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### Parole Interview Transcript/Decision - FUSL000119 (2016-03-09)

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1 STATE OF NEW YORK  
2 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION  
3 BOARD OF PAROLE

\*\*\*\*\*

4 In the Matter

5 -of-

6 [REDACTED]  
7 DIN # [REDACTED]

8 NYSID # [REDACTED]

\*\*\*\*\*

9 Hudson C.F.  
10 [Via Videoconference]

11 [REDACTED]  
12 [REDACTED]  
13 March 9, 2016

14 BEFORE: COMMISSIONER G. KEVIN LUDLOW  
15 COMMISSIONER LISA ELOVICH  
16 COMMISSIONER SALLY A. THOMPSON

17 PRESENT: [REDACTED] Supervising  
18 Offender Rehabilitation Coordinator

19 [REDACTED]  
20 Education Counselor

21 [REDACTED]  
22 Offender Rehabilitation Coordinator

23 [REDACTED]  
24 Agency Program Aide

25 [VIA VIDEO]: [REDACTED]  
Offender Rehabilitation Coordinator

REPORTED BY: RENÉE D. LEGUIRE, CSR, RMR, CRR

[REDACTED]

1 BY COMMISSIONER LUDLOW:

2 Q. Good morning, sir.

3 A. Good morning.

4 Q. It's 11:54. Sir, you are [REDACTED]?

5 A. Yes, sir.

6 Q. [REDACTED], I am Commissioner Ludlow. With  
7 me Commissioner Elovich, Commissioner Thompson.

8 COMMISSIONER ELOVICH: Hello.

9 THE INMATE: Hello.

10 COMMISSIONER THOMPSON: Good morning.

11 THE INMATE: Good morning.

12 Q. [REDACTED], this is your sixth appearance  
13 before the Board of Parole; is that correct?

14 A. Yes, sir.

15 Q. Okay. You're 57 years old now?

16 A. Yes, sir.

17 Q. You were found guilty by verdict to murder  
18 second, sentenced 25 to life out of [REDACTED] County.  
19 Do you have any appeals pending, or do you anticipate  
20 filing any appeals as to the verdict?

21 A. At this time, no.

22 Q. Okay. I note that you've been under appeal  
23 in the past and at least one new trial has been ordered.  
24 How many trials have you gone through? Is it one or  
25 two?

[REDACTED]

1           A.     Three.

2           Q.     Three trials.  Okay.  I call your attention  
3     to the fact that we have a certified stenographic  
4     reporter in the room with us.  Every word we discuss is  
5     being reduced to a verbatim transcript.  It's possible  
6     that the transcript could find its way to public forums.  
7     We caution you about what you may say regarding the  
8     terms and circumstances of this crime so as not to  
9     impede, limit, or jeopardize any future opportunity you  
10    may have for an appeal.  You may decline to discuss the  
11    terms and circumstances of this crime if you wish.  We  
12    will not hold that against you.  Do you understand all  
13    of that?

14          A.     Yes, sir.

15          Q.     Are you maintaining your innocence as to the  
16    verdict?

17          A.     Yes, sir.

18          Q.     We respect your right to do so.  Are you  
19    maintaining total innocence?

20          A.     Yes, sir.

21          Q.     Okay.  Prior to the case going to verdict,  
22    did the district attorney in [REDACTED] County extend  
23    any kind of a plea offer to you, if you recall?

24          A.     20 to life.

25          Q.     Okay.  And you've been in a long time.  We

[REDACTED]

1 certainly recognize that. We're sensitive to that. It  
2 appears as though you've been in just under 34 years.  
3 Is that the case?

4 A. Yes, sir.

5 Q. Okay. That's a long period of time, sir. We  
6 are -- we recognize that. This is your only conviction  
7 of record. You have no other convictions, correct?

8 A. That's correct.

9 Q. Okay. You were 23 at the time in April of  
10 1982, and I do acknowledge your claim of innocence, but  
11 for the benefit of the record, in April 1982, at age 23,  
12 the file indicates that you were convicted for the  
13 instant offense which involved your striking a female  
14 victim with an ax wherein her carotid artery and spinal  
15 cord were severed, resulting in her death. The body was  
16 found in a field in the vicinity of [REDACTED]  
17 You're certainly aware of those facts, correct, sir?

