The Commonwealth of Massachusetts
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PAROLE BOARD
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Executive Director

DECISION

IN THE MATTER OF

JOHN MARINO

W60252

TYPE OF HEARING: **Review Hearing**

DATE OF HEARING: **December 15, 2015**

DATE OF DECISION: **April 7, 2016**

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, Tina Hurley, Lucy Soto-Abbe

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, the age of the inmate at the time of offense, criminal record, institutional record, the inmate's testimony at the hearing, and the views of the public as expressed at the hearing or in written submissions to the Board, we conclude that the inmate is not a suitable candidate for parole. Parole is denied with a review scheduled in three years from the date of the hearing.

I. STATEMENT OF THE CASE

On March 12, 1996, in Suffolk Superior Court, John Marino pled guilty to the second degree murder of Anna Delgado. Mr. Marino was sentenced to life in prison, with the possibility of parole, for the murder of Ms. Delgado.

Mr. Marino murdered Ms. Delgado in East Boston in the early morning hours of October 12, 1995. During the evening of October 11, 1995, Mr. Marino met Ms. Delgado at the Victory Pub in East Boston. After having several drinks, they left to obtain cocaine, and then went to Mr. Marino's apartment to use the cocaine and drink more beer. Later that night, Ms. Delgado told Mr. Marino that she wanted to leave. Mr. Marino told her that he could not give her a ride at that time. On October 12, 1995, Ms. Delgado's body was discovered behind a Kentucky Fried Chicken on Route 28 in Stoneham. Her t-shirt was up around her neck. She was not wearing other clothing, nor was any clothing found in the area where her body was located. A

subsequent autopsy revealed that Ms. Delgado had sustained at least 27 injuries to her head, face, and back that were caused by blunt force trauma, as well as two stab wounds. The head trauma caused depressed skull fractures, bruising of the brain, and bleeding around the membranes of the brain. One of the stab wounds penetrated her abdominal cavity and stomach. The other wound was located on her back and was superficial. The medical examiner could not discern the order of the wounds, but determined that either the head trauma or the stab wound to the abdominal area could have caused her death.

During the police investigation, Mr. Marino consented to a search of his home. Police observed blood, blood spatter on an end table, holes in the couch where fabric was removed, and a rug with a piece cut out. When questioned about these observations, Mr. Marino gave a number of contradictory and implausible explanations. While being transported to the local police station, Mr. Marino made a number of statements indicating that Ms. Delgado had attacked him, that he had "panicked," that he was "afraid," and that he "didn't mean to do it." Notably, the autopsy revealed that Ms. Delgado had no defensive wounds on her hands or arms.

II. PAROLE HEARING ON DECEMBER 15, 2015

Mr. Marino, now 50-years-old, appeared before the Parole Board on December 15, 2015, for a review hearing. This was his third appearance before the Board and he was represented by Attorney Patricia Garin. Both Mr. Marino's initial hearing on November 23, 2010, and his subsequent review hearing on December 4, 2012, resulted in the denial of parole.

In Mr. Marino's opening statement to the Board, he apologized to Ms. Delgado's family and expressed his remorse. During the course of the hearing, Mr. Marino spoke about the night of the murder. He said that he and Ms. Delgado had met at the Victory Pub in East Boston. According to Mr. Marino, Ms. Delgado approached him and, after some initial small talk about music, inquired if he would be willing to facilitate a cocaine purchase on her behalf. Mr. Marino agreed. According to Mr. Marino, he and Ms. Delgado had never met prior to that date. Mr. Marino informed the Board that at the time he met Ms. Delgado, he had been inside the Victory Pub for approximately six hours and had consumed at least 15 beers. Mr. Marino explained that he had entered the Victory Pub earlier in the day (a location he was familiar with and frequented often) after becoming angry at a situation involving a former business partner, who had refused to pay money owed to him from a failed business venture.

