



MAURA T. HEALEY
Governor

KIMBERLEY DRISCOLL
Lieutenant Governor

TERRENCE M. REIDY
Secretary

The Commonwealth of Massachusetts
Executive Office of Public Safety & Security
Department of Correction
50 Maple Street, Suite 3
Milford, MA 01757
Tel: (508) 422-3300
www.mass.gov/doc



CAROL A. MICI
Commissioner

SHAWN P. JENKINS
Chief of Staff

KELLEY J. CORREIRA
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Deputy Commissioners

April 14, 2023

Attorney Sarah Nawab
Prisoners' Legal Services
50 Federal Street, 4th Floor
Boston, MA 02110

RE: Medical Parole Petition of [REDACTED]

Dear Attorney Nawab:

On March 2, 2023, I received your email requesting that I reconsider [REDACTED] for release on medical parole. On February 6, 2023, I denied Ms. [REDACTED]'s third petition for medical parole; I incorporate that decision herein by reference. In light of your March 2, 2023 request, I requested an updated medical summary of Ms. [REDACTED]'s current medical condition as well as any changes in her incarceration history. Also, as you are aware, on April 12, 2023, I held a hearing regarding this medical parole petition. In addition to your oral presentation, I took testimony from Lynn Lizotte, Deputy Superintendent of Reentry at MCI-Framingham, Dr. Johvonne Claybourne of Wellpath, the Department's medical provider, three registered victims under G.L. c. 258B, and the First Assistant District Attorney for Hampden County, Jennifer Fitzgerald. I also am in receipt of written statements in opposition to your request for reconsideration from the Hampden County District Attorney's Office and the registered victims.

On March 8, 2023, Dr. Joyce Rosenfeld, the medical director of MCI-Framingham, provided an updated evaluation of Ms. [REDACTED]'s medical condition. Dr. Rosenfeld concluded that Ms. [REDACTED] does not have a terminal disease and is medically stable, with ongoing progression of memory issues that require some prompting for her to complete her activities of daily living. Dr. Rosenfeld did note that though Ms. [REDACTED] is currently in the Health Services Unit (HSU), she does travel to the [REDACTED] general population unit as much as possible so that she can interact with her peers. Dr. Rosenfeld noted that Ms. [REDACTED] uses a rolling walker with a seat and is allowed to use a wheelchair with a pusher for longer distances.

In addition to the medical assessment of Dr. Rosenfeld, I was provided Ms. [REDACTED]'s medical records; of particular note was the psychiatric progress note authored by Dr. Susan Richardson, who evaluated Ms. [REDACTED]'s suitability for medication to slow down the progression of Alzheimer's

disease. Dr. Richardson noted that Ms. [REDACTED], at the time of her assessment, had reportedly been more confused for “a week or so” and believed this recent confusion could be attributed to a delirium superimposed on her dementia as a result of her recovering from COVID 19 and therefore her confusion would clear up in a few months post-COVID infection. Other specific notes made by Dr. Richardson include that Ms. [REDACTED] was alert, her thought process was normal, she reported no hallucinations, and her speech was fluent/normal. She also noted that Ms. [REDACTED] was “somewhat disheveled” and had very poor short-term memory, asking the same question repeatedly. In addition, while Dr. Richardson did not recommend that Mr. [REDACTED] begin a medication trial due to her small stature and age putting her at greater risk for side effects, it is notable that her diagnosis remained only a “major neurocognitive disturbance due to **probable** Alzheimer’s Disease, Generalized anxiety disorder Post traumatic stress disorder.” (emphasis added) Dr. Richardson’s diagnosis is consistent with the testimony of Wellpath physician, Dr. Johvonne Claybourne at the medical parole hearing conducted on April 12, 2023.

