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PAROLE BOARD

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Josh Wall
Chairman

DECISION

IN THE MATTER OF

ANGEL CARTAGENA

W37434

TYPE OF HEARING: Revocation Review Hearing

DATE OF HEARING: April 9, 2013

DATE OF DECISION: February 24, 2014

PARTICIPATING BOARD MEMBERS: Cesar Archilla, Dr. Charlene Bonner, Tonomey Coleman, Shelia 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, 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 unanimous vote that the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in five years from the date of the hearing.

I. STATEMENT OF THE CASE

On December 26, 1979, after a jury trial in Essex Superior Court, Angel Cartagena was convicted of second-degree murder and sentenced to life in prison for the murder of 75-year-old Ernest Tellier.¹ That same day, he also received two concurrent life sentences for unarmed robbery and armed burglary. The Supreme Judicial Court affirmed the convictions. *Commonwealth v. Cartagena*, 386 Mass. 285 (1982).

Three days before the murder of Ernest Tellier, Cartagena had broken into Tellier's apartment and had stolen watches and silver coins. During the night of November 17, 1978, Cartagena broke into the apartment again, this time bringing his co-defendants. Cartagena

¹ Cartagena's co-defendants, Israel Martinez and Hector Ayala, were also convicted of second degree murder, unarmed robbery, and burglary. Ayala is an active parolee. Martinez was released on parole in 2004, but returned to custody as a parole violator in 2007.

ransacked the apartment searching for more valuables, while Ayala and Martinez held the victim down and bound and gagged him. As the men were leaving, Martinez stole the victim's wallet from his pocket, pulling the victim's pants down below his knees in the process. The next night the victim's sister returned home from a trip and found her brother dead on the floor.

The victim had moderate coronary arteriosclerosis and hypertensive heart disease. The probability was good that the victim, tied and gagged, underwent severe emotional distress and sustained a heart attack during the ordeal. Cartagena and his co-defendants undertook to show that the victim died of natural causes, a theory that the jury and the Supreme Judicial Court rejected.

II. PAROLE HEARING ON APRIL 9, 2013

Angel Cartagena was released on parole in September 2002 and moved to Florida in 2004. Parole was revoked in 2007 due to Cartagena's three criminal cases in Florida in 2006. Two of those cases resulted in convictions for drunk driving. Parole was denied in 2008 after the revocation. Cartagena admitted that he "blacked out" when he was arrested for OUI in December 2006. He acknowledged that once he moved to Florida in 2004 he stopped attending AA meetings and counseling sessions. He had moved to live with his wife. He said, "We bought a house; I got a job right away; I started drinking after six months in Florida; parole never brought it up; I reported once a month and I was testing negative; once I started drinking, I didn't want to stop; I was drinking about every day; my wife knew."

Cartagena has a remarkably violent history. He began stealing regularly "after I was expelled from high school; I used the money for beer, marijuana and some family things; I would do break-ins on the weekend." During the robbery of Ernest Tellier, Cartagena himself covered the victim's head with a jacket, picked up a knife and put it against the victim's shoulder while his joint venturers tied him up. When asked who gagged the victim, Cartagena said, "I don't remember, it could have been me." Cartagena escaped from jail two days after the verdict when he and his co-defendant were being transported to court for sentencing. He said, "it was my idea; we made ice picks; in the van I reached from behind the guard in the passenger seat and put the ice pick to his neck; the driver stopped; I said, 'give me the gun and the cuff key' and he gave me those things; I put my cuffs on the driver; we ran; they found us and pulled us out of the river." While awaiting trial, he got caught trying to escape. He said, "I bought a saw from someone and was sawing through the window bars; I got caught sawing at 5:00 a.m."

Cartagena had a horrible prison record with over 70 disciplinary reports. He stabbed a corrections officer repeatedly in the back, a crime which resulted in a consecutive sentence. He possessed weapons, possessed drugs, assaulted staff, threatened staff, threw and smeared feces, tapped phones, urinated in his cell and outside his cell. About stabbing the officer, Cartagena said, "I was trying to make a name for myself." Cartagena does not have a disciplinary report since his return. Since his 2008 hearing he has completed several programs, including the Correctional Recovery Academy, Alternatives to Violence (two phases), and Jericho Circle. He attends AA 12 Step.

There were no supporters in attendance. Cartagena is now divorced. He has three adult sons but he has no contact with them or his grandchildren. He said, "I don't have addresses or phone numbers."

Cartagena identified alcohol as his only problem. Board Members saw more issues. One Board Member said, "it's not just a bad drinking problem, you also have a problem with caring about other people." Another Board Member said, "alcohol is big problem, but the picture also includes criminal thinking with your lying to parole repeatedly, defiance, and disrespect for others; these are all things you did in prison and then on parole." Cartagena denied any underlying reasons for his alcoholism and relapses. He said, "I just drank to get drunk, I just drank because I wanted to drink." A Board Member said, "That is a primitive answer that is not attached to any insight."


Essex Assistant District Attorney Elin Graydon spoke in opposition to parole. She said, "we were stunned in 2002 when he was granted parole, and it was barely two years before he was arrested in Florida." In closing, Cartagena's student attorney said, "He understands that the first parole was a complete gift and that it came out of nowhere; he has made a change; he has not had a disciplinary report in over 20 years; this is the first time he has acknowledged that he has the disease of alcoholism so he now makes the connection that he cannot have even one drink."

III. DECISION

Angel Cartagena broke into the home of a 75-year-old man, covered the victim's head with a jacket, and put a knife to the victim while participating with his cohorts as they bound and gagged the victim, eventually causing him to have heart failure and die. He had a deplorable record in prison which included an escape, an attempted escape, repeatedly stabbing a corrections officer in the back, and a long history of violence, antisocial behavior, and substance abuse. Moreover, when released to the community, he was unable to live as a productive and law-abiding member of society. He showed little concern for the requirements of parole and placed others at great risk by driving drunk. He has not expressed any insight into the reasons for his addiction, his behavior, or his violence. Some of the most troubling aspects of his behavior seem to be of little concern to him. Cartagena's behavior in prison and on parole establishes that he is not rehabilitated. His performance at this parole hearing gave little evidence that his recent programming yielded much improvement.

The standard for parole as 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 this standard, the Board concludes that Mr. Cartagena is not suitable for parole at this time because he is not rehabilitated and his release is not compatible with the welfare of society. The review will be in five years, during which time Mr. Cartagena should recommit to rehabilitation to address issues of addiction, violence, anger, antisocial behavior, and criminal thinking.

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 Noble, General Counsel

2/24/14
Date