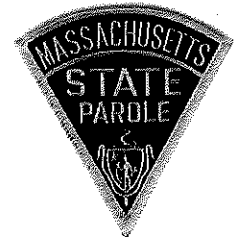


*The Commonwealth of Massachusetts  
Executive Office of Public Safety and Security*



**PAROLE BOARD**

*12 Mercer Road  
Natick, Massachusetts 01760*

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*Lieutenant Governor*

**Thomas A. Turco III**  
*Secretary*

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**Gloriann Moroney**  
*Chair*

**DECISION**

**IN THE MATTER OF**

**BENJAMIN SILVA**

**W61285**

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

**DATE OF HEARING:** **October 2, 2018**

**DATE OF DECISION:** **July 22, 2019**

**PARTICIPATING BOARD MEMBERS:** Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Colette Santa, Lucy Soto-Abbe,<sup>1</sup> Paul Treseler

**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 four years from the date of the hearing.

**I. STATEMENT OF THE CASE**

On September 13, 1994, after a jury trial in Middlesex Superior Court, Benjamin Silva was convicted of the second-degree murder of Lawrence Souza. He was sentenced to life in prison with the possibility of parole. He was also convicted of armed robbery and received a consecutive 8-10 year sentence.

On or about December 3, 1994, Benjamin Silva (age 18) and Frank Radley (age 22), robbed 55-year-old Lawrence Souza and stabbed him to death. All three men were homeless on the night of the murder. On December 6, 1994, Somerville police met with a man who claimed to have discovered a dead body in the fan room at the MBTA subway station at Davis

<sup>1</sup> Board Member Soto-Abbe was present at the hearing, but was not a Board Member at the time of vote.

Square in Somerville. The police were taken to the body, later identified as Lawrence Souza. Mr. Souza had suffered 41 stab wounds to his back and neck. A broken knife was found underneath his body. No money was found on him.

On December 7, 1994, Benjamin Silva and Frank Radley voluntarily went to the Somerville Police Department to be questioned about the murder. Both Mr. Silva and Mr. Radley admitted that they had slept in the fan room with Mr. Souza on December 3, 1994. Both claimed that, after leaving Mr. Souza the next day, they never saw him again. On December 8, 1994, a counselor at the Metropolitan Baptist Church called the police to report that Mr. Radley and Mr. Silva had discussed their police interview, and that Mr. Radley had talked about getting a bus ticket to leave town. Later that day, Mr. Radley and Mr. Silva again came to the police station voluntarily. Mr. Radley was read a Miranda warning and continued to deny involvement in the murder. Mr. Silva, however, told the police that he witnessed Mr. Radley kill Mr. Souza. When confronted with that information, Mr. Radley confessed to helping Mr. Silva stab and kill Mr. Souza. Mr. Radley told the police that Mr. Silva stabbed Mr. Souza first and then insisted that he (Mr. Radley) join in. Mr. Silva was then read a Miranda warning and confessed to his involvement in the murder. In their confessions, Mr. Silva and Mr. Radley admitted that they had initially planned on robbing Mr. Souza. They succeeded in robbing him of \$30.63.

## **II. PAROLE HEARING ON OCTOBER 2, 2018**

On October 2, 2018, Benjamin Silva, now 42-years-old, appeared before the Parole Board for a review hearing. He was not represented by counsel. After waiving his right to a hearing in 2009, Mr. Silva was denied parole after his initial hearing in 2014. In his opening statement to the Board, Mr. Silva took full responsibility for his crime, as well as the collateral damage it caused. When Board Members questioned him about his childhood, Mr. Silva stated that his birth mother left when he was two-years-old, and that he was raised by his father and step-mother who were strict Jehovah's Witnesses. As he was not allowed to have friends outside the church, he grew up isolated and was often in trouble at school. At age 15, Mr. Silva left the Jehovah's Witnesses and his parent's home and was subsequently placed in foster homes with the Department of Children and Families. By age 18, Mr. Silva found himself homeless and living on the streets. He estimated that he was homeless for about 6 months prior to being arrested for the murder of Mr. Souza.

A Board Member questioned Mr. Silva as to the events leading up to the murder. Mr. Silva explained that he, Mr. Radley (his co-conspirator), and Mr. Souza were all homeless. He had known Mr. Radley for a few months, but had just met Mr. Souza. He and Mr. Radley had stolen an MBTA pass key and were sleeping in a fan room at the Davis subway station. Mr. Silva stated that Mr. Radley had invited Mr. Souza to stay with them, as well. When he learned that Mr. Souza had just cashed a paycheck, Mr. Silva decided to rob him while he slept. When Mr. Souza woke up and began screaming, Mr. Silva said that he panicked and, at first, covered Mr. Souza's mouth in an attempt to quiet him. When that did not work, he stabbed Mr. Souza repeatedly. At some point, Mr. Radley joined the assault. Mr. Silva told the Board that he is horrified by his actions on the night of the murder and that "regret doesn't even begin to describe it."

A Board Member noted that one of the reasons Mr. Silva had been previously denied parole was his lack of programming efforts. When questioned as to his participation in programming since his last hearing, Mr. Silva reported to have taken Violence Reduction, Criminal Thinking, and Cognitive Skills/Problem Solving. He states that he is currently enrolled in the Massachusetts Community Outreach Initiative (MCOI) and is on the waiting list for Restorative Justice. In addition, Mr. Silva said that he worked as an electrician and, for the last 6 years, has worked in the sewing shop. Mr. Silva told the Board that he funded and tutored an art program for two years. He has also taken Culinary Skills and Computer Skills. Mr. Silva stated that he is Wiccan and acts as a coordinator for Wiccan services at the prison. Mr. Silva also reported that he has not had a disciplinary report since 2009, and has had only one fight since his incarceration.

After his 2014 hearing, the Parole Board asked Mr. Silva to have a psychological evaluation. At this hearing, Board Members discussed the results of his psychological evaluation and Minnesota Multiphasic Personality Inventory-2 (MMPI-2) test. Mr. Silva reported that he thought some of the questions on the MMPI-2 test were ambiguous, which, he said, could explain why the results showed that he may not have been truthful in his answers to the test. He added that he "didn't put a lot of stock in the test." When the Board questioned him about his ability to feel empathy, Mr. Silva explained that he had avoided emotions from traumatic experiences in his life. He believes, however, that meditation and program involvement has helped him confront his haunting memories.

All of Mr. Souza's brothers and sisters submitted letters of opposition. In addition, Mr. Souza's sister and brother provided oral testimony in opposition to parole. Mr. Souza's sister also read a statement on behalf of another one of Mr. Souza's brothers in opposition to parole, and a Victim Service Coordinator read two statements on behalf of two other sisters in opposition to parole. Middlesex Assistant District Attorney Marisa Tagliareni testified in opposition to parole and submitted a letter of opposition.

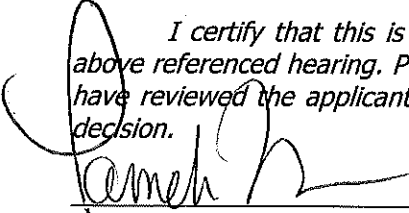
### **III. DECISION**

The Board is of the opinion that Benjamin Silva has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Silva must engage in additional programming to address his causative factors. He exhibited limited insight as to how he committed such a violent murder.

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

Mr. Silva's next appearance before the Board will take place in four years from the date of this hearing. During the interim, the Board encourages Mr. Silva 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.*



Pamela Murphy, General Counsel

7/22/2019

Date