At the hearing, Dr. Claybourne testified regarding Ms. [REDACTED]’s current medical condition and prognosis. Dr. Claybourne stated that Ms. [REDACTED] currently has a moderate level of dementia with worsening cognitive impairment and requires heavy prompting by way of verbal cues to assist her in performing her activities of daily living. Dr. Claybourne has met Ms. [REDACTED] once in person and found her to be anxious and confused during their meeting but acknowledged that their interaction was limited. She further noted that Ms. [REDACTED] would like to return to the [REDACTED] general population unit and enjoys going to the [REDACTED] Unit for peer interaction. According to Dr. Claybourne, the only medication that Ms. [REDACTED] is taking is Melatonin for insomnia and to assist with her ‘sundowning’ due to dementia, Prozac, and Klonopin for anxiety. Dr. Claybourne stated that Ms. [REDACTED] does not have a terminal condition. She did suggest that a nursing home, specifically one with a memory care unit, would be beneficial to Ms. [REDACTED] but did not opine that such a unit was a necessity at this time, acknowledging that Ms. [REDACTED] is currently escorted when she travels places to ensure that she does not get lost and though she needs prompting to complete tasks, she does respond to the prompting and is able to complete the task with prompts.

MCI-Framingham Deputy Superintendent of Reentry, Lynn Lizotte, also gave sworn testimony regarding how Ms. [REDACTED] is currently functioning at MCI-Framingham. Deputy Lizotte acknowledged that the unit staff have noticed Ms. [REDACTED]’s memory issues have progressed but stated that while Ms. [REDACTED] has obvious confusion at times, she also has moments of clarity. Deputy Lizotte corroborated that Ms. [REDACTED] does require prompting to complete tasks but that Ms. [REDACTED] very much would like to return to living in the [REDACTED] Unit, noting that Ms. [REDACTED] does not have a medical condition that requires her to remain at the HSU but is currently there for precautionary reasons. To that end, in March of this year, Ms. [REDACTED] began a new program with the goal of her being able to return to general population. The program includes a very structured schedule, activities requiring her to spend greater time outside of her cell and regular visits to the [REDACTED] Unit and dayrooms. Deputy Lizotte reported that Ms. [REDACTED] has responded positively to this program, is very grateful for the schedule and additional activities, and looks forward to seeing her peers during her scheduled activities as well as her visits to the [REDACTED] Unit. Ms. [REDACTED] is able to move about the [REDACTED] Unit and the HSU unit with a rolling walker and a wheelchair with pusher for longer distances but is very motivated to spend time in the [REDACTED] Unit.

The medical information provided by Drs. Rosenfeld and Claybourne of Wellpath, the Wellpath medical records, and the testimony at the medical parole hearing, all indicate that while she does have progressive cognitive impairment, Ms. [REDACTED] is independent with her activities of daily living with sufficient prompting, able to ambulate with a rolling walker, and has positively adjusted to a new program put in place for her last month. Accordingly, I find no reason to alter my determination that Ms. [REDACTED] is neither “terminally ill” nor “permanently incapacitated” as defined in G.L. c. 127, § 119A.

First Assistant District Attorney (ADA) Jennifer Fitzgerald, from the Hampden County District Attorney's Office also attended and testified at the hearing. ADA Fitzgerald previously provided a written opposition to the hearing, and used the time allotted for her hearing testimony to address the testimony of Dr. Claybourne and Deputy Lizotte. Specifically, ADA Fitzgerald noted that Ms. [REDACTED] does not suffer from a terminal illness; consequently, she can only qualify for medical parole if she had a permanent incapacitation that ensured she would live lawfully if released. ADA Fitzgerald does not believe Ms. [REDACTED] would live lawfully if released, citing the facts that Dr. Claybourne diagnosed Ms. [REDACTED] with a moderate level of dementia, Ms. [REDACTED] can still perform her activities of daily living with prompting, she can ambulate with a walker, she engages in activities and has responded well to her new schedule. Furthermore, ADA Fitzgerald expressed her concern that there is no indication that Ms. [REDACTED] would in fact live lawfully and abstain from breaking the law in a nursing home setting. Finally, ADA Fitzgerald testified that while some of Ms. [REDACTED]'s difficulties are likely due to her age, she also does seem to have progressing cognitive impairment; however, the fact that she may be "better served at a nursing home is simply not the standard for release on medical parole." ADA Fitzgerald concluded with the facts that the murder Ms. [REDACTED] committed was a calculated, atrocious killing of her husband and though a nursing home may be beneficial, there is no evidence that she is so incapacitated that she would live lawfully if released.