18 A. Yes, sir.

19 Q. Okay. And did you testify at any of your  
20 trials, sir?

21 A. No, sir.

22 Q. Okay.

23 A. My lawyers instructed me not to.

24 Q. What do you think about that as you look  
25 back? Do you agree with that advice, or do you think

[REDACTED]

1 you should have done otherwise?

2 A. I should have testified.

3 Q. And, sir, if you had testified, what would  
4 have been the essence of your testimony in defense?

5 A. As I told [REDACTED] on April 17th,  
6 1982, he asked me where I was and where I went. I was  
7 at the [REDACTED] across the street  
8 from the [REDACTED]. I  
9 was asked to give [REDACTED] a ride home. When we got  
10 out to my car, [REDACTED] asked me to give her a ride  
11 to the [REDACTED] which is down on [REDACTED] right next  
12 to the [REDACTED], and I brought her  
13 there, and that's where I left [REDACTED].

14 Q. You left her?

15 A. Now, this is the --

16 Q. You left her at a subsequent bar and then,  
17 what, did you stay there, or did you go on to somewhere  
18 else?

19 A. There was a local band playing there. I went  
20 in. I listened to a couple songs and then I left, and I  
21 went home to my grandmother's at that time.

22 Q. How were you linked to the crime to sustain a  
23 conviction?

24 A. Because I gave [REDACTED] a ride to the [REDACTED]  
25 [REDACTED] and the people that I knew when I was in the

[REDACTED]

1 [REDACTED], they knew me, you know, I grew up in that  
2 area.

3 Q. Well, not -- now, you went to -- you went  
4 home. You were where, living with your mother at the  
5 time?

6 A. Because of where I was, I stayed at my  
7 grandmother's that night. I was living in Schenectady  
8 with my wife and son.

9 Q. Okay.

10 A. So, instead of traveling all the way out, I  
11 stayed at my grandmother's which was only five, ten  
12 minutes away.

13 Q. Was grandmother there?

14 A. Yes, sir. Yeah, she was home.

15 Q. Did she testify to the fact that you were  
16 there and what hour you were there?

17 A. Yes, sir, she testified, if I'm not mistaken,  
18 either in the first trial in 1984 or it was during the  
19 course of the suppression hearing between May 3rd and  
20 May 10th of 1983 just to have her testimony on the  
21 record because of her age.

22 Q. Did you present any other witnesses in  
23 defense?

24 A. No, sir, just some -- a specialist that  
25 Mr. Gray had brought in.

[REDACTED]

1 Q. Okay. Did you know the victim prior to the  
2 night --

3 A. I seen --

4 Q. -- prior to the night in question?

5 A. I had seen [REDACTED] three, four times with  
6 a friend of mine, [REDACTED] seen her.

7 Q. Did you socialize with [REDACTED] prior to  
8 the night in question?

9 A. Not really, sir.

10 Q. Okay. How old was [REDACTED] do you know?

11 A. I'm not sure, sir.

12 Q. Okay. So your position is that you're an  
13 innocent man who's been held for 34 years?

14 A. Yes, sir.

15 Q. Okay. Have you attempted to contact Project  
16 Innocence or any similar type organization?

17 A. I've been informed that all the stuff that  
18 the Rensselaer County District Attorney's office held  
19 was lost and destroyed in a flood.

20 Q. Was DNA a factor back then, 1982?

21 A. I know they did lab testing in the federal  
22 lab.

23 Q. Was it DNA or not? This may predate DNA.

24 A. Yeah, it does.

25 Q. It does, doesn't it?



[REDACTED]

1           A.     I think it was like enzymes or something like  
2     that.

3           Q.     We have sentencing minutes on file,  
4     [REDACTED] County Court, July 12th, 1993, before Judge  
5     [REDACTED]. You at the time were represented by  
6     Mr. [REDACTED] Correct, sir?

7           A.     Yes, sir.

8           Q.     The minutes are on file and a part of the  
9     record. We have the COMPAS Risk Assessment on file.  
10    Have you had the benefit of reviewing the COMPAS  
11    instrument, sir (indicating)?

