

*The Commonwealth of Massachusetts*  
*Executive Office of Public Safety and Security*

**PAROLE BOARD**

*12 Mercer Road*  
*Natick, Massachusetts 01760*



**Tina M. Hurley**  
*Chair*

**Maura Healey**  
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**Kim Driscoll**  
*Lieutenant Governor*

**Terrence Reidy**  
*Secretary*

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**RECORD OF DECISION**

**IN THE MATTER OF**

**ANDREW MALAVE**

**W83263**

**TYPE OF HEARING:**            **Review Hearing**

**DATE OF HEARING:**        **December 20, 2022**

**DATE OF DECISION:**      **January 18, 2023**

**PARTICIPATING BOARD MEMBERS:** Tina Hurley, Dr. Charlene Bonner, Tonomey Coleman, Dr. Maryanne Galvin, James Kelcourse, Colette Santa

**STATEMENT OF THE CASE:** On March 2, 2004, in Suffolk Superior Court, Andrew Malave pleaded guilty to second degree murder in the death of Justin Gibson and was sentenced to life in prison with the possibility of parole. On that same date, he also pleaded guilty to armed robbery, which was placed on file.

Mr. Malave appeared before the Parole Board for a review hearing on December 20, 2022. He was represented by Attorney Benjamin Urbelis. Mr. Malave was denied parole after his 2017 initial hearing. The entire video recording of Mr. Malave's December 20, 2022, hearing is fully incorporated by reference to the Board's decision.

**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.<sup>1</sup>

The Board is of the opinion that Andrew Malave has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board

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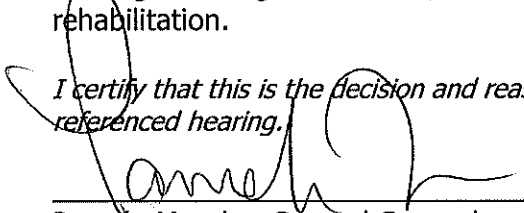
<sup>1</sup> Three Board members voted to grant parole, and three Board members voted to deny parole. Due to a split vote, parole is denied with a review in one year from the date of the hearing.

recognizes Mr. Malave has a diagnosis of schizophrenia and appears to be compliant with treatment in the RTU. The Board reviewed the evaluation provided by Ronald Michaels, LICSW, and agrees that if released, a Group Living Environment with DMH would provide necessary services in a community setting. Board members also expressed concern as to whether Mr. Malave is ready for community treatment and supervision. Of concern is his recent disciplinary report for assaultive behavior. It is noted that Mr. Malave has only been engaged in RTU since 2020. The Board will review progress and reassess suitability in one year. In such time, Mr. Malave should focus on utilizing treatment to assist with conflict resolution.

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. Malave'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 a risk and needs assessment and whether risk reduction programs could effectively minimize Mr. Malave's risk of recidivism. After applying this standard to the circumstances of Mr. Malave's case, the Board is of the opinion that Andrew Malave is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Malave's next appearance before the Board will take place in one year from the date of this hearing. During the interim, the Board encourages him 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.*

  
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Pamela Murphy, General Counsel

1/18/23  
Date