



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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Paul M. Treseler
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DECISION

IN THE MATTER OF

ARMANDO RIVERA

W50524

TYPE OF HEARING: Review Hearing

DATE OF HEARING: August 1, 2017

DATE OF DECISION: October 2, 2018

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Lucy Soto-Abbe

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 3 years from the date of the hearing.

I. STATEMENT OF THE CASE

On May 10, 1991, in Suffolk Superior Court, Armando Rivera was found guilty of second degree murder in the shooting death of 19-year-old Eddie Rivera. He was sentenced to life in prison with the possibility of parole. On that same date, he was found guilty of assault and battery by means of a dangerous weapon, for which he received a 5 to 7 year concurrent sentence. Mr. Rivera appealed his conviction in 1993, but judgment was affirmed.¹ In 2003, Mr. Rivera filed a motion for new trial, but his motion for a new trial was denied.²

¹ *Commonwealth vs. Armando Rivera*, 37 Mass. App. Ct. 244 (1994)

² *Commonwealth vs. Armando Rivera*, 57 Mass. App. Ct. 1105 (2003)

On May 6, 1990, Boston police responded to Brigham and Women's Hospital for a report of a shooting victim. The attending physician informed police that Eddie Rivera had died of a gunshot wound to the back of his head. Another victim suffered a gunshot wound to his arm. A witness in the area of the shooting stated to police that he observed two cars in the area. Words were exchanged regarding gang identification, and gunshots were fired shortly thereafter. Evidence from two witnesses identified 19-year-old Armando Rivera as the shooter. He was later arrested.

II. PAROLE HEARING ON AUGUST 1, 2017

Armando Rivera, now 47-years-old, appeared before the Parole Board for a review hearing on August 1, 2017. He was not represented by an attorney. Mr. Rivera was denied parole at his initial hearing in 2005. After his review hearing in 2007, he was paroled. He returned to custody, however, when he violated parole in 2009, for irresponsible conduct and association with known felons. Mr. Rivera was re-paroled after a review hearing in 2010. Mr. Rivera again violated parole in 2011, after obtaining a motor vehicle charge. The charge was later dismissed, and he was re-paroled. In 2012, Mr. Rivera violated parole when he was charged with another motor vehicle offense, which was subsequently dismissed. He was re-paroled in 2013. In 2015, Mr. Rivera was arrested for assault and battery with a dangerous weapon. These charges were dismissed, and Mr. Rivera was released on December 15, 2015. In 2016, Mr. Rivera was returned to custody after testing positive for heroin and buprenorphine.

The Board questioned Mr. Rivera on his numerous parole violations and revocations. The Board specifically questioned his most recent violation in December 2016. Mr. Rivera explained that the violation was due to a failed drug test for the use of opioids and suboxone. Mr. Rivera stated that his intent in using drugs was only to relieve himself of back pain, and that he never had "the intention of getting high." Mr. Rivera explained that he was prescribed narcotics for his chronic back pain, but then became addicted to his medication. Further, Mr. Rivera explained that when he had to wear a GPS monitoring system, it became uncomfortable around his legs because he has edema. Mr. Rivera stated that the discomfort hindered his ability to participate in physical therapy for his back, leading him to rely more heavily on narcotics. When a Board Member addressed Mr. Rivera's use of pain medication, heroin, and suboxone, Mr. Rivera stated that aside from marijuana, he never used narcotics prior to using heroin and suboxone. When asked about his alcohol use, Mr. Rivera explained that while drinking may have been an issue before his incarceration, he claims that it is no longer a problem.

When the Board addressed Mr. Rivera's mental health issues, he explained that he has anxiety and Post Traumatic Stress Disorder (PTSD). He also stated that he grapples with depression. A Board Member noted that Mr. Rivera consistently attends mental health therapy and complies with his medication. Currently, Mr. Rivera is employed as a janitor at the facility and works twice a week. If paroled, Mr. Rivera plans to continue to work on coping skills, as well as develop a relapse prevention plan. Although the Board expressed concern regarding Mr. Rivera's instability with housing, Mr. Rivera explained that he plans to live in a residential long term program near his fiancé and his daughter. He said that he is a licensed barber and would like to go back to work in that field.

Suffolk County Assistant District Attorney Gerald Ogus submitted a letter of opposition.

III. DECISION

The Board is of the opinion that Mr. Rivera has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Rivera has been given numerous opportunities while on parole supervision. The Board is of the opinion that Mr. Rivera has yet to fully address the causative factors that have resulted in five returns to custody. Mr. Rivera should invest in comprehensive substance abuse programming. In addition, Mr. Rivera's proposed parole plan is not sufficient to address his multitude of issues. Mr. Rivera must pursue substance abuse programming.

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 available work, educational, and treatment programs during the period of his incarcerating. The Board also considered a risk and needs assessment, and whether the risk reduction programs could affectively minimize Mr. Rivera's risk of recidivism. After applying this standard to the circumstances of Mr. Rivera's case, the Board is of the unanimous opinion that Armando Rivera is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Rivera'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. Rivera 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. 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.



Gloriann Moroney, Executive Director/General Counsel

10/2/18
Date