

Fordham Law School

FLASH: The Fordham Law Archive of Scholarship and History

Parole Interview Transcripts and Decisions

Parole Information Project

February 2022

Parole Interview Transcript/Decision - FUSL000095 (2019-08-14)

Follow this and additional works at: <https://ir.lawnet.fordham.edu/trans>

Recommended Citation

"Parole Interview Transcript/Decision - FUSL000095 (2019-08-14)" (2022). Parole Information Project
<https://ir.lawnet.fordham.edu/trans/153>

This Parole Document is brought to you for free and open access by the Parole Information Project at FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in Parole Interview Transcripts and Decisions by an authorized administrator of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact tmelnick@law.fordham.edu.

[REDACTED]

DIN [REDACTED]

NYSID [REDACTED]

1

2 NYS DEPARTMENT OF CORRECTIONAL SERVICES AND COMMUNITY SUPERVISION

3

Parole Board Interview

4

In the Matter

5

-of-

6

[REDACTED]

7

DIN [REDACTED]
NYSID [REDACTED]

8

9

TYPE OF INTERVIEW: Reappearance

10

LOCATION: Ulster Correctional Facility
Video-conferenced to NYS DOCCS
20 Manchester Road
Poughkeepsie, New York

11

12

13

DATE: August 14, 2019
DECISION DATE: August 14, 2019

14

15

BEFORE: COMMISSIONER W. SMITH
COMMISSIONER M. COPPOLA
COMMISSIONER C. DEMOSTHENES

16

17

18

ALSO PRESENT: SORC K. TOMLIN
PA C. WRIGHT

19

20

AT FACILITY: ORC A. AVERY
ORC R. FOSTER

21

22

23

REPORTER: Erin Chickery, Hearing Reporter

24

25

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 COMM. SMITH: Good afternoon. What is your
2 name, sir?

3 THE INMATE: [REDACTED]

4 COMM. SMITH: Very good. [REDACTED] I am
5 Commissioner Smith joined by Commissioner Coppola and
6 Commissioner Demosthenes.

7 COMM. DEMOSTHENES: Hello.

8 THE INMATE: Hello. Good afternoon.

9 INTERVIEW BY COMMISSIONER SMITH:

10 Q. You are here having been found guilty at trial of
11 Murder Second, Attempted Robbery First, Criminal Possession of a
12 Weapon in the Second Degree, for which you have a 25 to life
13 controlling sentence, correct?

14 A. Yes.

15 Q. You've been seen on three occasions, actually you've
16 been seen on four occasions but one was reversed, one decision,
17 so on three occasions you were held for 24 months; is that right?

18 A. Yes, that's correct.

19 Q. You're approaching 31 years of this 25 year minimum.
20 We've had a chance to review what was said in the Sentencing
21 Minutes as well as the Presentence Investigation Report, you were
22 sentenced out of the court of the Honorable Justice James G.
23 Starky and your attorney was Julia Davis; is that true?

24 A. They got the attorneys mixed up, Julia Davis was the
25 prosecutor and my attorney was Richard Crosley (phonetic).

[REDACTED]

DIN [REDACTED]

NYSID [REDACTED]

1 Q. They actually reversed those two; is that right?

2 A. Yes.

3 Q. You know, it's kind of interesting because not only
4 that, I think when I was reading through the transcript, let me
5 just take a look, there was one area where I thought it might
6 have been a clerical error but what you're saying makes more
7 sense. There are a couple things that I had noted for discussion
8 in the Sentencing Minutes, by and large it goes forward, the way
9 that it is, I'm just looking at one instance where page 10 and
10 this makes more sense where your attorney would have been
11 speaking, talks about you maintaining your innocence at trial and
12 still maintained it, that was at that point, right?

13 A. Yes.

14 Q. Obviously you've written and discussed this case in the
15 past, you no longer maintain your innocence; is that correct?

