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Charlene Bonner
Chairperson

DECISION

IN THE MATTER OF

ANTHONY RIVERA

W82086

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: February 3, 2015

DATE OF DECISION: April 27, 2015

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Sheila Dupre, Lee Gartenberg, Ina Howard-Hogan

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 written submissions to the Board, we conclude by unanimous vote that the inmate is not a suitable candidate for parole. Parole is denied with a review hearing scheduled two years from the date of this hearing.

I. STATEMENT OF THE CASE

On June 23, 2003, after a jury trial in Suffolk Superior Court, Anthony Rivera was convicted of second degree murder and sentenced to life in prison for the death of Kareem Holmes.

On Friday, February 25, 2000, a red Mazda, driven by Shawn Holman, was traveling in Dorchester when it was struck by a gray Toyota. When Mr. Holman stopped to survey the damage to his vehicle, the Toyota left the scene. Mr. Holman drove around looking for the Toyota for several minutes before picking up his friend, Kareem Holmes, and resuming the search for the Toyota. They finally located the gray Toyota and identified it as the same car that hit Mr. Holman earlier. They noticed red paint and heavy damage to the Toyota, and copied the registration and vehicle identification numbers on a piece of paper. As Mr. Holman and Mr. Holmes returned to the Mazda, a brownish-gray Ford Taurus pulled up and the driver, Jose Rodriguez, said to Mr. Holman, "Yo my friend said you were in an accident with my friend

and you ran." Looking at the passenger, who was later identified as 19-year-old Anthony Rivera, Mr. Holman said, "So you were the guy that hit me." Rivera responded, "Yeah, you shouldn't have left. I stopped and you took off." Mr. Holman said, "No, you took off. You ran, look at my car and look at your car". Mr. Holman then told Rivera to give him his paperwork. Rivera said he had to go to his house to get the paperwork, then got into the Toyota and drove away. Rodriguez said, "He'll be right back, just give him a minute, he'll be back" and then drove in the opposite direction of Rivera.

When Rivera did not return, Mr. Holman and Mr. Holmes began searching for the Toyota again. Although they could not find the Toyota, they were able to locate the Ford with Rodriguez still driving and Rivera in the passenger seat. After further conversation about getting the paperwork, Rodriguez drove the Ford onto the expressway towards Boston. The Ford was weaving in and out of traffic with the Mazda following. In the Callahan tunnel, the Ford struck the Mazda on several occasions. The vehicles made their way to Terminal B of Logan Airport, where the Mazda cut off the Ford. The Ford, in return, rammed the back of the Mazda. Mr. Holmes and Rivera exited their respective vehicles and moved towards each other. Mr. Holman saw Rivera bend over as if he had dropped something and, as he stood up, Mr. Holmes started backing up with his hands in front of him saying, "What's up? What's up?" Rivera then stepped toward Mr. Holmes and stabbed him in the chest. Mr. Holmes grabbed his chest, started yelling for help, and then walked toward witnesses who gave him first aid. After stabbing Mr. Holmes, Rivera ran past him and jumped into the Ford's open passenger door. The Ford rammed the Mazda again and drove away.

The following day, during the execution of a search warrant, Rivera was found hiding in his closet under a pile of clothes. He was arrested on a warrant for unauthorized use of a motor vehicle and charged with the attack on Mr. Holmes. Sixty-one days later, Mr. Holmes died of the stab wound to the chest and Rivera was charged with murder.

II. PAROLE HEARING ON FEBRUARY 3, 2015

On February 3, 2015, with the aid of two student attorneys from Northeastern University School of Law Prisoner's Assistance Project, Anthony Rivera appeared before the Parole Board for his initial hearing. He has served 15 years of his life sentence for the stabbing death of Kareem Holmes. He delivered a tearful apology to the victim and the victim's family, accepted full responsibility for the crime, and expressed the remorse he feels ever since that day.

The student attorney gave an opening statement that outlined why Rivera is ready for, and deserving of, parole. She explained how he has accepted responsibility for his actions that led to Mr. Holmes' death, participated in programs that addressed his anger issues, remained committed to sobriety, and pursued educational and vocational goals in an effort to become a better person.

In describing the programs he engaged in while incarcerated, Rivera said, "I did the Jericho Circle Project and that helped me communicate my feelings better and taught me how to better listen to other people. I studied the Latin culture and learned a lot about talking to family members through Nuestra Familia. I also attend N/A and A/A two times a week in English and Spanish." However, Rivera admitted to a Board Member that he did not participate

in any programming for the first five years of his sentence, choosing instead to deny responsibility for the murder.