After making arrangements to purchase cocaine on her behalf, Mr. Marino drove Ms. Delgado to a nearby gas station. Mr. Marino then purchased an "8 ball" of cocaine (1/8th ounce or 3.5 grams) with money provided by Ms. Delgado. Next, Mr. Marino drove Ms. Delgado to his home for the purpose of consuming the cocaine. Prior to their arrival, Ms. Delgado had purchased more beer. Over the course of the next four to five hours, Mr. Marino and Ms. Delgado consumed the entire "8 ball" of cocaine, smoked marijuana, and drank beer inside the home that Mr. Marino shared with his parents, sister, and niece. According to Mr. Marino, Ms. Delgado decided she wanted to purchase more cocaine. Both he and Ms. Delgado then returned to the Victory Pub for this purpose, but were unsuccessful in doing so. Mr. Marino reported to the Board that he then started to experience an adverse reaction to the cocaine, marijuana, and alcohol that he had consumed. Growing weary of his ability to drive home, Mr. Marino told Ms. Delgado that he wanted to leave in order to go to bed. Ms. Delgado insisted on

returning to Mr. Marino's home with him for the purpose of recovering clothing and a personal item that she had left behind.

After returning to his home, a verbal argument broke out between Mr. Marino and Ms. Delgado. Mr. Marino acknowledged that his own belligerence was an instigating factor in this argument. According to Mr. Marino, he and Ms. Delgado were in his room when he was struck in the back of his head with an object thrown at him by Ms. Delgado. He also recalled a lamp falling to the ground. After being struck in the legs, Mr. Marino fell to the ground, stood back up, and then moved to the center of the room. According to Mr. Marino, he has no memory of what happened to Ms. Delgado. It was not until he was able to turn the lights on that he realized Ms. Delgado was dead. Despite his lack of memory regarding Ms. Delgado's murder, Mr. Marino nonetheless informed the Board that he accepts responsibility for her death.

Horrified by what he saw when he turned on the lights, Mr. Marino panicked and decided to dispose of Ms. Delgado's body. He placed a plastic bag over Ms. Delgado's head to collect the blood, and then dragged her body into the hallway and down two flights of stairs. He then placed Ms. Delgado's body in the passenger seat of his sister's car and drove around for an unknown period of time. Eventually, Mr. Marino decided to dispose of Ms. Delgado's partially clothed body behind a Kentucky Fried Chicken in Stoneham. When questioned by the Board, Mr. Marino defended his selective memory of the facts regarding the murder, as well as the contradictory statements he made in the past. Mr. Marino also denied a sexual motivation to Ms. Delgado's murder, despite what the physical evidence indicated. According to Mr. Marino, he was forced to remove clothing from Ms. Delgado's body because of the difficulty he experienced dragging her down the stairs of the home he shared with his family. He further acknowledged to the Board that he could have gone to the police at any time, but stated that he did not do so because he was consumed with fear about going to prison.

The Board considered testimony from numerous witnesses, both in support of, and in opposition to, Mr. Marino's petition for parole. The Board considered testimony from Mr. Marino's sister, who expressed support for his release. Both Ms. Delgado's sister and Suffolk County Assistant District Attorney Charles Bartoloni provided testimony in opposition to parole.

III. DECISION

The Board is of the opinion that Mr. Marino has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board believes that a longer period of positive institutional adjustment and programming would be beneficial to Mr. Marino's rehabilitation.

The applicable standard used by the Board to assess a candidate for parole is: "Parole 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." 120 C.M.R. 300.04. In forming this opinion, the Board has taken into consideration Mr. Marino's institutional behavior, as well as his participation in available work, educational, and treatment programs during the period of his incarceration. The Board has also considered whether risk reduction programs could effectively minimize Mr. Marino's risk of recidivism. After applying this standard to the circumstances of Mr. Marino's case, the Board is of the

unanimous opinion that Mr. Marino is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Marino's next appearance before the Board will take place in three years from the date of this hearing. During the interim, the Board encourages Mr. Marino to continue working towards his full rehabilitation.

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 all voting Board Members have reviewed the applicant's entire criminal record. This signature does not indicate authorship of the decision.

Gloriann Moroney, General Counsel

4/7/16
Date