12          A.     Yes, sir, I have.

13          Q.     The COMPAS is a risk-and-needs tool that we  
14    draw on in an advisory way to assist us in complying  
15    with Executive Law 259(c)(4) which requires the Board of  
16    Parole to conduct a risk-and-needs assessment as a  
17    measure of your rehabilitation for reentry into the  
18    community. In your case the computer assessment has you  
19    at a low risk across the board for felony violence,  
20    arrest, or absconding, taking off from parole. If on  
21    parole, would you anticipate presenting as a low risk to  
22    the public safety or something else?

23          A.     Yes, sir, I would, very low risk.

24          Q.     All right, sir. And we have the case plan on  
25    file. Case plan is a statement of goals, tasks, and

[REDACTED]

1 activities. The goal identified is achieve asbestos  
2 license, get a certificate for paralegal, attain an  
3 address for [REDACTED] and write to them --

4 A. Right.

5 Q. -- participate in recreational activities to  
6 keep busy. Have you achieved any of these goals to  
7 date, sir?

8 A. I got my license for asbestos removal.

9 Q. Okay. Well, that's to your credit. [REDACTED] &  
10 [REDACTED], you were looking to them for what type of  
11 study?

12 A. To become a paralegal, sir.

13 Q. And I think they're located in Syracuse,  
14 aren't they?

15 A. No, sir. If I'm not mistaken, they have a  
16 school right there in Albany.

17 Q. Oh, could be. Maybe they have more than one  
18 location.

19 COMMISSIONER ELOVICH: They do.

20 Q. All right. You could live with your mother  
21 in [REDACTED], correct?

22 A. Yes, sir.

23 Q. Your brother, [REDACTED], would help you with  
24 résumés, to distribute résumés looking for work; is that  
25 right?

[REDACTED]

1 A. Yes.

2 Q. What do you think you could do workwise?  
3 What would be your preference, what type of -- field of  
4 work?

5 A. Sir, I grew up as being on a farm. I know  
6 how to do farm work. From there I worked with my uncle  
7 as a plumber, pipefitter, and a welder. At the same  
8 time I also drove tractor-trailer. I hauled the U.S.  
9 mail. I've hauled fish from Gloucester, Massachusetts,  
10 Boston, Rhode Island, back to Albany. You know?

11 Q. Where did you pick up the fish? Where did  
12 you pick up the fish in Gloucester, [REDACTED]

13 A. We used to get swordfish from them, sir.

14 Q. [REDACTED]

15 A. No, it was out on the pier there.

16 Q. Oh, okay. Office of Mental Health has you at  
17 a Level 6. That suggests that you're not in need of  
18 mental health services currently. Is that accurate?

19 A. Yes, sir.

20 Q. Disciplinewise, no tickets since December of  
21 2005. That's much to your credit. Programwise, over  
22 nearly 34 years would it be fair to say, [REDACTED]  
23 that you have completed all recommended programs,  
24 including ART, ASAT, vocational, transitional?

25 A. Yes, sir.

[REDACTED]

1 Q. Okay. And you have the certificate in  
2 asbestos removal. Any other programs we should be  
3 apprised of over 34 years?

4 A. At this time, no. I mean, I did enroll in a  
5 correspondence course with [REDACTED] out  
6 of Florida to get my paralegal degree, but when I went  
7 back to court, my papers were lost, and I was unable to  
8 complete that. That's why I want to go to [REDACTED]

9 [REDACTED]

10 Q. All right, sir. That's understood.

11 COMMISSIONER LUDLOW: Commissioner Elovich?

12 COMMISSIONER ELOVICH: No questions.

13 COMMISSIONER LUDLOW: Commissioner

14 Thompson?

15 COMMISSIONER THOMPSON: No further  
16 questions, thank you.

17 Q. [REDACTED] what else should we know,  
18 anything's additional that's important to you before we  
19 close the interview?

20 A. The letter that my lawyer provided to you, I  
21 agree with everything that she had said. She made one  
22 error, you know, by stating I only was given 20 to life  
23 twice as a plea offer. I was given it three times, not  
24 twice. I had spoken to Commissioner Dennison, former  
25 Commissioner Dennison a few weeks ago, and I agree with

[REDACTED]

1 what a lot he had to say, and the only -- you know, it's  
2 not a figment of my imagination that I've maintained my  
3 innocence. It's a factual basis, sir.

