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Parole Interview Transcript/Decision - FUSL000055 (2020-03-10)

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[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 NYS DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
BOARD OF PAROLE

2 *****

3 Parole Board Hearing

4 In the Matter of

5 [REDACTED]

6 DIN# [REDACTED]

7 NYSID# [REDACTED]

8 *****

9 TYPE OF INTERVIEW: Initial

10 LOCATION: Woodbourne Correctional Facility
11 Video-conferenced to
12 Poughkeepsie Area Office
30 Manchester Road
Poughkeepsie, New York 12603

13 DATE: March 10, 2020

14 DECISION DATE: March 10, 2020

15 BEFORE: COMMISSIONER SMITH
COMMISSIONER DAVIS
16 COMMISSIONER CORLEY

17 ALSO PRESENT: COMMISSIONER SEGARRA
Smith, SORC
18 O'Connor, SORC

19 AT FACILITY: Burrell, ORC
20 Frazier, ORA

21 HEARING REPORTER: ROBERTA O'ROURKE

22
23
24
25

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 INTERVIEW BY COMMISSIONER SMITH:

2 Q Good afternoon. Would you tell us your name for the
3 record?

4 A [REDACTED]

5 Q Mr. [REDACTED], I am Commissioner Smith. Joining me
6 today on the Panel to my right is Commissioner Davis. To
7 my left is Commissioner Corley.

8 COMMISSIONER DAVIS: Hello, sir.

9 Q In addition at the far left Commissioner Segarra is not
10 participating in your interview or decision, do you
11 understand?

12 COMMISSIONER SEGARRA: Good afternoon.

13 A Yes, sir.

14 Q You had pled guilty to attempted robbery second and
15 received a 12 to life sentence, is that true?

16 A Yes, sir.

17 Q Did you acknowledge committing the crime?

18 A Yes, sir, unfortunately.

19 Q Is it true that you were on parole at the time for a
20 prior eight to life sentence?

21 A That is correct.

22 Q That was attempted robbery in the first degree?

23 A Yes, sir.

24 Q And did a Panel of the Board of Parole release you?

25 A They did.

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 Q They did? I'm looking at the signed release sheet, it
2 looks like you were interviewed by Commissioner George
3 Johnson, Commissioner Patrick Gallivan and Commissioner
4 Christina Hernandez, right?

5 A I believe so.

6 Q Okay. And how many times total now have you been to
7 state prison?

8 A Four times total.

9 Q How many of those are robbery related?

10 A They're all robbery related.

11 Q Have you gone on probation before?

12 A No, sir.

13 Q Well, the record shows a youthful offender
14 adjudication, attempted grand larceny third and a three
15 year probation in '83. So is the record wrong or did you
16 forget about that?

17 A I think that, that that's correct.

18 Q Right. I know it is.

19 A That's correct, yes, that's correct.

20 Q I can see from multiple sources. You also did local
21 jail time for things like turnstile jumping, attempted
22 petit larceny, jostling, remember those?

23 A Yes, sir.

24 Q So you have sort of gone through the smorgasbord of
25 criminal justice opportunities. Including a life sentence

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 in the past. What would make you ever commit another
2 crime?

3 A Well, it took me a long time to, I've asked myself that
4 question for the past 12 years that I've been incarcerated.
5 It's only through now coming back to prison and
6 participating in programs that are intended to help me that
7 I realize that I needed some help.

8 Q Well, you had programs before, remember?

9 A Yes, I do remember those programs I took before. But I
10 didn't benefit from them in a way that I should have. I
11 went through a process of them, but coming through prison
12 this time allowed me to realize that those, that I kept
13 constantly doing the same thing and it was no, and it was
14 no different result. It only took me to this time through
15 ASAT and ART and specifically the ASAT counselor,
16 Mr. Moore, had a prior, he had a prior substance abuse and
17 I related to him my circumstances and I was able to see
18 some of the triggers that caused me to do the same repeated
19 act over and over again. Those were the things now that I
20 received a different perspective on what mattered and why I
21 kept coming back to prison forced me to realize that the
22 way that I lived my life before resorted in my constantly
23 coming back into prison.