16 A. No, at that point that was the point when I was still
17 in denial and I'm no longer in denial.

18 Q. Matter of fact another area that I had taken a look at
19 and pretty boldly said, "Yes, I would like to say I got convicted
20 for a murder I didn't do," remember that?

21 A. Yes, I remember that statement.

22 Q. If you committed the crime and you admit to it now, why
23 did you take it to trial? Why did you deny your guilt at that
24 point?

25 A. At the time I was in denial. I actually thought maybe

[REDACTED]

DIN [REDACTED]

NYSID [REDACTED]

1 I could fool someone into thinking that I didn't commit this
2 crime.

3 Q. Was your hope that someone else would be arrested,
4 somebody who was innocent would then get prosecuted and come to
5 state prison?

6 A. I never thought that far, I just was hoping that I
7 would be found innocent for this crime at that time.

8 Q. All right. Well, you've come to a point where you
9 acknowledge your guilt. We, by law, have to reach out to a
10 number of individuals, whether it's a registered victim or the
11 judge, your attorney, defense attorney, or district attorney and
12 we do have a letter from the district attorney that we'll be
13 reviewing as well. You have a COMPAS Risk and Needs Assessment
14 which kind of details areas of strengths, other areas of concern.
15 It is a scale of one to 10. Low scores are lower risk if you
16 will, higher scores are higher types of risks. And then your
17 Case Plan is developed with your counselor in attempt to develop
18 things that would reduce your likelihood of re-offending.

19 Now, in the COMPAS, it says risk of felony violence, these
20 scores are all one, which is the lowest you can get. Risk of
21 felony violence, arrest, absconding, all one. Negative social
22 cognitions, low self-efficacy, optimism, one. Low family
23 support, re-entry and financial and employment expectations, one.
24 So basically those are areas where you have some things in place
25 that might be helpful including residences and some options for

[REDACTED]

DIN [REDACTED]

NYSID [REDACTED]

1 what you would do in release plans. You actually have provided a
2 packet, right?

3 A. Yes.

4 Q. We have copies of that and it in some ways gives us
5 your thoughts on what you would do if released. Rather than me
6 just going and saying what's in there, why don't you tell us what
7 your plans are, where you'd live and also what you would do for
8 income?

9 A. I'm thankful that I have assurance in employment in the
10 food service industry, which I demonstrated in my packet. So the
11 food service industry that I've been in for many years and I'm
12 thankful for that. I plan to live with my stepbrother because
13 he's in the area where I'll be working in, one of the restaurants
14 that [REDACTED] will assist me in.

15 Q. What's your stepbrother's name?

16 A. My stepbrother's name is [REDACTED].

17 Q. Okay. I'm looking at your submissions, the letters,
18 you had submitted August 2nd his name on [REDACTED]; is that
19 right?

20 A. Yes, [REDACTED], yes.

21 Q. Is he your half brother you said?

22 A. Yes, he's actually my father's first wife's son.

23 Q. We have a number of letters from family, some from
24 friends, I didn't see in your packet a letter from him, did I
25 miss that?

DIN [REDACTED]

NYSID [REDACTED]

1 A. No, he went through some complications so the letter
2 didn't arrive here in time to get into my package, but I did put
3 a picture of me and him because he comes to see me very often, so
4 I did put a picture in with him and I.

5 Q. All right. Your secondary address is your brother
6 which we do have a letter from him, he lives in [REDACTED]
7 [REDACTED], correct?

8 A. That's correct, yes.

9 Q. Long term what is your intention, [REDACTED]
10 [REDACTED]?

11 A. Long term is [REDACTED] because they have a lot of
12 programs that will assist me, that helps people that's been
13 incarcerated like myself for a long period of time, so I
14 definitely would like to get involved with those programs and
15 start working with at-risk kids, which I've been doing while I've
16 been incarcerated also.

