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### Parole Interview Transcript/Decision - FUSL000115 (2017-05-23)

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NYS DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

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Parole Board Hearing

In the Matter

-of-

[REDACTED]

DIN # [REDACTED]  
NYSID # [REDACTED]

\*\*\*\*\*

TYPE OF INTERVIEW: Reappearance

LOCATION: Auburn Correctional Facility  
Video-conference to NYS DOCCS  
333 East Washington Street  
Syracuse, New York

DATE: May 23, 2017  
DECISION DATE: May 23, 2017

BEFORE: COMMISSIONER W. SMITH  
COMMISSIONER LUDLOW

ALSO PRESENT: PAT KENNEDY, SORC  
DIANE MURRAY, APA

PRESENT AT FACILITY: JENNIFER CHRISTOPHER, ORC

HEARING REPORTER: DIANA FREUND

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1 BY COMMISSIONER LUDLOW:

2 Q. Good morning, sir.

3 A. Good morning.

4 Q. Sir, you are [REDACTED]?

5 A. Yes.

6 Q. Mr. [REDACTED], I am Commissioner Ludlow. With me  
7 Commissioner Smith.

8 COMMISSIONER W. SMITH: Good morning.

9 THE INMATE: Good morning.

10 Q. Mr. [REDACTED], this is your sixth appearance before the  
11 Board of Parole.

12 You're coming off of an 18 month hold imposed by a  
13 panel in November 2015.

14 You're 52 now, sir?

15 A. Yes.

16 Q. You were found guilty by verdict to each of the  
17 following: Murder 2nd, Assault 2nd. Controlling  
18 sentence, 25 to life.

19 You've been in over 33 years, is that correct?

20 A. Yes.

21 Q. That's a long period of time, Mr. [REDACTED]. We certainly  
22 recognize that. We're sensitive to that fact.

23 Do you have any appeals pending or do you anticipate  
24 filing any appeals as to the verdicts?

25 A. No.

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

12 A. Yes, I do.

13 Q. Are you maintaining your innocence as to the  
14 verdicts?

15 A. No, sir.

16 Q. Prior to the case going to verdict, did the district  
17 attorney in Erie County extend any kind of a plea offer  
18 to you, if you recall?

19 A. No, sir.

20 Q. Okay, sir. These are your only felonies of record.  
21 You do have prior youthful offenses. Youthful offense  
22 resisting arrest, youthful offender assault, correct,  
23 sir? Both out of Buffalo.

24 A. Yes, sir.

25 Q. The instant offenses --

1 A. I was just --

2 Q. The instant offenses are your only state bid,  
3 correct?

4 A. Correct. Yes.

5 Q. You were going to say something?

6 A. Just concerning the youthful offender statuses, I'm  
7 under the impression by the law that the youthful  
8 offender statuses are sealed. They have never been  
9 unsealed by a judge and the prejudice and the stigma  
10 (phonetic) which arises by this parole board using them  
11 is detrimental to me as an individual. They're not a  
12 conviction for a crime nor are they considered a crime.  
13 That's why I was granted the youthful offender status at  
14 that time, sir. Just for the record, I'd like to make  
15 that be known.

16 Q. I didn't call them crimes, sir. I called them  
17 youthful offenses.

18 A. I understand, sir. It's just the use of the  
19 terminology of it in the penal system.

20 Q. It is included on the official report from the  
21 Division of Criminal Justice Services. They are listed  
22 as youthful offenses. That's how I referred to them.

23 A. All right, sir, I understand where you received them  
24 from. Thank you.

25 Q. Thank you.

1 You were age 17 at the time in January of 1983 in  
2 Buffalo. You stabbed a victim multiple times, correct?

3 A. Yes, sir.

4 Q. That was a result of some kind of a confrontation on  
5 or about [REDACTED], correct?

6 A. Correct.

7 Q. Anything you wish to say about the crime, sir? Let  
8 me preface that question with we recognize that you were  
9 age 17 at the time and we are aware of court rulings  
10 that dictate that your youthful age at the time is a  
11 mitigating factor in the crime. We recognize the  
12 various factors of youth -- impetuosity of youth, peer  
13 pressure -- as factors that should be weighed as part of  
14 the offense.

15 Back then what was life like for you at age 17? Were  
16 you in school at the time or had you dropped out?

17 A. No, sir. I was living on my own, my own apartment,  
18 involved in drugs and alcohol.

19 Q. So you were emancipated at the time despite your  
20 minor age.

21 A. Most certainly, yes.

22 Q. I see. You were working a job?

23 A. Yes, sir. And I was also on the -- collecting the  
24 public assistance at that time.

25 Q. Anything else you wish to say about the crime, sir?

1 A. Going on the record now, there was also another  
2 individual involved, another teenager himself, and --  
3 who also had participated in the commission of the  
4 crime. I wasn't alone. So it was a culpability of  
5 conduct of myself and the other individuals who had  
6 exceeded and excelled the crime that occurred. Yes, I  
7 do take full responsibility for it but I wasn't the sole  
8 participant in the crime. The other teenager happened  
9 to go to the police officers first and report that a  
10 crime was committed. He was, you know, given the  
11 benefit of the doubt that he came forward and reported  
12 it which is on the record but it's incorrect. He never  
13 reported it. He went to his father. His father and him  
14 got together for a 3-hour period, discussed the  
15 circumstances of the crimes that his son committed and  
16 that I was involved in committing, and then he took an  
17 additional 3 hours and contacted a motorcycle police  
18 officer who lived upstairs from the father and, again,  
19 they sat in the apartment for 3 hours, an additional 3  
20 hours on top of the 3 hours with the father and son.  
21 Now, the officer, the father, and son got together for 3  
22 hours going over the commission of the crime.