24 Q Well --

25 A Yes, sir.

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 Q -- I'm reading, this is what you said to the last
2 Panel.

3 A Yeah.

4 Q I just want to reiterate the fact that I'm remorseful
5 about the crime and sincere. I'm not saying that because
6 I'm here in front of you trying to get out of here, I
7 really feel bad about what I did and I would never, if I do
8 have the opportunity, if you and the other Commissioners
9 make that decision that you will never see me in this
10 position again, you told that to the last Panel, right?

11 A Yes, sir, but I have reverted back to drug abuse and
12 went back into the same frame of mind that I did before.

13 Q Yeah, you did robberies, right?

14 A Yes, sir.

15 Q Gunpoint robbery?

16 A Yes.

17 Q Imitation pistol?

18 A Yes, sir.

19 Q That's pretty dangerous. If you choose the wrong
20 person to do a gunpoint robbery, you could end up with
21 someone who shoots you. Have your robberies been with guns
22 throughout?

23 A They were toy weapons at the time.

24 Q All these robberies?

25 A Yes.

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 Q Do you have a fascination with guns?

2 A I wouldn't call it a fascination. I wouldn't use that
3 term as a fascination. I felt that I didn't have real
4 intentions on harming anyone, and that's why I never used
5 alive weapon. Those weapons I felt that maybe I was
6 harming myself more than I could harm anyone else. With
7 this person, Mr. [REDACTED], I stated to him as well that I'm
8 sorry for what I'm doing at this moment. I told him that
9 at that time that I was a coward and not him. That this is
10 a process that I kept reverting back to the same criminal
11 behavior over and over again not really understanding why.
12 I can't, I'm not justifying why I did the crime but
13 circumstances and reasons that lead me to those same
14 criminal acts in the past.

15 Q Do you think they're good reasons?

16 A I don't think they're good reasons but I think they, if
17 you would allow me some opportunity as I stated in my
18 personal statement and through mental health I realize that
19 a lot of things that, criminal acts that I've done before
20 this crime and the pattern of it stem from my acts growing
21 up.

22 Q Well, those are certainly things that would affect your
23 life and what your actions are. However, when you start to
24 rob other people your actions are moving well beyond
25 yourself.

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 Now, you have a 12 to life sentence. 12 is the
2 minimum, life is the maximum. How many years since your
3 last disciplinary violation?

4 A 2019.

5 Q So about a year?

6 A Yes, sir.

7 Q How many disciplinary violations do you have during
8 this term?

9 A Approximately nine or 10.

10 Q How many of those are drug use?

11 A Six of them.

12 Q Is it legal to have drugs inside state prison?

13 A It's not legal to have drugs inside or outside of
14 prison. I took the time but after ASAT I haven't had any
15 drug use after that.

16 Q After ASAT on prior terms, or ASAT in here?

17 A This one, in this time.

18 Q Okay.

19 A After I took ASAT, the initial, the supervisor that
20 held the ASAT class gave me a different way to look at
21 things. I know I said that before that, that the crime
22 that I admit, if you let me go that I would never commit
23 this crime again and then I did it again. I'm not
24 minimizing or mitigating my actions. But I'm older now and
25 I don't have the capacity to harm anyone, I didn't have the

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 capacity to do before even though they might not have
2 realized that the gun was a toy, those actions were wrong
3 and I realize that they were wrong and I can't change what
4 I did in the past but I can change what I do in the future.

5 Q All right. Well, you know, I'm hearing your words,
6 we're going to consider. I mean you're certainly pleading
7 for your release. You know that you may never be released
8 in the community again at this point, do you know that? I
9 mean that's a sobering thought, I would hope you felt that
10 two times before when the judge said that.

11 A Right.

12 Q It's not a Parole Commissioner that's saying that, it's
13 the judge that's imposing that sentence. You're an
14 educated person. You've been doing college work inside, is
15 that right?

16 A Yes, sir.

17 Q And you have low COMPAS scores.

18 A I'm in [REDACTED] College now.

19 Q You're in [REDACTED] College now?

20 A Yes.

21 Q Which is a terrific program.

22 A It is.

23 Q They help not only on the inside but when you move
24 outside.

25 A Right.

DIN [REDACTED] NYSID [REDACTED]

1 Q You have low COMPAS scores for risk of felony violence,
2 arrest, absconding. Your family support is terrific. You
3 have a wife out on the outside, right?