17 Q. The picture with [REDACTED] is on page 54 of your
18 submission. You have other letters, certainly we have one letter
19 from your brother in [REDACTED], we have a letter from your
20 niece [REDACTED], I believe she lives in [REDACTED]; is that right?

21 A. Yes, that's correct.

22 Q. You've got another, is it a niece, that lives in
23 [REDACTED]?

24 A. Yes.

25 Q. And there's others that have written here. Your cousin

[REDACTED]

DIN [REDACTED]

NYSID [REDACTED]

1 in [REDACTED], [REDACTED], and I'm not mentioning individuals that --
2 like, for example, you had a pastor that wrote and others.
3 You're not related to the pastor, right?

4 A. No, not at all.

5 Q. The reason I mention that is that these are individuals
6 that are writing, putting pen to paper but also willing to
7 specifically give you assistance and they are part of the reason
8 that your, it's called low family support, but your family
9 support score is one on the COMPAS, that's the result of that, do
10 you understand?

11 A. Yes.

12 Q. Your areas where the scores rise some include history
13 of violence, which makes sense if we review your criminal
14 history. Your criminal involvement is a medium, even higher,
15 where it's starting to give the volume itself, as well as prison
16 misconduct which for you is a score of five, basically right in
17 the middle of the one to 10. The reality is we look at the facts
18 and I think there were like approximately eight Tier III's, nine
19 Tier II's, the most recently Tier III was in 2014 so a little bit
20 more than five years ago. When you have a 25 to life sentence
21 there's some concept you ought to have 25 good years and then you
22 get to leave because that's the minimum, right?

23 A. Yeah.

24 Q. That's what they call it, the minimum. The maximum is
25 life, so if you're misbehaving and breaking rules and not

[REDACTED]

DIN [REDACTED]

NYSID [REDACTED]

1 programming, doing whatever negative, then you work towards the
2 life. So why have 15 plus violations, which half of those are
3 serious Tier III's, why the struggles?

4 A. A lot of the struggles came were in the beginning of my
5 incarceration when I was still not following rules or
6 regulations, I didn't care, didn't think I would be able to make
7 it towards this 25 years, so that was the reason why I was
8 lashing out and I still didn't come to grips with what I had done
9 where I was able to start rehabilitating. That was one of the
10 reasons I was catching these misbehavior reports early on in my
11 incarceration.

12 Q. Again, that's why we have the minimum and the maximum.
13 We want you to come in and be -- there's nothing that
14 Commissioner Smith or Coppola or Demosthenes can say that's got
15 more power than when the judge imposed a life sentence. Judge
16 Starky doing that, that's more profound than anything we can say.
17 You did have a violent conduct back in 2014, that's your most
18 recent Tier III violation, fighting, creating a disturbance and
19 violent conduct, what happened in that matter?

20 A. That was totally my fault, I got involved in a debate
21 that turned into an argument and next thing you know I was
22 fighting.

23 Q. You also have I see, as far as Tier III's, that have
24 some measure of aggressive behavior, you have a Tier III in
25 Eastern for assault on staff, you have a fighting Tier III in

[REDACTED]

DIN [REDACTED]

NYSID [REDACTED]

1 Eastern, you have a fighting in Clinton General, Tier III, and
2 then you have a weapon in Sing Sing. Did you have a temper, were
3 you angry, what was up?

4 A. The weapons and the fighting, that was earlier in my
5 incarceration. And, yes, I believe at that time I was angry and
6 lashing out at anything that confronted me. So I would have to
7 agree with you, yes, at that time I was angry.

8 Q. Now, with your Case Plan your counselor sits down and
9 says, okay, these are things that should be done to try to lessen
10 the impact and to reduce the risk of you being released.
11 Beginning of that has to do with substance abuse, what have you
12 done inside on that regard?

13 A. In substance abuse I took many programs, I took the
14 standard program, Alcohol Substance Abuse Treatment Program, I
15 also did NA, never really had an alcohol problem so I was mostly
16 concentrating on the narcotics side or things. Haven't been
17 involved or had any incidents with drugs in the last 25, 26
18 years.

