A. No.

10 Q. It shows all your risks are low.

11 A. I believe that was the case.

12 Q. It says that if you're released, you'll be
13 undomiciled, as you have no family in New York. Meaning
14 you'll have to go to a shelter.

15 A. I would rather not.

16 Q. As far as employment, it says it will be developed.
17 You don't have any --

18 A. At 76, I'll do whatever I can do.

19 Q. Do you have a pension?

20 A. I will have my pension and my Social Security.

21 Q. Now, as I understand it, you are an honorably
22 discharged veteran. You've served what, 24 years?

23 A. I served 24 years.

24 Q. You've completed all of the programming, including
25 ASAT and ART. You've programed as a clerk typist in the

1 law library, and you're currently programming as an
2 administrative clerk in IGRC, is that correct?

3 A. Correct, sir.

4 Q. What is that, IGRC?

5 A. The Inmate Grievance Resolution Committee.

6 Q. You have some medical issues?

7 A. Yes, commissioner. 2010 -- I don't know. Did you
8 want a list?

9 Q. I've got them here. I mean COPD, emphysema, skin
10 cancer and hip fracture.

11 A. Correct, and no gall bladder.

12 Q. I do have a number of letters submitted on your
13 behalf. First of all, I have a parole packet that was
14 submitted by [REDACTED], which outlines -- there's an
15 introduction from her; personal statement from you; PSI,
16 which you were kind enough to supply, pre-sentence
17 investigation report --

18 A. Yes. Yes.

19 Q. -- sentencing minutes; claims of innocence;
20 statements of defense attorney; certificates that you
21 have achieved; COMPAS, which we went over; correction
22 letters of support; letters of support, all of which we
23 will consider. I note that there is a letter from,
24 actually, the superintendent here, [REDACTED] has written
25 two letters on your behalf.

[REDACTED] [REDACTED] - [REDACTED] [REDACTED]

1 A. Mr. [REDACTED].

2 Q. One back in '11 and now one for this Board, dated
3 September 26th, in which he recommends or he advocates
4 on your behalf. There's also a letter from the Fortune
5 Society, there is -- there's -- actually, there's two
6 letters from your attorney. One in -- for your 2011
7 appearance before the Board and -- almost a similar
8 letter submitted here for this, dated November 8th of
9 this year, so there's two of those. We will consider
10 everything that's contained in these packets, the
11 letters and what we have here. If you're released on
12 parole, what are your plans?

13 A. I'm going to ask for interstate transfer to
14 [REDACTED]. My sister-in-law has a house. My kid
15 brother had passed away a few years back and she has --
16 it's in a retirement community. She owns the home. The
17 second floor is now vacant. I've got my own apartment
18 there. The VA is nearby, there's a marine corps base;
19 this is [REDACTED]. [REDACTED] is close
20 by. I will be able to interact with veterans, probably
21 find work in the community or veterans in the --

22 Q. As a retiree, do you have access to the PX and
23 commissary?

24 A. Yes, sir.

25 COMMISSIONER SHARKEY: Commissioners,

1 any questions?

2 COMMISSIONER SMITH: I have nothing.

3 Thank you.

4 COMMISSIONER LUDLOW: When was the DNA
5 testing done?

6 THE INMATE: 2010 or '11, because the
7 results were received on the day -- the Friday of
8 the -- November 2011 denial that was -- I can't
9 remember the date. The Board was '9 or '10 or
10 something like that.

