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Executive Director

DECISION

IN THE MATTER OF

ALEXANDER RODRIGUEZ
W68242

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: May 13, 2014

DATE OF DECISION: January 8, 2015

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

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying 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 writing, we conclude by a unanimous vote that the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in four years from the date of the hearing.

I. STATEMENT OF THE CASE

On June 12, 2000, in Worcester Superior Court, Alexander Rodriguez was sentenced to a life sentence following his plea to second degree murder for the shooting death of James McCormick, age 46. That same day, he also received concurrent sentences of seven to ten years for armed robbery while masked and seven to ten years for unarmed robbery for his role in a separate robbery.¹

On June 29, 1999, James McCormick, age 45 and the clerk at XTRA Mart gas station and convenience store in Sutton, Massachusetts, was shot in the stomach during an armed robbery. Rodriguez, then age 19, and four co-defendants² decided to rob the store. Rodriguez and two

¹ The concurrent sentences have expired.

² Rodriguez's co-defendants were **Isaac Lugudde** (W69413), who received a 10 to 12 year sentence for unarmed robbery in Worcester Superior Court. Lugudde was released to an Immigration & Customs

co-defendants entered the store while masked. Video surveillance shows one co-defendant rushing at McCormick and getting into a physical struggle. Rodriguez entered the store brandishing a black handgun, with a third co-defendant closely behind him.

During a break in the physical struggle, Rodriguez raised his weapon and shot McCormick. Rodriguez and a co-defendant then went behind the counter looking for money near the register and safe. The co-defendant who rushed McCormick is seen kicking him while he was down after being shot. McCormick suffered from several bruises and abrasions to his head as a result of the beatings. Rodriguez left the store with the handgun still in his hand. In total, the robbery and shooting occurred over the course of 43 seconds. Rodriguez and his co-defendants realized about \$82 from the robbery.

When police first arrived on the scene, McCormick was still conscious. He was able to provide police with the information that they would be looking for three assailants. McCormick was rushed to St. Vincent's Hospital in Worcester, where he succumbed to the gunshot wound.

II. PAROLE HEARING ON MAY 13, 2014

Alexander Rodriguez, now 34 years old, appeared on his own behalf before the Parole Board for an initial parole hearing, after serving 15 years of his life sentence. He began the hearing by offering an apology for killing John McCormick. In describing his role in the crime, Rodriguez testified that he and his co-defendants decided to rob the gas station. He testified that while he (Rodriguez) had the gun on him, it was not because he intended to use it for the robbery. Rather, he wanted the gun for protection, as he had been robbed some months before. Rodriguez stated that he had intended only to rob the gas station and claimed that he warned Mr. McCormick that he did not want to hurt him (shortly before shooting him). Rodriguez testified that he shot Mr. McCormick because he was agitated and observed that Mr. McCormick was agitated.

Responding to questioning by the Board, Rodriguez described a chaotic and violent upbringing. Rodriguez reports that his mother and stepfather fought, often violently, and he was bullied by his siblings. Rodriguez also reported at least two occasions when he was sexually assaulted by the time he was nine years old. His childhood was otherwise marked by fighting at school, commitments to the Department of Youth Services (DYS), arrests for violent

Enforcement detainer on March 25, 2008. He was deported on June 23, 2008 and was discharged from parole on February 5, 2009.

Andrew Dwanmena (W68381), who received an 18 to 20 year sentence for Manslaughter, an 18 to 20 year concurrent sentence for armed robbery, a concurrent 7 to 10 year sentence for assault & battery with a dangerous weapon (shod foot) and a concurrent 7 to 10 year sentence for unarmed robbery. All sentences derived from Worcester Superior Court.

Richard Salmon (W68757), who received a 3 to 5 year sentence in Worcester Superior Court for conspiracy. He was released on parole in July of 2002 and discharged on May 21, 2004.

Jeffrey Lassey (W68382), who was sentenced to 10 to 12 years for manslaughter, 10 to 12 years concurrent for armed robbery and seven to 10 years concurrent sentence for assault & battery with a dangerous weapon.

offenses including assaults, and engaging in a series of robberies before committing the governing offense.