19 Q. There's a goal of thinking about living with family
20 versus re-entry programs, you have reached out to the programs
21 and they're listed, Commissioner Demosthenes is reviewing that as
22 well, but they're listed in the program that you had, and you've
23 also mentioned what you hope to do in terms of living with your
24 family.

25 A. Yeah, one of the things -- I wanted to go to the

[REDACTED]

DIN [REDACTED]

NYSID [REDACTED]

1 Fortune Society because I know that they have programs that would
2 help me but my family members thought that it was better for me
3 to start off with them since I have assurance of employment and I
4 can work from there and go to them and still participate in the
5 programs if I decide to do that. That's why I decided to live
6 with my stepbrother instead of going straight into the program.

7 Q. Okay. You've prepared the packet, which we've talked
8 about, that's part of your goals, what have you done in terms
9 of -- well, the last thing it looks like it talks about is the
10 rules, which is the first thing I brought up, just starting to
11 behave yourself. I do see that they also talk a little bit about
12 violence programs, what is your level of what you've accomplished
13 in that?

14 A. It was a process for me. I had to first come to grips
15 with what I've done. Once I accepted full responsibility for the
16 crime that I committed, I was then able to start working on
17 becoming a better person. I felt the first thing I had to do
18 before I could even work on myself was to change my way of
19 thinking. I had to change my thought pattern and once I started
20 thinking positive and doing positive things, that's when I was
21 able to start working on becoming a better person. As you can
22 see from my packet, I volunteered for a lot of different
23 programs. One of the programs that actually really helped me was
24 the Alternative Value program, that program had a real profound
25 affect on me because I was able to sit and meet with other people

[REDACTED] DIN [REDACTED]

NYSID [REDACTED]

1 that have committed violent acts but changed their lives around.
2 And seeing that let me know and believe that if I was serious I
3 would be able to change my life around.

4 Q. Right, and we have -- go ahead.

5 A. Another program that helped me was the Delinquents
6 Intervention Program, with that program I was able to sit in a
7 junior high school and high school, and talk with kids that seem
8 to be headed down the same road that I took. And me being able
9 to tell my life story and explain to them that there's nothing
10 wrong with asking for help. One of the things that I would
11 always explain is don't wait until you're in prison like me
12 before you ask for help. Don't wait until you come to prison
13 before you change your life around. I actually changed my life
14 around --

15 Q. What years did you do that?

16 A. I did that 2004, 2005, 2006 I wound up facilitating a
17 program to that nature also.

18 Q. Well, the difficulty is if I look at those years, after
19 that you assaulted staff and had urinalysis Tier III's, violent
20 conduct, so I mean you might be a great presenter but you didn't
21 get a chance to tell the students about what you were gonna do in
22 the future, which was negative, right?

23 A. I mean, I definitely talk about the negative stuff, I
24 was able to talk about the setbacks.

25 Q. But you did that, you were talking about the positives

[REDACTED]

DIN [REDACTED]

NYSID [REDACTED]

1 back in 2000s and then you were misbehaving in the 2000 -- in the
2 teens. What value is in that? Here, watch me, this is what you
3 ought to do and then I'm gonna do something different.

4 A. When you said what year I was doing that, I thought you
5 were specifically asking what year I was involved with that
6 program.

7 Q. Yes.

8 A. But I was involved with other programs after that to
9 explain these different situations that I went through, the
10 setbacks that I had to overcome, so I was definitely able to tell
11 these different stories and explain these different things for
12 what I've done.

13 Q. Okay, you were involved in helping kids stay away, I
14 don't know if it was a youth assistance program, in 2004 and
15 2007, right?

