

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

IN THE MATTER OF

ANTONIO CRUZADO

W88784

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: August 27, 2020

DATE OF DECISION: March 10, 2021

PARTICIPATING BOARD MEMBERS: Gloriann Moroney, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Karen McCarthy, Colette Santa

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 by unanimous vote 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 November 28, 2006, after a jury trial in Middlesex Superior Court, Antonio Cruzado was convicted of unarmed robbery, assault and battery with a dangerous weapon, negligent operation of a motor vehicle, and failure to stop for police. He was also convicted of being a habitual offender. Mr. Cruzado was sentenced to life in prison with the possibility of parole for the unarmed robbery conviction and a concurrent term of 10 years in state prison on the assault and battery with a dangerous weapon conviction. He was sentenced to a concurrent term of two years in the House of Corrections on the negligent operation of a motor vehicle conviction. The failure to stop for police conviction was filed for three years. The Appeals Court affirmed Mr. Cruzado's convictions in 2009. Commonwealth v. Cruzado, 73 Mass. App. Ct. 803 (2009). The SJC denied further appellate review that same year. Commonwealth v. Cruzado, 454 Mass. 1101 (2009). Mr. Cruzado filed two motions for new trial, both of which were denied by the Superior Court. The Appeals Court affirmed the denials in 2017. In

February 2020, upon Mr. Cruzado's motion, the Superior Court credited him with 435 days of jail credit that he did not receive on the original sentencing date.

On September 22, 2005, Victim 1, an employee of Jack's Gas in Cambridge, was at the station working on his own vehicle, although he was not on duty at the time. Victim 2, also an employee, had parked his white Honda Civic in front of the station on Massachusetts Avenue. A sign, indicating state vehicle inspections, was leaning against the rear of Victim 2's Honda. While Victim 1 was eating lunch inside the station with other employees, he heard a loud slapping noise that turned out to be the sign falling over. As Victim 1 and others ran out of the station, they saw that Victim 2's Honda had been stolen. Seeing it two blocks away, Victim 1 and another employee jumped in a truck and gave chase.

As the driver of the Honda, Antonio Cruzado, stopped at a traffic light, Victim 1 jumped out of the truck, ran up to the Honda, and "ripped" open the door. Mr. Cruzado then stepped on the accelerator and drove through the red light at 30 to 40 miles per hour. Victim 1's foot was stuck next to the seat, so he held onto the car by ~~putting~~ one hand on the inside of the roof, while holding onto the door with the other. As he was driving, Mr. Cruzado tried to grab Victim 1's hands to push him off the car. When another vehicle pulled in front of the Honda, Mr. Cruzado swerved into oncoming traffic and the door swung open and back. Victim 1's foot became dislodged, and he could only hold onto the door. Mr. Cruzado then traveled three to four blocks, while Victim 1 continued to hold onto the car. Seeing a gap between vehicles in the oncoming traffic lane, Victim 1 jumped from the Honda to the side of the road, slid across the pavement, and hit the front left tire of a parked vehicle. Mr. Cruzado was apprehended by police after he drove in the wrong direction around a rotary, struck an automobile, and crashed into a guardrail.

II. PAROLE HEARING ON AUGUST 27, 2020

Antonio Cruzado, now 52-years old, appeared before the Parole Board on August 27, 2020, for an initial hearing. He was not represented by counsel at the hearing¹. In Mr. Cruzado's opening statement to the Board, he apologized to the victim and community for his actions on the day of the governing offense. Mr. Cruzado explained that his life prior to the offense had been marred by his heroin addiction and criminal lifestyle. He sold drugs with a family member to support himself, and later, to support his heroin addiction. The Board noted that Mr. Cruzado was convicted as a habitual offender on the governing offense because of his significant history of drug trafficking convictions. Mr. Cruzado acknowledged that he had been paroled twice on one of the drug trafficking sentences, having been returned to custody for testing positive for heroin on a drug test. He explained that his life improved when he was paroled a second time to a residential treatment program, where he obtained a substance abuse counseling certificate. The Board noted that Mr. Cruzado had been employed as an outreach worker in this field at the time of the offense.