The Board inquired about Rodriguez's criminal history prior to the governing offense. Significantly, on June 26, 1999 (just three days before the murder of Mr. McCormick), Rodriguez and his other associates robbed a gas station in Worcester. Similar to his approach in the robbery and murder of Mr. McCormick, Rodriguez and his associates covered their faces, rushed in, and demanded money when robbing the Worcester gas station. Rodriguez had a gun in his hand. The clerk complied and Rodriguez took the entire drawer, which contained about \$600.

Rodriguez also has a prior indecent assault and battery conviction. On September 24, 1993, Rodriguez, then 13 years old, pleaded guilty to the charge. He was found delinquent and was committed to the custody of the Department of Youth Services. The victim of the crime was a family member under the age of 14. Despite this finding, and despite his admitted history of being a victim of sexual abuse, Rodriguez has failed to partake in recommended sex offender treatment by claiming he does not need it. Indeed, on January 20, 2014, Rodriguez filed a motion to set aside the determination of delinquency and seek a new trial.

Rodriguez testified that since his incarceration on the life sentence, he has participated in institutional programming, including Alternatives to Violence, Correctional Recovery Academy, Emotional Awareness, and Jericho Circle. Rodriguez described his participation in Jericho Circle as an effective program to help him address his own issues of abuse. Department of Correction records confirm that Rodriguez received certificates in each of these programs. Rodriguez testified that he last received a disciplinary report in 2012. DOC records confirm his claim and indicate that he received five disciplinary reports in total. Rodriguez explained his ability to avoid disciplinary infractions as being actively engaged in programming and work.

Rodriguez claims he does not present an issue with alcohol or substance abuse. His criminal history does not include convictions for drug related offenses. Also, DOC classification reports confirm that Rodriguez has completed the CRA program and the Introduction to 12 Step and other related substance abuse programming. He also has participated in AA and NA.

Rodriguez presented a parole plan where he would be granted a parole to an Interstate Compact to Virginia to reside with his wife and a life-long friend. He would like to participate in counseling. Alternatively, Rodriguez would plan to remain in Massachusetts and be paroled to a long term residential program for structure and assistance with re-entry.

Three people spoke in support of parole, which included a family member, a friend, and a representative from Remembering Those in Captivity Ministries. Two people spoke in opposition, including retired Sutton Police Chief John Hebert, who described the impact on the community and Assistant District Attorney Michelle R. King, who offered testimony and a letter opposing parole.

III. DECISION

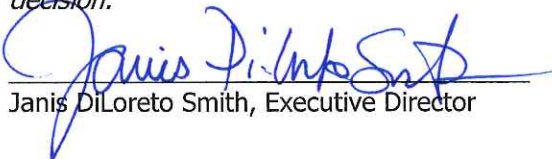
Alexander Rodriguez, in serving fifteen years of a life sentence, has embarked on a path towards rehabilitation. He has engaged in programming that addresses issues of violence and has made good use of his time, whether through programming, working, or seeking educational

opportunities. However, fifteen years on a life sentence for a violent robbery, which he planned and executed with a gun, resulting in murder, is simply not enough time to achieve the goals of sentencing and, thus, granting a parole to Mr. Rodriguez would not be compatible with the welfare of society.

Also, questions remain about whether Mr. Rodriguez would live and remain at liberty without violating the law. When he brandished the gun and pointed it at Mr. McCormick, Mr. Rodriguez committed his second violent robbery in less than a week's time. Yet, Mr. Rodriguez insists that he did not bring the gun with him to execute the robbery, but instead possessed it only for protection. This indicates a lack of candor and minimization of his role in the murder of Mr. McCormick and is concerning given his history of other violent offenses. In addition, despite recommendations that he engage in sex offender treatment, Mr. Rodriguez has resisted, opting instead to insist upon his innocence for a crime for which he pleaded guilty as a juvenile.

The standard we apply in assessing candidates for parole is set out in 120 C.M.R. 300.04(1), 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 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, it is the unanimous opinion of the Board that Alexander Rodriguez does not merit parole at this time. Parole is denied with a review in four years from the date of the hearing during which time Mr. Rodriguez should commit to a more comprehensive rehabilitation that addresses criminal thinking, violence, lack of empathy, and lack of candor. Mr. Rodriguez should also follow DOC recommendations for sex offender treatment.

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.


Janis DiLoreto Smith, Executive Director

1/8/15
Date