16 A. Yes, and I was also --

17 Q. Hold on, hold on, hold on, I don't think you're
18 catching my point. You're sitting there telling them what they
19 ought to do and for seven years after that you're misbehaving.
20 There's some level of credibility that --

21 A. Accountability, yes.

22 Q. I hear what you're saying, I'm not sure that that
23 particular section is all that impressive.

24 A. What I wanted to go over is saying that I continue on
25 after that and start dealing with the youth when I was in

[REDACTED] DIN [REDACTED]

NYSID [REDACTED]

1 different facilities and explain those setbacks that you was
2 talking about.

3 Q. All right, I understand what you're saying. You did
4 write a letter to the Parole Board, you wrote a letter in your
5 packet to the family of [REDACTED], we've read what
6 happened in the crime before in your prior appearances, but as
7 far as the letter to the family, was that sent just in your
8 packet or did you send that to the Apology Bank?

9 A. I sent that also to the Apology Bank. The Victim
10 Assistance Apology Bank, yes.

11 Q. Okay. And again, the reason that you engaged in this
12 crime, why don't you briefly tell us and summarize what we have
13 in front of us already?

14 A. I went down -- I was in the process, I went down to the
15 gas station to see if I can rob somebody basically and I took a
16 gun with me, I hid the gun across the street, I thought I was
17 able to rob somebody without a gun. When [REDACTED] rolled up
18 into the gas station I waited until he got out and went to pay
19 for his gas. At that time I tried to snatch his wallet. I seen
20 that I wasn't gonna get the wallet and that's when I made the
21 worst decision of my life, I ran back and retrieved the gun that
22 I hid across the street. And I remember to this day thinking
23 that all I would have to do is brandish the gun and I would get
24 the wallet. But I now know that if you're going to commit a
25 crime and you're going to commit a crime with a gun, nothing good

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 can happen. When I came back [REDACTED] [REDACTED] lunged for the gun,
2 another struggle ensued, and it was at that time that I pulled
3 the trigger and shot [REDACTED] [REDACTED] I panicked, I dropped the gun
4 and I ran away from the scene of the crime. An officer stopped
5 me a few blocks away, asked me where I was going, I lied and said
6 I was on my way to work.

7 Q. We certainly consider a lot, including the instant
8 offense, which has been discussed in the past. Has anything else
9 occurred to note in the last year or so as it relates to that?

10 A. No, I briefly sat down with people from the district
11 attorney office on 8/9/19 and tried to explain to them similar
12 things that I'm explaining to you today. I believe they wrote a
13 letter on my behalf so I hope that you would also take that into
14 consideration.

15 COMM. SMITH: And as I say, we have had a
16 chance to get information from the district attorney's office.
17 I'm gonna pause and see if Commissioner Coppola has any
18 questions?

19 COMM. COPPOLA: Did you ever give any thought
20 to when you weren't successful just to give up, don't go get
21 the gun?

22 THE INMATE: That thought never really crossed
23 my mind because I thought that when I come back with the gun I
24 would be able to get what I want without actually using the
25 gun. But as I said earlier, I now know that any time you

[REDACTED]

DIN [REDACTED]

NYSID [REDACTED]

1 bring a gun to the scene of a crime nothing good can happen.

2 COMM. COPPOLA: It almost seems as though part
3 of it was, I'll show you, you didn't give me your wallet, now
4 I'm gonna go get a gun, come back, display it, and really get
5 your wallet.

6 THE INMATE: I can't say that that was my train
7 of thought at that time, but I believed that once I brandished
8 the gun he would give me the wallet. That's what I was
9 thinking at that time, Commissioner.

10 COMM. COPPOLA: It's unfortunate for everybody
11 that you did not just do what a lot of people do when their
12 robbery attempt is foiled. They just take off and that's it.
13 You actually went back. Unfortunately, this guy was just
14 fighting for his property, money he earned to support his
15 family.

16 THE INMATE: And believe me, I understand that,
17 that's what I wrote in my statement, how I tried to take money
18 that I did not earn. I'm very well aware of that now.

