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NYS DEPARTMENT OF CORRECTIONS
AND COMMUNITY SUPERVISION
BOARD OF PAROLE

Parole Board Interview

In the Matter

-of-

[REDACTED]

[REDACTED]

[REDACTED]

TYPE OF INTERVIEW: Initial

LOCATION: Woodbourne Correctional Facility
(Video-conferenced to 20 Manchester Road,
Poughkeepsie, New York 12603)

DATE: February 9, 2021

DECISION DATE: February 9, 2021

BEFORE: COMMISSIONER CRUSE
COMMISSIONER SEGARRA

ALSO PRESENT: PRISCILLA CAMPOS - SPANISH INTERPRETER

AT FACILITY: C. SMITH, SORC
M. SOTO, ORC

VERBATIM REPORTER: Erin Chickery, Hearing Reporter

1 COMM. CRUSE: Good afternoon, sir.
2 THE INMATE: Good afternoon.
3 COMM. CRUSE: Could you state your name for the
4 record?

5 THE INMATE: [REDACTED].

6 COMM. CRUSE: Mr. [REDACTED], my name is
7 Commissioner Cruse, with me is Commissioner Segarra.

8 COMM. SEGARRA: Good afternoon.

9 THE INMATE: Good afternoon.

10 COMM. CRUSE: We are here to conduct your
11 initial interview for parole consideration, are you aware of
12 that?

13 THE INMATE: Yes.

14 COMM. CRUSE: Are you prepared to go forward,
15 sir?

16 THE INMATE: Yes.

17 INTERVIEW BY COMMISSIONER CRUSE:

18 Q. Your instant offense is Attempted Murder First A1,
19 another Attempted Murder First A1 and Criminal Possession of a
20 Weapon Second, C; is that correct?

21 A. Yes, that's correct.

22 Q. Your aggregate term is 30 to life, yes?

23 A. That's correct.

24 Q. The instant offense in brief is as follows; officers
25 received an alert of a shootout on 160th Street and Amsterdam in

1 New York City, when they arrived you were shooting across the
2 street at other males; is that true, sir?

3 A. I would like to explain, Commissioner. I'm fighting my
4 innocence. In the packet I put a letter referring to that.

5 Q. That's the 440 motion, correct?

6 A. I put the 440 that's pending, yes. I have a copy of
7 the 440 that's pending.

8 Q. Did they offer you a plea?

9 A. Yes, they offered me a plea.

10 Q. What did they offer you?

11 A. Three to nine.

12 Q. Three to nine, I guess you wish you had taken it, yes?

13 A. No, I didn't take it because I'm innocent, that's why I
14 didn't plea.

15 Q. Very good, sir. So because of your 440 currently I
16 think you want to not speak about, in any significant detail the
17 instant offense; is that right?

18 A. The reason that I put the 440 is for parole to
19 understand that I'm fighting my innocence.

20 Q. Okay, so then we'll talk about the instant offense
21 without any restrictions; is that right?

22 A. You can ask me questions but I won't go into many
23 details.

24 Q. That's what I just said, sir. That's what I just said
25 to you. So I have another question, when do you think they will

1 make the decision on this for you?

2 A. I don't know what to tell you because the 440 doesn't
3 have a time for them to decide.

4 Q. The reason why I was asking you that is because perhaps
5 you want to postpone that way you won't error in any way because
6 this file will be available to any post interview court actions.
7 So you make that decision, do you want to proceed or postpone?

8 A. I would like to proceed.

9 Q. Okay. In our proceeding we will take this as truth
10 'cause you were found guilty.

11 A. Can you repeat because I'm not hearing you well. It's
12 cutting.

13 Q. Cutting in and out?

14 A. When you speak it cuts in and out, I don't know what
15 the phone has.

16 COMM. CRUSE: But he understands you?

17 THE INMATE: When he speaks I can hear but when
18 you speak I can't hear you, it cuts in and out.

19 COMM. CRUSE: He hears me but doesn't hear you?

20 THE INMATE: Now I can hear you better.

21 CONTINUED BY COMMISSIONER CRUSE:

22 Q. I was asking you about postponing, since you feel the
23 way you do about the 440, to prevent any misspeaking does he want
24 to postpone? If not, we'll proceed and he said yes.