4 A Thank you. That's been supporting me and stood by me
5 this whole time.

6 Q When you did marry her?

7 A I married her in Sing Sing in 2015. She's a social
8 worker and she stood by me for the last 12 years.

9 Q That's terrific, it really is.

10 A It's a blessing. I don't know how I could have got
11 through this here and a lot of times without her.

12 Q All right.

13 A But I wanted to acknowledge the help, I acknowledge the
14 fact that a lot of my criminal behavior started when I was
15 a child and it just transferred into a teenage, teenager
16 and it continued on as an adult. Those things, there was a
17 pattern of negative behavior because of things that
18 happened to me as a child. I don't want to highlight them
19 and say that because of those factors that I had a
20 justification for doing what I did. I didn't have any
21 right to do it. I can't sit here and say okay well I did
22 it before and I won't do it again because I said that
23 before.

24 Q Correct, that's correct.

25 A I'm not saying, I'm not saying that today. I'm not

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 saying that to you today. I'm saying that today the person
2 that did those crimes are not person that you're looking at
3 today.

4 Q Sir?

5 A The only reason why -- I'm not the same person.

6 Q You said it over, you said it over before, you can't
7 change the past.

8 A Right.

9 Q You could change the future the day you're sentenced
10 which means you come before a Parole Panel with no
11 disciplinary violations, that you could have done today,
12 right?

13 A Yeah, I could have done that today.

14 Q Yes, so this epiphany, this change within you it's hard
15 to say when that occurred. I'm looking at documents that
16 make it unclear, to be perfectly honest with you. You
17 don't want me to sugarcoat it, do you?

18 A No, I don't want you to sugarcoat. I appreciate your
19 frankness. If you are looking at the documents, the
20 documents will state that after ASAT I haven't had any drug
21 use. After mental health, this is a process, it didn't
22 happen overnight. I've never gotten, I needed some type of
23 mental health help early on in my life.

24 There's a personal statement in there from my
25 mother that honestly, sir, I just read on Friday. When I

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 got the parole packet that you have from the Officer of
 2 Appellate Division, I didn't even know that my mother
 3 acknowledged the fact that her brother had molested me as a
 4 child for many years. And that when I came through, I
 5 think that's in the exhibit right after my personal
 6 statement, and I know mine is long, but I hope that you
 7 take a moment after I step away from you to, if you have
 8 time to read it because that's my whole life in total. My
 9 crimes as well as the accomplishments that I've made as
 10 well as the frame of mind that I'm in today. And I'm not
 11 in that same frame of mind that I was in 12 years ago or 10
 12 years ago or even five years ago.

13 I had an opportunity to take advantage of the
 14 programs that DOCCS has offered me and I didn't take
 15 advantage of them and I wasn't able to apply them when I
 16 got out before. I went right back into a situation that I
 17 had four state bids and I have four children.

18 If you look at the correlation between my
 19 childhood and my criminal history you'll see a pattern that
 20 I hope that you will acknowledge and consider. I'm 54
 21 years old now. I don't have the capacity to do the things
 22 that I did before. I'm not standing in front of you saying
 23 things that I said to the last Parole Board. I'm saying to
 24 you things now that I sincerely believe. And I mean I have
 25 the support that I didn't have before. I have a focus that

12

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 I didn't have before. I have a different frame of mind, a
2 different perspective on life and people's property and
3 their well-being and the things that I did to that man, I
4 didn't have that compassion before. I have a special needs
5 child that I didn't have before. And there's guys in here
6 now that I work with that have special needs, they're in
7 here as well.

8 My custodial maintenance supervisor acknowledged
9 that and they didn't -- I didn't help them as much as they
10 helped me. I didn't have those type of compassion before.
11 But through mental health, through ASAT, through ART, I
12 understand that I have seen different changes and triggers
13 that allowed me to do the things that I did, frustrated and
14 feeling that okay if I was wrong then the things that I'm
15 doing is not wrong because nobody came to fight for me.

