



The Commonwealth of Massachusetts  
Executive Office of Public Safety



PAROLE BOARD

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**DECISION**

**IN THE MATTER OF**

**MICHAEL DIAZ**

**W66797**

**TYPE OF HEARING:** Initial Hearing

**DATE OF HEARING:** October 8, 2013

**DATE OF DECISION:** December 3, 2013

**PARTICIPATING BOARD MEMBERS:** Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, Lucy Soto-Abbe, Josh Wall

**DECISION OF THE BOARD:** After careful consideration of all relevant facts, including the nature of the underlying offense, institutional record, the testimony of the inmate at the hearing, the views of the public as expressed at the hearing or in written submissions to the Board, we conclude by a unanimous vote that the inmate is a suitable candidate for parole. Parole is granted to a long-term residential program following one year of incarceration in lower security at the Department of Correction (DOC) during which time Diaz must maintain good conduct and comply with all DOC expectations for programs, activities, and employment.

**I. STATEMENT OF THE CASE**

On November 20, 1997, Michael Diaz, age 16, shot and killed 18-year-old Jason Carmona in Lowell. On July 19, 1999, after a jury trial in Middlesex Superior Court, Diaz was convicted of second-degree murder and sentenced to serve life in prison.<sup>1</sup> That same day, he

<sup>1</sup> Five co-defendants were also charged and convicted in connection with the death of Mr. Carmona. Four of the co-defendants were juveniles, and their cases were litigated in the Lowell Juvenile Court. Two of the juveniles were convicted of being an accessory after the fact and unlawful possession of a firearm, and were sentenced to serve four and a half to five years. The third juvenile was sentenced to serve three years to three years and one day for being an accessory after the fact, and the fourth was sentenced to serve four years to four years and one day for being an accessory after the fact. The fifth co-defendant, Julio Lugo, was sentenced in Middlesex Superior Court to a term of eight to 12 years for being an accessory before the fact, and a three to five year term for being an accessory after the fact.

was also sentenced to serve a sentence of one year to one year and one day for unlawful possession of a firearm. He has completed this sentence. The Massachusetts Appeals Court affirmed the convictions in an unpublished opinion on January 14, 2003, and the Supreme Judicial Court declined further appellate review. *Commonwealth v. Diaz*, 57 Mass. App. Ct. 1103, *rev. denied*, 439 Mass. 1102 (2003).

Michael Diaz was a member of the Lowell "Blunt Squad," a gang in Lowell. Jason Carmona was a member of the Latin Kings, a rival gang. On the day of the murder, Diaz and other members of the Blunt Squad met at a friend's apartment to discuss their plans to retaliate against members of the Latin Kings. Later in the day, the group met up with several Latin King members and challenged them to a fight at a local park. While other members of the Blunt Squad arrived at the park, Diaz circled it on his bicycle carrying a loaded .357 revolver.

Jason Carmona was the lone Latin King in the park. Blunt Squad members taunted him, and he turned away. Diaz took out the gun, cocked it, and pointed it in Mr. Carmona's direction. As Mr. Carmona started to flee, Diaz fired the gun, striking him in the back. The bullet penetrated Mr. Carmona's aorta, inferior vena cava, and liver, and he died a short time later.

After the shooting, Diaz and other members of the Blunt Squad reconvened at their friend's apartment. While at the apartment, Diaz told his friend that he had shot Mr. Carmona. Later that night, he told another friend, who had had a run-in with Mr. Carmona previously, "I did it for you. I got him for you." The murder weapon was later recovered at the bottom of the Merrimack River.

## **II. PAROLE HEARING ON OCTOBER 8, 2013**

Michael Diaz appeared for his initial parole hearing represented by Attorney John Rull. Attorney Rull presented Diaz's parole package that described his rehabilitation and documented his program participation and good conduct in prison. Attorney Rull gave an opening statement in which he described the challenges faced by Michael Diaz, the steps he has taken to overcome the challenges, and the skills that he has developed to reduce his risk and plan for the future. Diaz provided information on his upbringing and the circumstances that led to committing a murder at age 16: "I didn't have too much stability; we went to our first foster home after my mother abandoned us (my brother and I) when we were toddlers; my father and grandmother got custody and we lived with one or the other until my dad's mental illness got worse; we were in and out of foster care; my older brother and I raised each other on the streets; then my brother went out on his own and I was on my own; I stopped school my freshman year at Lowell High School; I knew a lot of the gang kids in school growing up and at age 14, the end of eighth grade, I joined the Blunt Squad gang; I started living with gang members; I drank three or four times a week and I smoked marijuana every day; I supported myself by selling marijuana; I got caught up in the fake ideology of the gangs." He described his involvement in a gang fight that resulted in a juvenile delinquency with probation and another fight that resulted in a delinquency and a DYS commitment.