Mr. Cruzado told the Board that, although he had achieved sobriety in the late 1990's, he still suffered from anxiety, depression, and panic attacks. He had been prescribed medication to treat these diagnoses, but was not compliant with his treatment program and, intermittently, decided not to take his medication. His non-compliance continued into 2004, at

¹ Attorney Michael Waryasz filed a notice of appearance and assisted with the preparation and the issuance of a Parole Memorandum. Attorney Waryasz indicated to the Board that he would not be attending the hearing.

which time he lost his health insurance and began self-medicating with his girlfriend's Klonopin. Although he was employed in the recovery community at the time of the governing offense, he relapsed into heroin use the day before he committed his crime. Mr. Cruzado told the Board that, on September 21, 2005, after learning about the death of a family friend, he ingested a mix of heroin and Klonopin. Mr. Cruzado could not recall if he had used other drugs at the time, including Zoloft and Nyquil, as had been reported throughout the years since his arrest.

The Board questioned Mr. Cruzado as to the underlying events on the day of the governing offense. Mr. Cruzado stated that he does not remember much about the day, except that he was in Cambridge to attend a work conference. Explaining that he had no intention of committing a crime, Mr. Cruzado said that he was in the midst of a panic attack and took the car as a means to return to Springfield. He "didn't know someone was chasing [him]" and he did not stop the car (when he had the chance to do so) because he "wasn't thinking right." Board Members explained that they struggled with his assertion that he could not remember the events of the crime, while he was able to remember ingesting drugs beforehand and his arrest afterward. The Board also noted the immense danger that Mr. Cruzado caused that day, where several people could have been killed as a result. Mr. Cruzado responded that he "wish[ed] he had an explanation" for his behavior and understood that he was "reckless" that day. When Board Members asked him why he rejected multiple plea offers ahead of, and after, his initial convictions, Mr. Cruzado stated that the Commonwealth offered "big numbers" that he felt were inappropriate as he had not intended to harm anyone.

Since his incarceration, Mr. Cruzado has engaged in programming efforts and has been institutionally employed. Noting that Mr. Cruzado has incurred only a few disciplinary reports, Board Members were nonetheless troubled by two infractions. Mr. Cruzado acknowledged that he was "disappointed in [him]self" for committing a theft from the kitchen in 2019. He explained that it taught him an important lesson, as he lost his job and was terminated from the NEADS program. Also, Mr. Cruzado sent multiple inappropriate letters to a female staff member, even after she told him to stop. This behavior resulted in Mr. Cruzado being placed in segregation. Mr. Cruzado acknowledged that his actions were a "mistake" and, although he felt he was simply "compliment[ing]" a "friend," he should have stopped the correspondence when he was told.

Mr. Cruzado's daughter testified in support of parole. The Board considered multiple letters submitted in support of parole. The Board considered both testimony and a letter, in opposition to parole, from Middlesex County Assistant District Attorney Adrienne Lynch.

III. DECISION


It is the opinion of the Board that Antonio Cruzado has not yet demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Cruzado has served approximately 15 years for the governing offense. Mr. Cruzado is serving his third state commitment and has not done well on community supervision in the past. Although Mr. Cruzado has been very program involved over the course of his incarceration, it remains to be seen as to whether that programming has assisted him in having empathy for his victims and/or being able to live drug-free in the community. Mr. Cruzado has incurred disciplinary [infractions] in 2013 and 2016 that resulted in sanctions. In addition, he was terminated from employment and the NEADS program for his disciplinary infraction in 2019.

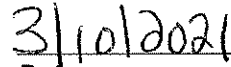
Mr. Cruzado's version of the governing offense and substance abuse continues to evolve with questionable credibility.

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. Cruzado'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. Cruzado's risk of recidivism. After applying this standard to the circumstances of Mr. Cruzado's case, the Board is of the opinion that Antonio Cruzado is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Cruzado'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. Cruzado to continue working toward 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.


Pamela Murphy, General Counsel


Date