16 And although my mother apologized and we had deep
17 family conversations, not overall, but just me and her on a
18 visit come to see me, she's still by me, she's 76 years old
19 now and she just lost her sister, twin sister from 9/11
20 from 18 years ago. She sat there and talked to me, she
21 explained to me that a lot of things that happened to me
22 weren't my fault or that they were my fault but I had,
23 there are mitigating circumstances that caused, that
24 triggered me to do those things. I don't have those
25 triggers no more. I don't have those inhibitions no more.

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 I don't have the desire to get a toy pistol and put it in
2 somebody's face and take their property. I don't live like
3 that no more. I don't think like that no more.

4 And I know that in situations that are traumatic
5 or for me that I have CASE, there's a program in their
6 called CASE that they're, there's mental health in there,
7 there's ASAT for me, there's ART, there's NA for me,
8 there's things that I want to do and resources that I have
9 with Bard Prison Initiative, BPI, that they got people out
10 there now that I can help.

11 The things that I've took advantage of in here,
12 there's a trajectory of change from 2016 to 2020. I can't,
13 I cannot say the neglect, the neglect and the person and
14 the crime that I committed. And I'm sorry for that. And I
15 am told that night, the night that I did the crime I
16 apologized. I told them I'm the coward not you, you know,
17 and I'm sorry, and I said that during the commission of the
18 crime.

19 Q Do you think that --

20 A I knew it was wrong.

21 Q Do you think that that makes it better when somebody
22 sticks a gun in your face?

23 A No, it doesn't make it better.

24 Q All right, so I'm hearing what you're saying. I'm
25 hearing what you're saying.

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 A Yes, sir.

2 Q But I also see a record of misbehavior inside. The one
3 thing you could do is that. In a positive you've reached
4 out, you've got letters, number one, from agencies. You
5 have a nice packet that you were provided with the
6 assistance of the Office of the Appellate Defender.

7 A Yes, sir.

8 Q And you've been involved in [REDACTED]. Why don't you tell
9 me about your programming, what you've done that you think
10 has been a positive in that regard?

11 A I think the most beneficial thing for me was when I
12 came into, and I keep going back to it, was ASAT because
13 prior to that I had smoked marijuana thinking that that was
14 an escape, trying to block out what I didn't want to face.
15 When I got into ASAT I had to face because I had somebody
16 to identify with, and this was the supervisor that came in
17 and I sat and had a conversation with him after the class
18 and I asked him Mr. Moore, you know, how did you change
19 your ways, you know. He didn't have a criminal history but
20 he had the ability to, he had the drug problem that I had.
21 I got cocaine, and marijuana at a young age. And I
22 realized that, during ASAT, I realized that I didn't have
23 to do the things that I did. I didn't have to block it out
24 with drugs to create a world that wasn't realistic and
25 living in a dissolution of reality thinking what my actions

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 of committing crime was right, they was wrong. And I don't
2 want to live like that anymore. I don't have the capacity
3 to do that anymore to anyone. I did ASAT. And I did ART.
4 That was a point that I realized that if you have a violent
5 past or violent actions and you feel that it's justifiable
6 for you to commit violent acts, there's remedies that you
7 can do. You can stop before that point and realize that
8 you don't have to do what you thought you had to do. Or
9 when you get clear of drugs and you don't have drugs in
10 your frame of mind. If you look at my criminal history and
11 then you look at my institutional record what you're
12 focusing on, I'm glad you did, because that'll show you a
13 different change. There's a change within the last five
14 years from after I finished ASAT till now that the
15 opportunity that I had to finish ASAT and then transition
16 for me, I went to custodial maintenance and the special
17 needs guys that's in GY that's here.

18 They didn't have, and they're in my packet too,
19 they didn't have, I understood them because they were
20 shunned and people really looked at them like they had
21 mental issues. I had mental issues but I benefited from
22 being in the class with them and able to show some type of
23 compassion and help them as well.

24 Q All right.

25 A I want to take those type of initiatives and take those

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 and the resources that I have with my wife to go out there
2 and do something different than I did before in my past.

3 Q Now your wife and your mother both have written. You
4 hope to live with your wife and it's clear that she is
5 committed, and so we certainly note that among other things
6 that's why your COMPAS is low in those areas.