25 A. Yes.

1 Q. And we're considering this as fact because you were
2 found guilty by verdict.

3 A. Okay.

4 Q. So my question to you, whether you answered or not, I
5 guess we'll find out as I ask my questions, why were you shooting
6 across the street at other males?

7 A. I would like you to explain to him that I wasn't
8 shooting to anyone.

9 Q. So you didn't have a gun?

10 A. No.

11 Q. You didn't fire any shots at the officers?

12 A. No, I didn't shoot at any officer.

13 Q. So how did they arrest you?

14 A. They arrested me on the corner of Amsterdam and 160th.

15 Q. What were you doing there?

16 A. I was standing there with more people and they arrested
17 all of us.

18 Q. Was there a shooting going on?

19 A. There was shooting in the middle of the block.

20 Q. There was shooting in the middle of the block and you
21 were just standing on the corner?

22 A. We were on the corner of Amsterdam when we were
23 arrested, we were on the corner of 160th and Amsterdam.

24 Q. Sir, the only thing you did was repeat what you just
25 said. I'm gonna ask my question again, there were guns being

1 fired in the middle of the block and you stood on the corner and
2 just stood there?

3 A. I was standing on the corner with other people and we
4 were all arrested.

5 Q. Don't you think it's unusual to just stand on a corner
6 on a block where there's gunfire -- active gunfire present?

7 A. We were on the corner but not on the corner where there
8 was shooting, we were on the other side.

9 Q. I'm sorry, if somebody's shooting in the middle of the
10 block I'm not gonna be on the block. I'm not gonna be on the
11 corner, if anything I'm gonna be down on the ground trying to
12 gain cover. I mean, were you taking photographs or maybe you
13 were on the corner just having refreshments? I don't understand,
14 with danger lurking you stood on the corner. I don't get it,
15 I'll move on. If you're released today, where are you gonna
16 live?

17 A. I will live with my wife.

18 Q. And who is [REDACTED] [REDACTED] (phonetic)?

19 A. That's my aunt.

20 Q. What happened to her?

21 A. When they did this they did this wrong, that was the
22 alternative address, the other one isn't put there.

23 Q. Did you bring that to the attention of your counselor?

24 A. Yes.

25 Q. And your counselor said?

1 A. My counselor said to fix it here when I arrived here
2 but it was too late to fix it.

3 Q. What kind of work are you gonna do, sir?

4 A. If they allow me I'll work in an agency, insurance
5 agency.

6 Q. Do you have any letters of assurance?

7 A. Yes.

8 Q. We'll look at that, thank you. We do see some letters
9 of support in your file -- strike that -- I see a letter of
10 apology in your file. So my question to you is, you sent this
11 apology letter to the Apology Bank, correct?

12 A. Yes, that's correct.

13 Q. You sent an apology letter for a crime that you say you
14 did not commit?

15 A. Yes.

16 Q. You say that though "you did not commit such an offense
17 that you understand the fear and troubles that the victims had to
18 go through and no police officer should be subjected to being
19 injured while on duty or while off duty and should be respected
20 as such. I accept responsibility for being at the wrong place at
21 the wrong time." Mr. [REDACTED], wrong place, wrong time but you
22 stayed there.

23 A. Correct.

24 Q. Doesn't make sense.

25 A. I would like you to explain to the Commissioner that if

1 the captain of the precinct would have testified I would have not
2 gotten arrested. The reason I say that is because the captain,
3 Mr. [REDACTED], he conducted a hearing called Geo 15, during that
4 hearing the officials explained that I never shot at anyone.

5 Q. What officials?

6 A. But the jury never heard that part.

7 Q. What officials?

8 A. Officers [REDACTED]t and [REDACTED].

9 Q. Let's go to your discipline, this is your initial
10 interview and in initial interviews we take into consideration
11 all of your discipline from the beginning of your sentence.