11 COMMISSIONER LUDLOW: What was the
12 result of that test?

13 THE INMATE: Excluded my blood -- no
14 blood or DNA from me was found under her
15 fingernails. Like I said, this whole thing rested
16 on circumstantial evidence, except it was so
17 convincing because I had two scratches -- parallel
18 scratches on my arm, and I had a bruised knuckle.
19 Throughout these proceedings, they said she was
20 fighting for her life and scratching me, and this is
21 when I hit her allegedly in the face with a mallet.
22 There was no corresponding bruise mentioned anywhere
23 to her mouth or her teeth and there was blood under
24 her fingernails, but it was not mine. As I said, I
25 was not there. All they do is exclude me --

1 COMMISSIONER LUDLOW: Yeah. And was
2 that DNA analysis utilized as to any other possible
3 perpetrators?

4 THE INMATE: They did not, as far as I
5 know, make it available to us. The attorney I had
6 assigned at the time asked for the DNA sample to be
7 passed onto whatever we were called there, the
8 defendants or -- for me to do independent testing.
9 Apparently that was not done.

10 BY COMMISSIONER SHARKEY:

11 Q. Did the attorney make a motion?

12 A. I think so, yes, sir, but, again, it's above my
13 knowledge.

14 Q. With regard to the injuries to you, the PSI notes
15 that -- well, let me stop. Didn't the police arrive at
16 the [REDACTED] where you worked --

17 A. Yes, sir.

18 Q. -- a few hours after this?

19 A. Roughly 5:00 o'clock, three hours, two hours.

20 Q. Actually, it says here 3:30 a.m., the Defendant
21 showed no emotion when he learned of his wife's death.
22 Detective [REDACTED] noted that the Defendant put his right
23 hand in his pocket to hide swollen knuckles and other
24 injuries, which police state were consistent with tooth
25 marks. Your body had other injuries, linear scratches

1 on your arm and bruises on your back and shins, which
2 you claimed you got from planting shrubs in
3 yard or from physical work at the post
4 office.

5 A. That is all correct, yes, sir. And if you read the
6 transcript, which I'm sure you don't have, but under
7 cross-examination the expert testimony, the medical
8 examiner -- the County Medical Examiner stated
9 that virtually looking at the photographs the police
10 took of these scratches, that the time they occurred
11 appeared between 24 and 36 hours, that was exactly 6:00
12 o'clock the previous morning when I told them I got
13 scratched on . The other expert testimony
14 was he's the orthodontist, and he says
15 the knuckle here could have -- see, both of them were
16 optional. said this did not appear to be
17 caused by a broken branch from a pine tree. However, it
18 was possible, not probable, but possible. This is his
19 words in the transcript, and the same thing with ,
20 he says it is not probable that this happened on this
21 cinder block, but it was possible and, again, this is
22 where I get upset sometimes. What are you talking about
23 proof beyond a reasonable doubt?

24 Q. Were you still buying cocaine from a dealer up until
25 the day you were convicted at trial?

1 A. Probably not, but I had probably bought some within
2 that period.

3 Q. Were you high on the night of this incident?

4 A. We had used cocaine earlier.

5 Q. Were there times when you blacked out from use of
6 cocaine?

7 A. No, sir, I did not.

8 Q. Did it affect you at all?

9 A. I started off using it like most nuts do. I was
10 working in restaurants when I first retired and long
11 hours, staying up 'til 3:00 or 4:00 o'clock in the
12 morning sometimes, you know, awake. It kept me awake,
13 alert. It became a dependency after not too long. I
14 didn't realize that.

15 COMMISSIONER LUDLOW: Okay. As you
16 look back, do you think you should have testified at
17 your trial?

18 THE INMATE: Definitely. Definitely.

19 COMMISSIONER LUDLOW: And, as such, do
20 you think that the jury drew a negative inference
21 from your not testifying?