Finally, I heard sworn testimony from three registered victims, all family members of the deceased. In addition to expressing how affected the family was and still is by the brutal murder of their loved one, the registered victims expressed concern that given how manipulative they know Ms. [REDACTED] to be, they feel the numerous petitions for her release on medical parole are only examples of Ms. [REDACTED] trying to manipulate the system so that she does not have to serve her complete sentence; they urged that I deny the petition.

After careful review, I do not find evidence that compels a different outcome from my February 6, 2023 decision denying Ms. [REDACTED]'s petition for medical parole. I am in agreement with the Hampden County District Attorney's Office that Ms. [REDACTED]'s medical condition does not meet the medical criteria established in the medical parole statute, G.L. 127, §119A. Within the statute, a "permanent incapacitation" is defined as "a physical or cognitive incapacitation that appears irreversible, as determined by a licensed physician, and that is so debilitating that the prisoner does not pose a public safety risk" and a "terminal illness" is defined as "a condition that appears incurable, as determined by a licensed physician, that will likely cause the death of the prisoner in not more than 18 months and that is so debilitating that the prisoner does not pose a public safety risk". While Ms. [REDACTED] now requires consistent prompting to aid her in completing her activities of daily living, she is still able to complete them all herself and does not require staff assistance. In addition, as Deputy Superintendent Lizotte noted, the facility has created a new program for Ms. [REDACTED] to increase her out of cell time and keep her engaged, to which she has responded well. That program is currently underway, having been implemented last month. Finally, aside from her cognitive decline, Ms. [REDACTED] is medically very stable, she is not on significant medication, nor does she require medical restrictions aside from her rolling walker and a wheelchair with pusher for longer distances. I do not find that Ms. [REDACTED] is either "terminally ill" or "permanently incapacitated" as defined in G.L. 127, §119A.

Furthermore, as outlined in my earlier decision, incorporated herein by reference, Ms. [REDACTED] was convicted of the extremely violent killing of her husband where [REDACTED]. I share ADA Fitzgerald's concern that Ms. [REDACTED] is still able to function independently with prompting, only has a moderate level of dementia, and there is no indication that she is incapable of committing another or similar crime involving harm to another or would live lawfully if released on medical parole. Despite her cognitive impairments, Ms. [REDACTED] is reported to be independent with her activities of daily living with prompting, has responded well to her new program and

structured schedule, looks forward to interacting and socializing with her peers in general population, and is striving to return to general population in the [REDACTED] Unit. Where she is still able to function independently with prompting, does not suffer from a serious medical condition, and has a history of manipulative and violent behavior with no indication that she is not capable of the same, I do not believe that if released, Ms. [REDACTED] would live and remain at liberty without violating the law, or that her release would be compatible with the welfare of society. Accordingly, I am denying your request for reconsideration of Ms. [REDACTED]'s medical parole petition.

Sincerely,



Carol A. Mici
Commissioner

cc: Mitzi Peterson, Deputy Commissioner
Jeffrey Fisher, Assistant Deputy Commissioner
Kristie Marchand, Superintendent, MCI-Framingham
Lynn Lizotte, Deputy Superintendent of Reentry, MCI Framingham
Anthony Gulluni, Hampden County District Attorney
Jennifer Fitzgerald, First Assistant District Attorney, Hampden County District Attorney's Office
[REDACTED], MCI- Framingham
DOC Victim Services Unit (for notification to registered victims under G.L. c 258B)