19 COMM. COPPOLA: And I did read that in your
20 statement, thank you. No more questions.

21 COMM. SMITH: Thank you, Commissioner.
22 Commissioner Demosthenes, any questions?

23 COMM. DEMOSTHENES: I have no further, thank
24 you.

25 CONTINUED BY COMMISSIONER SMITH:

[REDACTED]

DIN [REDACTED]

NYSID [REDACTED]

1 Q. All right, sir, we will discuss your record, we'll let
2 you know our discussion in the next few days. Anything else?

3 A. Yes, during the course of my incarceration I lost my
4 parents, my grandmother, my sister, and my nephew. I don't say
5 this to try and get any sympathy because I believe after the 25
6 to life sentence that I received was well justified by my
7 actions. All I know is the hurt and pain that I felt after each
8 loss was inconsolable, and after each loss I thought about
9 [REDACTED] and the hurt and pain I caused his family, and the
10 remorse that I felt at that time was strong. The empathy I have
11 for the family is so deep that I knew I had to change my life
12 around. I know what I've done in prison doesn't take away the
13 crime that I committed, I just hope I was able to show each of
14 you Commissioners today that I'm no longer a selfish, destructive
15 and impulsive individual that I was 30 something years ago. As
16 you can see from my package I tried to put together a package
17 where you can clearly see the person I am today and what I've
18 been doing while I've been in prison and the remorse I have for
19 the crime that I committed. I reached out to different
20 organizations, I have a very strong support group that I will not
21 hesitate to lean on if I ran into some unforeseeable
22 difficulties. All I ask from you Commissioners today is just a
23 chance. A chance to show that I can live a constructive life on
24 parole.

25 COMM. SMITH: All right, we'll let you know in

[REDACTED]

DIN [REDACTED]

NYSID [REDACTED]

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

writing, thank you.

THE INMATE: Okay.

(Interview concluded.)

[REDACTED]

DIN [REDACTED]

NYSID [REDACTED]

1

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

4

5

DECISION

6

7 [REDACTED] parole denied. Hold 18 months. Next
8 appearance February 2021.

9

Following a personal interview, record review, and
10 deliberation, this panel finds that your release to supervision
11 is incompatible with the public safety and welfare. Therefore
12 parole at this time is denied. We have considered your COMPAS
13 Risk and Needs Assessment, significant weight has been placed on
14 your record of unlawful conduct including your instant offenses
15 where you committed a gunpoint planned robbery and shot and
16 killed a cab driver. You failed to be deterred from committing
17 those offenses despite prior sanctions to local jail. Your
18 inability or unwillingness to fully comply with the law is an
19 aggravating factor against your release.

20 A COMPAS score of medium for criminal involvement reflects
21 those facts. Positive factors include your document submissions,
22 family support, Case Plan, program accomplishments, and low
23 COMPAS scores. We also note comments from the Kings County
24 District Attorney and your comments at the interview about your
25 meeting with representatives from that office. Your marginal

[REDACTED]

DIN [REDACTED]

NYSID [REDACTED]

1 behavior is troubling. We note improvement since April 2014. We
2 note you were agitated when you were highlighting that you were
3 sharing with youth pre-2007, yet received multiple behavior
4 violations thereafter.

5 To grant your release at this time would so deprecate the
6 seriousness of your offense as to undermine respect for the law.
7 Parole is therefore denied. Use this time to maintain a clean
8 disciplinary record to better demonstrate your ability to live
9 crime free.

10 (Commissioner Smith and Commissioner Coppola concur.)

11 (Commissioner Demosthenes dissents.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

[REDACTED]

DIN [REDACTED]

NYSID [REDACTED]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATION

I, Erin Chickery, 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, and that the foregoing, consisting of 20 pages, is a true and correct copy of the same and whole thereof.

Erin Chickery

Erin Chickery, Court Reporter

Dated: August 14, 2019