22 COMMISSIONER SHARKEY: They can't do
23 that.

24 COMMISSIONER LUDLOW: I'm asking his
25 opinion.

1 THE INMATE: My opinion --

2 COMMISSIONER LUDLOW: Your opinion;
3 what was your opinion?

4 THE INMATE: My opinion was -- and
5 I'll tell you why -- it's almost like reading a bad
6 book, because my attorney used the phrase, My client
7 will not dignify this proceeding any further, and
8 I'm saying to myself after the fact, what a hell of
9 a thing to say. You read that in Mafia books. That
10 was not my intent. I was terrified, as I am now, of
11 going up and standing in front of a bunch of people
12 and answering questions. I've always had a problem
13 with that but, yes, I should have testified. I
14 don't believe they could possibly have seen me,
15 looked me in my eye and heard my side of it and
16 still convicted me. This is not to say that I was a
17 great, shining example of what I should have been,
18 could have been. I made many, many mistakes. I was
19 not living the proper life but, no, I've never
20 killed anybody or harmed anybody.

21 COMMISSIONER LUDLOW: Were you a
22 drinker back then of alcohol?

23 THE INMATE: Beer. It's, you know, 24
24 years in the navy, yes. I was a recruiter for 11
25 years and I was a shining example of what to do, not

1 getting wiped out drunk or anything.

2 COMMISSIONER SHARKEY: So half of your
3 tenure in the navy was directed toward recruiting,
4 is that it?

5 THE INMATE: Correct.

6 COMMISSIONER LUDLOW: Where were you
7 stationed then?

8 THE INMATE: [REDACTED] and [REDACTED]
9 [REDACTED]

10 COMMISSIONER LUDLOW: Around [REDACTED]
11 [REDACTED]?

12 THE INMATE: I was living at [REDACTED]
13 [REDACTED]. It's an army reserve base on the [REDACTED]
14 [REDACTED].

15 COMMISSIONER LUDLOW: Where does this
16 stand now with the DNA test? Where does the --

17 THE INMATE: I'm waiting for the
18 results. Supposedly the Second Department was going
19 to hear the case, whatever that means, on September
20 13th, I believe.

21 COMMISSIONER LUDLOW: Do you have
22 retained counsel or assigned? Are you paying an
23 attorney, or --

24 THE INMATE: No, I'm --

25 COMMISSIONER LUDLOW: -- or a public

1 defender?

2 THE INMATE: Help at the law library.

3 BY COMMISSIONER SHARKEY:

4 Q. So it's your motion?

5 A. Yes.

6 COMMISSIONER LUDLOW: Pro se?

7 THE INMATE: (Inmate nods head.)

8 COMMISSIONER SHARKEY: Have you sought
9 out an organization such as Project Innocence?

10 THE INMATE: I asked them once back in
11 1990 and '91 and they said since the case was
12 apparently wholly circumstantial, in the judge's
13 words, they would not be interested in it because,
14 even if I excluded my blood from the DNA, through
15 the DNA, it wouldn't show who did the crime.

16 BY COMMISSIONER SHARKEY:

17 Q. Right.

18 A. I'm saying, look, I'm really stuck with that. I
19 can't turn around and say who did what.

20 Q. What do you expect the Appellate Division to do?

21 A. I would expect them to read the entire transcript and
22 see, if nothing else, give me another trial, help me
23 bring out these -- either this --

24 Q. But your focus is narrow; it's on the DNA. You've
25 already told me that the Innocence Project told you

1 that, even if it went to somebody else, you can't prove
2 who did it because it was a circumstantial case.

3 A. Right, but the onus should not be on me to prove
4 somebody else did it, just anybody else.

5 Q. You don't understand the --

6 A. I don't. Sorry.

7 COMMISSIONER SHARKEY: Commissioners,
8 any other questions?

9 COMMISSIONER SMITH: Nothing else.

10 COMMISSIONER LUDLOW: No, nothing
11 further. Thank you.

12 Q. Mr. [REDACTED] is there anything we haven't talked about
13 that you would like us to know?

14 A. If I may ask a question or two. Is there anything
15 that any of you have seen in my record or in my
16 presentation there that would lead me to believe that I
17 couldn't be released and live without violating the law?