7 The areas that are elevated include re-entry
8 substance abuse as probable. Your criminal involvement is
9 medium and high for prison misconduct and violence. But
10 you have many other areas on the other side with low.

11 A Thank you.

12 Q I am going to pause and ask Commissioner Davis and
13 Commissioner Corley if they have any questions.

14 COMMISSIONER DAVIS: I have listened carefully, sir, I
15 have no questions.

16 COMMISSIONER CORLEY: No questions, Commissioner.

17 BY COMMISSIONER SMITH:

18 Q All right, Mr. [REDACTED], is there anything we have not
19 discussed you want to add?

20 A I would like to thank you for giving me the latitude to
21 talk. I know that in this environment the things you are
22 faced and you see a lot of people every day and all you
23 have is my criminal history and my institutional record.
24 And I want to say that after I got into ASAT, I got my
25 ASAT, I completed successfully, completed nine months of

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 ASAT. I completed AVP, ART and after that I came back and
2 went here, successfully not only did I complete custodial
3 maintenance but I have my NCCR OSHA certification,
4 certification for OSHA. And then after that I got FRP with
5 my family, with my wife and as well as after I got into
6 Bard BPI. So those things happened after I stopped using
7 drugs and I see that there's a benefit to that. I know
8 that the benefits are, that I don't have to use drugs
9 anymore.

10 Q BPI, what's your level at this point?

11 A Well, I have a 3.5 grade point average.

12 Q How many credits?

13 A 12, this is my second semester.

14 Q Right.

15 A And I'm proud of that. I'm proud, didn't think I would
16 ever go back, getting back in school. It's been 33 years
17 since I've been in school and it's a challenge and it's a
18 struggle, but I'm meeting the challenge every day. I'm
19 figuring out how to write papers, academic papers and
20 anthropology and then learning new things every day.

21 BPI has the same re-entry program for me.

22 There's a lot of support for me when I'm waiting out there
23 and I won't have those same problems and I won't get
24 tripped up. I will not get tripped up at 54 years old.

25 Q All right.

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 A I won't get tripped up in here and I will not get
2 tripped up in here. I appreciate and I thank you for
3 giving me this latitude to speak, sir.

4 Q Very good. We'll let you know in writing. Thank you
5 for coming in.

6 A Thank you.

7 (The inmate was excused.)

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[REDACTED] DIN [REDACTED] NYSID [REDACTED]

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

3 DECISION

4 BY COMMISSIONER SMITH:

5 Denied 18 months, next appearance September 2021.

6 Following a personal interview, record review, and
7 deliberation, this panel finds that your release to
8 supervision is incompatible with the public safety and
9 welfare. Therefore parole at this time is denied. We have
10 considered your COMPAS risk and needs assessment.
11 Significant weight has been placed on your poor behavior
12 during this term. You have incurred multiple Tier II and
13 Tier III disciplinary reports. Your high prison misconduct
14 COMPAS score reflects your poor compliance with DOCCS rules.
15 This is a crucial aggravating factor against your release on
16 parole at this time. Your instant offense of attempted
17 robbery second occurred while you were on parole for
18 attempted robbery in the first degree. Prior probation,
19 local jail and multiple prior state sentences failed to
20 deter you from committing the instant offense. Your medium
21 COMPAS, criminal involvement score and high score for
22 history of violence is disturbing. Positive factors include
23 your family support, document submissions, Case Plan,
24 educational accomplishments and related low COMPAS scores.
25 Most compelling we find your pattern of crime, poor record

[REDACTED] DIN [REDACTED] NYSID [REDACTED]

1 on parole and negative behavior troublesome. To grant your
2 release at this time would so deprecate the seriousness of
3 your offense as to undermine respect for the law. Parole is
4 therefore denied.

5 (Commissioners participating concur.)

6 (HEARING CONCLUDED)

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CERTIFICATION

I, ROBERTA O'ROURKE, Court Reporter and Notary Public
in and for the State of New York, do hereby certify that I
attended the foregoing proceedings, took stenographic notes
of the same, that the foregoing, consisting of 21 pages, is
a true and correct copy of same and the whole thereof.

March 23, 2020

Roberta O'Rourke

Roberta O'Rourke