4 Q. Okay. In that regard we do have a letter  
5 from [REDACTED] received March 7th of this year in  
6 support of your release. In addition, we have a letter  
7 from [REDACTED] attorney, of Ridgewood, New Jersey.  
8 Has [REDACTED] assisted you on your retrials, sir?

9 A. No, sir. She assisted me on my  
10 administrative appeals.

11 Q. Okay. All right. We have a letter of  
12 support from [REDACTED], and we appreciate that. All  
13 right.

14 COMMISSIONER THOMPSON: I have one  
15 question.

16 COMMISSIONER LUDLOW: Commissioner  
17 Thompson.

18 COMMISSIONER THOMPSON: You were under the  
19 influence of what that night? You said you'd been going  
20 to bars, so you were drinking?

21 THE INMATE: I only went in and had one  
22 drink, ma'am.

23 COMMISSIONER THOMPSON: Okay. What's ETOH?

24 THE INMATE: H-m-m?

25 MS. MURTHA: Alcohol.

[REDACTED]

1 THE INMATE: What's that?

2 COMMISSIONER THOMPSON: ETOH.

3 MS. MURTHA: Alcohol.

4 THE INMATE: I have no idea what that is.

5 COMMISSIONER THOMPSON: Okay. No, staff  
6 just explained it to me. Thank you. So you say you  
7 just had one drink, that's it?

8 THE INMATE: Yes, ma'am, and I went to my  
9 home.

10 COMMISSIONER THOMPSON: What was that, a  
11 beer or -- what type of alcohol?

12 THE INMATE: It was a beer.

13 COMMISSIONER THOMPSON: Okay. All right.  
14 Thank you very much, [REDACTED]. No further questions.

15 BY COMMISSIONER LUDLOW:

16 Q. You were retried three times. Did you feel  
17 compelled to testify in your own behalf on the third  
18 trial?

19 A. Yes, sir, but as I stated earlier, under the  
20 advisement of my counsel, he told me not to testify.

21 Q. Okay. I understand. In retrospect, you  
22 think you should have, though?

23 A. Yes, sir, most definitely.

24 Q. Okay. All right. We understand. All right,  
25 sir. You're still a young man at 57. We want you to

[REDACTED]

1 get your life turned around in a positive, constructive  
2 way. We wish you good luck in that regard, [REDACTED]  
3 We will advise you in writing.

4 A. Thank you.

5 Q. Good luck to you, sir.

6 A. Thank you.

7 (The inmate left the room.)

8 (After due deliberation by the Parole Board  
9 panel, the following Decision was rendered:)

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[REDACTED]

1 DECISION

2 COMMISSIONER LUDLOW: Parole denied. Hold  
3 24 months. Next appearance, November 2016.

4 Following careful review and deliberation  
5 of your record and interview, this panel concludes that  
6 discretionary release is not presently warranted due to  
7 concern for the public safety and welfare.

8 The following factors were properly weighed  
9 and considered: Your instant offense in [REDACTED]  
10 County in April 1982 involved murder second. Your  
11 criminal history indicates the instant offense to be  
12 your only conviction of record. Your institutional  
13 programming indicates progress and achievement which is  
14 noted to your credit. Your disciplinary record appears  
15 clean and is likewise noted.

16 Required factors in the file have been  
17 considered. Required statutory factors have been  
18 considered, including your risk to the community,  
19 rehabilitation efforts, and your needs for successful  
20 community reentry.

21 Your discretionary release at this time  
22 would, thus, not be compatible with the welfare of  
23 society at large and would tend to deprecate the  
24 seriousness of the instant offense and undermine respect  
25 for the law.





1 (The commissioners concurred.)  
2 (The proceedings were concluded.)  
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C E R T I F I C A T I O N

I, RENÉE D. LEGUIRE, a Certified Shorthand Reporter, Registered Merit Reporter, Certified Realtime Reporter, and Notary Public in and for the State of New York, do hereby certify that the foregoing record taken by me at the time and place as noted in the heading hereof is a true and accurate transcript of same to the best of my ability and belief.

RENÉE D. LEGUIRE, RMR, CRR,  
Certified Shorthand Reporter

Date: March 23, 2016