Rivera told the Board about his childhood and teenage years. He said that he was born in New Jersey, but moved to Puerto Rico when he was two years-old and stayed until the time he was ten years-old. After that, the family started moving a lot. He went back and forth from New York, Puerto Rico, and Boston during the next eight years. "Back in P.R., I fought and argued with my mom and she kicked me out age 12. I went to the streets, hanging out with friends, selling cocaine, and smoking pot. Eventually, I was charged with selling cocaine and I went into the Job Corps. At 15 years old, I went to live with my brother in the U.S. and got arrested for using his car. I was still just hanging out on the streets. After about 14 months, I went back to P.R. and back to the street, selling drugs and getting in fights." He said he fought a lot and probably hurt some people, using weapons like pool sticks and bats. He said, "I was like another Anthony. I liked to get high and get into fights." He moved back to Boston at age 18, went right to the streets, and began selling drugs again. Rivera said he started carrying a gun at age 15 because he was selling so much cocaine. He denies carrying a gun in the U.S., saying that he only had one in Puerto Rico.

He described the crime in details consistent with the above Statement of the Case. He said that it wasn't until around 2005 that he realized he did not act in self-defense that night. In remorseful tones, he told of how he lied to his mother and sister when he said that he acted in self-defense when, in fact, he was the aggressor. Rivera said that the Alternatives to Violence program helped him to see that and, along with Jericho Circle, to "think before you react; to think of the consequences of your actions. ABLE Minds was also a good program because it taught me that sometimes you have to just let it go. Even if you are right; you have to just let it go."

Rivera spent some time explaining his disciplinary problems, including a fight while awaiting trial, which he explained was his only fight while incarcerated, and his possession of items that didn't belong to him. Board Members were concerned that he failed to see how such behavior was evidence of continued criminal thinking. He said that he had "gotten a little comfortable" and kept some items that were left behind when another inmate left the prison. One item was a Walkman and the other was some glue that he said was used to fix his sneakers. If paroled, Rivera said that he has the strong support of his mother, sisters, cousins, and niece. He said that he would like to work with at-risk youth by explaining to them that "the street, drugs and friends are bad for you if they are not positive."

A Board Member asked Rivera to reflect on all the people he affected that day by his actions, as well as the continued victimization of the family by going to trial, lying about his actions, and blaming the victim. After being pressed on the issue, Rivera admitted that he had a "big impact" on the victim's family, the community, the drivers on the highway, the witnesses at the airport, and the Court. Another Board Member asked about Rivera's letters of support and the particular statement that "incarceration was a blessing in disguise." Rivera responded, "I learned to be a better person in prison." He further described his religious commitment and said that prayer is an important part of his day.

Rivera's sister-in-law said she would help him set smart, realistic goals to help with his transition into the community. Rivera's niece offered him a place to live with her and her husband. She also described the efforts she has made to identify local support systems, such as Career Steps in Roxbury, which offers classes in Microsoft, computer skills, and provides free laptops to accepted participants. Rivera's friend identified programs in the community and said he would help locate resources to further aid in transition. The student attorney made a closing statement and summarized the reasons for Rivera's release.

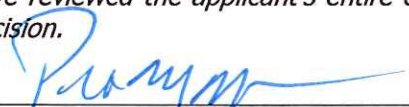
Suffolk County Assistant District Attorney Charles Bartoloni explained his reasons for asking the Board to deny parole at this time. ADA Bartoloni noted Rivera's recent disciplinary reports for possessing contraband as an indicator that he still harbors some criminal thinking. He added, "While Mr. Rivera is going in the right direction, he needs more time."

III. DECISION

Anthony Rivera stabbed an unarmed stranger outside a vehicle at a Logan airport terminal after a long car chase. While Rivera has accepted full responsibility for the killing of Kareem Holmes, it took him almost six years after the crime to do so. He acknowledged that he wasted many years in prison by being stagnant and not actively pursuing rehabilitation. Rivera had also maintained the lie of self-defense, years after the jury verdict. Although Rivera presented with insight into his anger and the other precipitants that led him to a criminal lifestyle, he still minimized his actions that day by stating that he "wanted to get away" and characterizing the event as road rage. While he has made some positive strides, including earning his GED after several attempts, he still engages in behavior that demonstrates criminal thinking. He has gotten tattooed, which is against institutional rules, and has possessed contraband. Until this hearing, it appears that Rivera has minimized the effect of his actions upon others when he left the scene of an accident, participated in a high speed car chase, attacked an unarmed man in front of bystanders, and lied to the family in Court. However, the Parole Board acknowledges his positive conduct and work pattern while incarcerated and encourages him to continue on a rehabilitative path.

The standard we apply in assessing candidates 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 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 Anthony Rivera does not merit parole at this time because he is not rehabilitated. Parole is denied with a review in two years from the date of this hearing. During this time, Rivera should continue with rehabilitative programming in order to explore the impact of crimes on both victims and innocent members of the community. He should also remain disciplinary report free.

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.


Peter M. Mimmo, Staff Attorney

4/27/2015
Date