12 A. Okay.

13 Q. You have multiple Tier III infractions --

14 A. Yes.

15 Q. -- why so many?

16 A. Well, I can't give an excuse, I was arrested young, I
17 wasn't thinking correctly at that time.

18 Q. How old are you?

19 A. Now, 51.

20 Q. And how old were you when you got arrested on this
21 case?

22 A. Twenty-one years when I was arrested.

23 Q. And you say you were young? You were an adult.

24 A. At that time I was younger, I was 21.

25 Q. Fighting, weapons, multiple weapons, unauthorized

1 exchange, contraband, direct order, your last Tier III was in
2 2016 but in August of 2020 you were placed in confinement.

3 Protective custody, I'm sorry. Right, protective custody?

4 A. That's correct.

5 Q. What were you in protective custody for?

6 A. I was doing exercise and one of the cables broke and
7 the cable hit me so I went to the officers and I reported it, the
8 next day an informant said that somebody had hit me so they put
9 me in protective custody.

10 Q. An informant?

11 A. Yes, an informant.

12 Q. An informant for who?

13 A. Of the facility. An informant of the facility said I
14 was fighting with someone.

15 Q. Why would the informant say that if you were exercising
16 and you hit yourself in the head with a cable?

17 A. I don't know.

18 Q. And you never questioned it?

19 A. Of course I questioned it.

20 Q. And what did they say?

21 A. They said that since the informant said I was involved
22 in a fight they didn't want to take the chance of putting me back
23 into the population for three or four days.

24 Q. And then they transferred the other inmate?

25 A. I don't know, I was alone.

1 Q. Looking at your COMPAS, you're familiar with the
2 COMPAS?

3 A. I'm not really familiar with that.

4 Q. You answered some questions with your counselor, the
5 scores ended up in a graph like this (indicating), you have it?

6 A. Yes.

7 Q. It measures your risk and certain behaviors upon being
8 released to the community. One is low risk, 10 is high risk,
9 your risk of felony violence is low, two, arrest risk is low,
10 absconding risk is low. Everything is either low or unlikely
11 except your prison misconduct which we just talked about, your
12 discipline, that's high, 8 of 10. You understand that?

13 A. Yes.

14 Q. It's low and unlikely overall but that prison
15 misconduct is of concern. It's customary that we write judges,
16 DA's, and defense attorneys associated with your case --

17 A. Say it again, I don't understand the question.

18 Q. It's not a question, it's a statement. It's customary
19 that we write judges, defense attorneys and the DA regarding the
20 possibility of your release, we did not get any response from
21 them so we will continue without their input. Please be advised
22 that there is an Order of Deportation in your file.

23 Any questions, Commissioner Segarra?

24 THE INMATE: Can you explain to the
25 Commissioner that I am fighting the Order of Deportation.

1 COMM. CRUSE: You already have, we've already
2 discussed it, if we release you there's a possibility you can
3 be deported.

4 THE INMATE: Okay, I understand.

5 COMM. CRUSE: Segarra?

6 COMM. SEGARRA: I've listened carefully, I have
7 no questions.

8 CONTINUED BY COMMISSIONER CRUSE:

9 Q. I have your packet, I have considered your personal
10 statement, I'm confused about this part of your statement where
11 you say "I am willing to speak about my experience during my
12 incarceration, as to all misbehavior reports and all mandatory,
13 volunteer programs I have completed. I hope and pray I am
14 afforded an opportunity to express fully from the point of my
15 arrest to the point of my parole hearing." Have you had that
16 opportunity, sir?

17 A. You want me to speak now or are you asking me if I
18 would like the opportunity?

19 Q. We've been speaking about your case from the point of
20 your arrest to the point of the parole hearing, this is the
21 parole hearing, haven't we talked about it, that's my question or
22 is there more you'd like to say?

23 A. I have nothing else to say.

24 Q. Thank you, sir. I'm looking at your packet, I see that
25 you have certificates here, Otisville Life Savers, Narcotics

1 Anonymous certificates, Prisoner for AIDS counseling, AVP, once
2 again Narcotics Anonymous. I see letters of the leaders of the
3 Otisville Lifers and Long Termers Organization, they're speaking
4 to your training regarding COVID-19 as well as a range of
5 personal and emotional workshops. I'm looking at this letter
6 that we referenced earlier, [REDACTED] it's a
7 job offer. I have a letter from [REDACTED], do you know him?