In describing the murder, Diaz gave the following narrative: "We met and discussed the ongoing rivalry; things were escalating with members jumped, threatened, and guns pulled on them; the meeting broke up and several of us went to Subway where we saw three or four

Latin Kings; we confronted them; I antagonized Kevin Rosa and challenged him to fight; the police were down the street so we agreed to meet at North Common Park to fight; we went to Julio Lugo's house where we called other gang members; they came over and we discussed a plan; when we discussed bringing a gun, I said I would do it; Lugo gave me a .357 revolver from the closet; Lugo gave me dark clothes to wear; it was agreed I would be on a bike; we planned how we would approach the park; we all met up at the park; it was odd that the Latin Kings were not there; a person walked across the park; as he got closer I recognized him and knew he had been with Kevin Rosa; he had pulled a gun on our guys before; I took out the firearm and placed it at my side; it was late afternoon, maybe 4:00 o'clock; he wasn't looking for a confrontation, so he turned and walked away; I shot him in the back; I was charged two weeks after the murder."

As a juvenile, Diaz began his incarceration at the juvenile facility at the Plymouth House of Corrections. His behavior was poor. He explained that, "I carried over the same life over to my incarceration; I was rebellious and got in fights at Plymouth; I know my conduct was horrible; I was scared when I got there and I thought I should show I was not the type of person to be messed with; I carried my old beliefs and ideology; when I got to MCI-Concord in 1999 I joined La Familia; I was a soldier; when I got to Souza-Baranowski I got letters from them telling me that I was in charge of a small group, seven or eight members in my area; I got a disciplinary report for my gang involvement; I also got a disciplinary report because they intercepted a letter where I asked my cousin to bring me some marijuana; because they intercepted the letter I never got the marijuana; I was not using marijuana or other substances in prison."

Diaz explained that, "it was not until 2002 or 2003 that my behavior improved; the Spectrum Security Threat Group program was the foundation; it was a six month residential program; I renounced gang membership." Thereafter, Diaz embarked on a remarkable path of rehabilitation. He described these aspects of his reform: "All the programs helped; I took pieces from everywhere; Alternatives to Violence gave me self-awareness; I was able to understand my criminal thinking and what false ideologies I held onto that I thought were normal; I learned they were not normal and there other ways to think and act; AA/NA helped; in 2004, my wife challenged me to pursue my GED; I had thought that education in prison wasn't for me but I did it and it made me more interested in education so I got involved in college courses through Boston University; history has been my primary interest in college coursework; currently I do AA/NA, 12 Steps, Family Awareness, I volunteer in the barbershop, and I am active in church activities." He has completed two years of college courses. Diaz's vocational programming has resulted in certificates for barbering, HVAC, and universal technician. He said that "I love barbering; that's my passion; I want to pursue that profession; my desire is to be self-employed." Working with other inmates, Diaz attempted to start a program for young people and their parents that would "teach self-esteem and warn them of the tactics that gangs would use to prey on them." He knew the other inmates "because we were all active in the church; some of us had been in rival gangs years ago." According to Diaz, the Department of Correction did not approve the program because "they had two other programs that helped the youth."

In considering parole, Diaz said that he would like to live in a residential treatment program with a spiritual emphasis before moving to live with his wife and her two daughters. He said, "I have known my wife most of my life; we reconnected in 2003 through a friend and

we got married in 2005.” He is connected to a church and plans to be actively involved in church activities and that community. He has been offered a job as a landscaper that was arranged by his BU mentor.

Speaking in support of parole were Diaz’s wife, two BU mentors, and the director of the long term residential program which has offered him a place. Mrs. Diaz works full time and is working towards a college degree. Middlesex Assistant District Attorney Christina Lucci spoke in opposition to parole.

### **III. DECISION**

Michael Diaz, at age 16, committed a gang murder by shooting a rival in the back. He committed the brazen act as a low level gang member who did not have a history of frequent violence. He entered prison as a teenager and continued his gang involvement. In 2003, however, he entered a six-month residential program to address gang involvement, criminal thinking, substance abuse, and violence reduction. As a result, he renounced his gang affiliation and committed himself to reform. His path to reform was comprehensive and included violence reduction, substance abuse programs, vocational programs, religious activities, education, and more relationships with positive inmates and mentors from the community. Through his persistent efforts and accomplishments, he has achieved rehabilitation. In addition, he has developed relationships and community contacts that give him a strong likelihood of succeeding on parole. He is married, has a concrete employment opportunity, is connected with a spiritual community, has additional educational and career goals, has the support of mentors in the community, and has many years of sobriety.

The Board concludes that the four goals of sentencing – punishment, deterrence, public protection, and rehabilitation – have been met. Underlying the conclusion that 16 years is sufficient punishment is consideration of Diaz’s age, the role that encouragement by older gang members played in the murder, and a relatively contained period of criminal behavior by Diaz. The standard for parole is set out in 120 C.M.R. 300.04, which provides that “Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such an 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, the Parole Board grants parole to a long-term residential program after a one-year period of incarceration in lower security for the purpose of assisting with the transition to living in the community.

**SPECIAL CONDITIONS:** Parole to long-term residential program after one year in lower security at the Department of Correction, during which time Diaz must maintain good conduct and comply with all DOC expectations for programs, activities, and employment; no drug use; no alcohol use; substance abuse evaluation at the program with requirement to follow recommended treatment, if any; counseling for adjustment issues.

*I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing. Pursuant to G.L. c. 127, § 130, I further certify that each member of the Board has reviewed the applicant's entire criminal record. This signature does not indicate authorship of the decision.*

Caitlin E. Casey  
Caitlin E. Casey, Chief of Staff

12/3/13  
Date