



The Commonwealth of Massachusetts
Executive Office of Public Safety



PAROLE BOARD

12 Mercer Road
Natick, Massachusetts 01760

Telephone # (508) 650-4500
Facsimile # (508) 650-4599

Deval L. Patrick
Governor

Timothy P. Murray
Lieutenant Governor

Mary Elizabeth Heffernan
Secretary

Josh Wall
Chairman

DECISION

IN THE MATTER OF

DANIEL MENDOZA

W62695

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: August 2, 2011

DATE OF DECISION: April 26, 2012

PARTICIPATING BOARD MEMBERS: Cesar Archilla, John Bocon, Dr. Charlene Bonner, Ina Howard-Hogan, Roger Michel, Lucy Soto-Abbe, Josh Wall

DECISION OF THE BOARD: Parole is denied with a review in two years. The decision is unanimous.

I. INTRODUCTION

Mr. Mendoza appeared before the Massachusetts Parole Board on August 2, 2011 for an initial parole hearing, having served 15 years of a second-degree life sentence. After careful consideration of all relevant facts, including the nature of the underlying offense, the views of the public as expressed at the hearing or in written submissions to the Board, the inmate's criminal history, his institutional department, his social history, and his level of engagement with rehabilitative programming while incarcerated, the Board unanimously concludes that, while the inmate has made significant strides toward rehabilitation, a positive vote is not indicated at this time. However, it is the Board's hope and expectation that, if the inmate continues in his current trajectory, he soon may be deemed a suitable candidate for release. Accordingly, the Board will review his case in two years.

II. STATEMENT OF FACTS

The inmate, together with his friends Johnny Sustache and Christian Santiago, were members of Neta, a street gang in Springfield. On August 25, 1996, Sustache and Santiago attended a party in Chicopee. There the two men encountered members of the Latin Kings and La Familia, both rival street gangs. Sustache and Santiago were taunted by their rivals and ultimately expelled from the party.

Sustache and Santiago returned to Springfield and there encountered the inmate. The three men, stung by the treatment of Santiago and Sustache by the rival gang members, decided to return to Chicopee to exact revenge. After arming themselves with handguns, they drove back to Chicopee with Sustache at the wheel of a borrowed automobile. When they reached the site of the party, the inmate and Santiago left the vehicle, crept up on their rivals, and opened fire. Jason Foster, 18 years old, was killed by a single shot to the back. Jermain Hunter, 19 years old, was shot three times in the legs but recovered from his wounds.

After a brief investigation, Sustache, Santiago and the inmate were arrested. Initially, the inmate gave police a false exculpatory version of events. However, after being confronted by numerous witness statements, the inmate confessed to being involved in the shooting. He later pled guilty in Superior Court to second-degree murder, assault and battery with a dangerous weapon and unlawful possession of a firearm.

While incarcerated, the inmate's institutional adjustment has been above average, particularly in more recent years. Without question, his initial adjustment was poor – the inmate incurred numerous disciplinary reports for violent and seditious conduct. Further, he continued to be involved with gangs while in prison: as late as 2000, he was identified as a leader and recruiter for Neta. It was not until 2002 that the inmate's conduct finally began to improve. Around that time he was transferred to MCI-Shirley, a medium security facility. While he has received eight disciplinary reports since moving to medium security, including a serious infraction in 2011 involving financial improprieties, this represents a sharp reduction in violations as compared to the 26 disciplinary reports he received during the first five year of his incarceration.

In addition to a marked improvement over time in his institutional behavior, the inmate has participated in a very large number of rehabilitative programs, including all of those recommended by the Department of Correction in his risk reduction plan. While his program accomplishments are far too numerous to list, we note that the inmate has completed the CRA, all phases of Alternatives to Violence (including multiple cycles of the trainer's and facilitator's courses), Re-entry Workshop, Health Awareness, Fathers' Group, and numerous substance abuse and educational programs. He received his GED and completed the rigorous barber's course, obtaining his Massachusetts Board of Barbers license. In short, he has complied with or exceeded every rehabilitative demand placed upon him.

III. DECISION

Several considerations underlie our decision to deny the inmate parole at this time. First and foremost, the Board is troubled by the inmate's long history of disciplinary infractions, including a very serious violation just last year. The inmate simply cannot expect to receive a positive vote until he can present himself to the Board with a clear disciplinary record for a significant period of time. If the inmate cannot comply with rules in the highly structured and closely monitored prison environment, it is impossible for us to conclude that he will abide by his conditions of parole when his conduct will be almost entirely self-regulated. Further, the

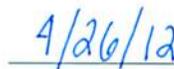
Board is concerned that the inmate was unable to show clear insight during his hearing into the causes underlying his criminal conduct. A further period of reflection may be useful in that regard.

At the same time, the Board observes that while the inmate has a few other arrests on his record, this is his first incarceration of any kind. Further, the inmate enjoys unusually strong community support, both from family members and friends. Such support, in the Board's experience, is often a decisive factor in reducing recidivism. Also, as noted already, the inmate has worked hard while in prison to further both his rehabilitation and his education, including his vocational education. Provided the inmate can improve his institutional decorum, these factors would militate strongly in favor of parole release, particularly in view of the inmate's age at the time of the offense: only sixteen years. It is our sincere hope that the inmate will reform his conduct and so place himself in a position to receive such an opportunity.

The standard we apply in assessing candidates for parole is set out in 120 CMR 300.04, which provides that "[p]arole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." Applying that appropriately high standard here, the Board cannot reasonably conclude that the inmate is deserving of parole at this time. We will review his case two years from the date of his last hearing.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing.


Caitlin E. Casey, Chief of Staff


Date