8 A. He's my son.

9 Q. He says that he asks your forgiveness, why would he say
10 that?

11 A. I was never there for him, I was in prison when he was
12 three months.

13 Q. So why does he ask you for forgiveness?

14 A. I don't know.

15 Q. [REDACTED]?

16 A. Ms. [REDACTED], that's my wife.

17 Q. [REDACTED]?

18 A. [REDACTED]?

19 Q. [REDACTED].

20 A. That's the uncle of my wife.

21 Q. I have two letters from your wife, [REDACTED] is in
22 support of you, [REDACTED], [REDACTED], [REDACTED].
23 Photos, very nice. I have photos of your family. We're done on
24 this end, Mr. [REDACTED], unless you have something else we're
25 prepared to close.

1 A. I would like for you to take into consideration that
2 I'm still fighting my innocence. I've been fighting that for
3 many years. I'm fully capacitated to leave the prison.

4 Q. Fully capacitated to leave the prison? I don't
5 understand that.

6 A. I'm fully capable to go back into society.

7 COMM. CRUSE: Oh, okay, thank you so much. All
8 right, sir, we're gonna write our decision, send it to your
9 attention, give us some time to do that. Thank you.

10 THE INMATE: Thank you.

11 (Interview concluded.)

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

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DECISION

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7 [REDACTED], parole denied. Hold 24 months. Next
8 appearance 2/2023.

9

10 After a review of the record, interview and deliberation,
11 the Panel has determined that if released at this time there is a
12 reasonable probability that you would not live and remain at
13 liberty without again violating the law and that your release
14 would be incompatible with the welfare and safety of society.
15 Paroled is denied.

16 The instant offense marks your first New York State
17 incarceration resulting from your conviction for Attempted Murder
18 A1, another Attempted Murder A1, and Criminal Possession of a
19 Weapon Second, C, where officers responded to an alert that shots
20 were being fired at 160th Street and Amsterdam Avenue. When the
21 officers arrived, you were observed shooting across the street at
22 other males. After identifying themselves and commanding that
23 you lower your weapon, you turned around and shot approximately
24 three rounds at the officers. The officers took cover and
25 returned fire.

Based on all the required factors in the file considered;

1 your Case Plan, institutional adjustment, release plans, your
2 discipline and your COMPAS Risk Assessment, despite the
3 presentation of your satisfactory Case Plan, the Panel deems your
4 institutional adjustment plagued with a poor disciplinary
5 history. You have amassed multiple Tier III infractions for, but
6 not limited to, direct order, unauthorized exchange, harassment,
7 fighting, and multiple weapon infractions. Your disciplinary
8 history is a concern to the Panel. The Panel does not depart
9 from your low/unlikely COMPAS risk scores, however weighs heavily
10 the high risk score for prison misconduct. Your inability to
11 follow rules while confined leads the Panel to question your
12 ability to follow the law.

13 In your interview you denied your guilt in the instant
14 offense and repeated your pending motion to appeal your
15 conviction. Despite your limitations in discussing the instant
16 offense, what you did discuss was ingenuine and confusing. When
17 questioned, you provided vague explanation and repeated yourself
18 standing on your denial of the instant offense.

19 The record notes an order of deportation. You have
20 asserted being born in Westchester, New York however have yet to
21 provide proof. The disparity warrants resolve during this
22 period.

23 Lastly, your release plan warrants attention. In the
24 interview you provided a proposed residence other than that noted
25 in the record. Your employment assurance letter was well noted.

[REDACTED] [REDACTED] [REDACTED] [REDACTED]

1 Spend your time cleaning up your discipline, adhering to
2 facility rules, and clarifying your release plans in light of
3 your pending deportation. Parole is denied.

4 (All Commissioners concur.)

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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 17 pages, is a true and correct copy of the same and whole thereof.

Erin Chickery

Erin Chickery, Court Reporter

Dated: February 9, 2021