23 Q. Thank you.

24 Have you ever killed anybody else?

25 A. No, sir.

1 Q. Have you ever wounded anyone else, sir?

2 A. Not -- no. I would say no. No. Not that I recall  
3 that caused any injuries of any magnitude of life  
4 threatening or serious --

5 Q. We do have sentencing minutes on file, Erie County  
6 Court, January 6, 1984, before Judge [REDACTED],

7 [REDACTED]. You at the time were represented by  
8 Mr. [REDACTED] and also Mr. [REDACTED], [REDACTED] Correct,  
9 sir?

10 A. Correct. And the supervising attorney was [REDACTED]  
11 [REDACTED] and there was a letter submitted by Attorney  
12 [REDACTED].

13 Q. We also have the COMPAS on file. COMPAS is a risk  
14 and needs tool that we draw upon in an advisory way.  
15 The COMPAS computer assessment has you at a low risk  
16 across the board for felony violence, arrest, or  
17 absconding. If on parole, would you anticipate  
18 presenting as a low risk to the public's safety, or  
19 something else? What are your thoughts?

20 A. I'm a very low risk of ever being -- I'm a very low  
21 risk at being a threat to the public and welfare of our  
22 society today, after my lengthy incarceration and  
23 rehabilitation and what I've been taught, how to live as  
24 an adult now.

25 Q. We have the case plan on file. Case plan is a



1 statement of goals, tasks, and activities. Goals  
2 identified: Reestablish family relationships,  
3 strengthen family ties, be paroled so I can start my  
4 employment and move forward in my life, obtain and  
5 maintain viable employment. Those are good goals.  
6 Anything you wish to say about those goals, sir?

7 A. No, sir. I'm just waiting for my opportunity to be a  
8 productive member of society and reestablish my family  
9 ties and...

10 Q. You can live with people on [REDACTED]  
11 [REDACTED], Buffalo, the [REDACTED]

12 A. Yes. That is a two-story house and I would have the  
13 bottom floor all to myself. I would be living alone in  
14 that residence which is fully furnished.

15 Q. Possibly be employed with [REDACTED] Pizzeria, Buffalo,  
16 [REDACTED]  
17 is that correct?

18 A. Yes. Besides possible, it is a guarantee that if I  
19 was paroled, I would go right into the employment field  
20 of the pizzeria business with Mr. [REDACTED] son.

21 Q. You're still a young man at 52 so you're ready to  
22 work?

23 A. Certainly, sir.

24 Q. Office of Mental Health has you at a level 6. You're  
25 not receiving mental health services, is that correct?

1 A. That is correct, yes.

2 Q. Discipline, we note you have had no disciplinary  
3 tickets since December 2014 and that's much to your  
4 credit.

5 Program wise, the file indicates you've completed  
6 required programs and that's to your credit as well.

7 COMMISSIONER LUDLOW: Commissioner Smith?

8 COMMISSIONER W. SMITH: I have no other questions.

9 Thank you.

10 BY COMMISSIONER LUDLOW:

11 Q. Mr. [REDACTED], anything additional, sir, before we close?

12 A. Just one thing I would like to mention, that I do  
13 have an alternate residence if I was to be paroled. It  
14 is in [REDACTED], New York which is a Pastor [REDACTED]  
15 and he's also suggesting that I be released to parole  
16 and reside in [REDACTED] New York under his supervision  
17 and he's got --

18 Q. We have that in the file. We appreciate that.

19 I do want to advise you we have official opposition  
20 to your release on file. We also have community  
21 opposition to your release on file and we must consider  
22 those items as well as the other factors required by  
23 Executive Law 259.

24 A. Sir, I would like to ask -- I've never heard of any  
25 community opposition. This is the first time I've ever

1 heard of that.

2 Q. That's how it's referred to and that's all I'm going  
3 to say about it.

4 A. All right. Thank you, sir.

5 Q. I note that so you are properly advised of it and we  
6 are required to consider that as well.

7 Mr. [REDACTED], you're still a young man at 52. We want  
8 you to get your life turned around in a positive,  
9 constructive way. We wish you good luck in that regard.  
10 We will advise you in writing. Good luck to you, sir.

11 A. Thank you, sir.

12 (After due deliberation by the Parole Board Panel,  
13 the following decision has been rendered:)

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D E C I S I O N

Parole denied. Hold 18 months. Next appearance, November 2018.

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

The following factors were properly weighed and considered:

Your instant offenses in Erie County in January 1983 involved Murder 2nd and Assault 2nd.

Your history includes Youthful Offender Resisting Arrest and Youthful Offender Assault 3rd.

Your institutional programming indicates progress and achievement which is noted.

Your disciplinary record appears clean since your prior appearance.

The panel notes your COMPAS risk score of low; however, the panel acknowledges persuasive official and community opposition to your release on file.

Required statutory factors have been considered, including your risk to the community, rehabilitation efforts, and your needs for successful community reentry.

Your discretionary release at this time would thus

1 not be compatible with the welfare of society at large  
2 and would tend to deprecate the seriousness of the  
3 instant offenses and undermine respect for the law.

4 (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.

*Diana Freund*

Diana Freund

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