18 Q. That's something that we can't comment on.

19 A. Oh.

20 COMMISSIONER LUDLOW: That calls for a
21 conclusion. I know your question shows insight, and
22 I appreciate that, but for us to venture and answer
23 would suggest a conclusion and we have not arrived
24 at any conclusion. The interview is still open, the
25 record is still open and there's been no

1 deliberation by this Panel. As such, there's no
2 conclusion to be drawn at this juncture, but your
3 question shows insight, and I understand that.

4 Thank you.

5 THE INMATE: I feel very bad about
6 everything that happened. I don't know if I can
7 express the same remorse that I would have if I had
8 been the perpetrator. I never wished any harm.
9 It's just not right. You know, nobody deserves
10 anything like that. 158-pound man couldn't deal
11 with somebody who was stronger than me. You know,
12 this whole thing is so --

13 COMMISSIONER LUDLOW: How old was
14 at the time of her death?

15 THE INMATE: About the same age as me,
16 I think she was 44 or '5.

17 COMMISSIONER LUDLOW: Mid 40s?

18 THE INMATE: Yes.

19 COMMISSIONER LUDLOW: How did you
20 meet, you and

21 THE INMATE: Her daughter, was in the
22 marine reserves, introduced us. Because, like I
23 said, the police officer that she had the affair
24 with for 11 years had just recently died, within a
25 year or so, of cancer. She was, again, alone,

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1 looking for companionship or whatever. This is what
2 we decided on. We -- I was not married anymore. I
3 didn't have the fortitude or strength of character
4 to stay with my wife, my second wife, who was
5 somebody I loved dearly, but when she got into the
6 alcoholism, I was the weak one, you know. I just
7 saw my actions would properly bring her down again.
8 She was doing okay at the time. She was going to AA
9 and stuff like that, and she's done fine. She's
10 married again and she's okay but, you know, I didn't
11 have faith in myself, so to speak.

12 COMMISSIONER LUDLOW: Where are you
13 native to, [REDACTED]?

14 THE INMATE: Yes, sir. I was born in
15 [REDACTED]. We moved out to [REDACTED] in 1941.

16 COMMISSIONER LUDLOW: You were three
17 years old then?

18 THE INMATE: Yes.

19 BY COMMISSIONER SHARKEY:

20 Q. What did [REDACTED] call you affectionately, did she call
21 you [REDACTED]?

22 A. [REDACTED].

23 Q. You keep referring to the fact that you haven't --
24 you have a difficult time speaking in front of people.
25 You've done a really good job here, I think.

1 A. Thank you.

2 Q. So --

3 A. I feel different being down on this level. I was
4 talking about in front of court, but this is awkward for
5 me also.

6 Q. We have attempted to give you a full, fair and
7 accurate interview. In your opinion, sir, have you
8 received that?

9 A. I believe so, yes, sir.

10 Q. We will let you know in a couple of days. Thank you
11 and good luck.

12 A. Thank you, commissioners.

13 (The inmate was excused.)

14 (After due deliberation by the Parole
15 Board panel, the following decision
16 was rendered:)

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D E C I S I O N

Parole is denied. Next appearance
 November 2015.

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 and sentencing minutes which are in the
 file.

According to records, your instant
 offense occurred in 1984 in Nassau County, in which
 you bludgeoned your third wife to death with a

1 fireplace poker. You had been married to the victim
2 for approximately two years, and she was killed in
3 the home in which she was living, after working a
4 shift as a nurse. Records also reflect she was also
5 strangled and suffered multiple puncture areas of
6 various areas of her body.

7 This Panel acknowledges your parole
8 packet submitted by Attorney Kates and letters
9 submitted on your behalf, including a letter from
10 the superintendent at Fishkill.

11 This Panel remains concerned about
12 your failure to accept responsibility and the
13 violent nature of your wife's death, reflecting a
14 callous disregard for human life. According to this
15 Panel, the Panel concludes that discretionary
16 release is not warranted.

17 Parole denied.

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19 (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.

Christina M. Wolcott