

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security

PAROLE BOARD

12 Mercer Road
Natick, Massachusetts 01760

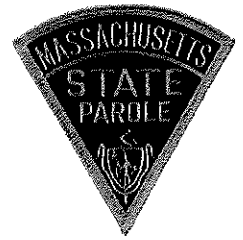
Telephone: (508)-650-4500

Facsimile: (508)-650-4599

Maura T. Healey
Governor

Kimberley Driscoll
Lieutenant Governor

Terrence M. Reidy
Secretary



Tina M. Hurley
Chair

Lian Hogan
Executive Director

RECORD OF DECISION

IN THE MATTER OF

EDUARDO PENA
W99394

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: July 25, 2024

DATE OF DECISION: December 12, 2024

PARTICIPATING BOARD MEMBERS: Edith J. Alexander, Dr. Charlene Bonner, Tonomey Coleman, Sarah B. Coughlin, Tina M. Hurley, James Kelcourse, Rafael Ortiz¹

VOTE: Parole is granted to LTRP (Long Term Residential Program), but not before six months in lower security.

PROCEDURAL HISTORY: On October 11, 2011, in Middlesex Superior Court, Eduardo Pena pleaded guilty to murder in the second degree, armed assault to murder, carrying a firearm, and possession of ammunition. He was sentenced to life in prison with the possibility of parole for murder, 10 years to 10 years and one day in state prison for armed assault to murder, and two years in the House of Correction for each of the remaining counts. All four sentences were ordered to run concurrently.

On July 25, 2024, Mr. Pena appeared before the Board for an initial hearing. He was represented by Northeastern University School of Law student attorneys Margaret Babikian and Katrynna Jackowicz, who were supervised by Attorney Patricia Garin. The Board's decision fully incorporates by reference the entire video recording of Mr. Pena's July 25, 2024 hearing.

¹ Board Members Hurley and Alexander were not present for the hearing, but they reviewed the video recording and written record prior to vote.

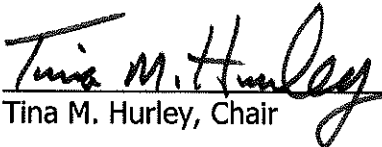
STATEMENT OF THE CASE: In the early morning hours of August 28, 2009, a fight broke out outside of a Lowell nightclub. During the melee, Eduardo Pena, age 24, shot one man and then aimed his firearm at Anthony Oliveira, age 33, and shot him twice. The first victim was rushed to Lowell General Hospital and then transferred to Brigham and Women's Hospital, where emergency surgery was successfully performed. Mr. Oliveira, however, ran from the scene and succumbed to his injuries in a nearby park. An autopsy revealed that the fatal shot entered Mr. Oliveira's chest and traveled through his heart and lungs. It was later reported that Mr. Pena bragged about the shooting and claimed to have done it because the victims were "talking too much [expletive]."

APPLICABLE STANDARD: Parole "[p]ermits shall be granted only if the Board is of the opinion, after consideration of a risk and needs assessment, that there is a reasonable probability that, if the prisoner is released with appropriate conditions and community supervision, the prisoner will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." M.G.L. c. 127, § 130. In making this determination, the Board takes into consideration an incarcerated individual's institutional behavior, their participation in available work, educational, and treatment programs during the period of incarceration, and whether risk reduction programs could effectively minimize the incarcerated individual's risk of recidivism. M.G.L. c. 127, § 130. The Board also considers all relevant facts, including the nature of the underlying offense, the age of the incarcerated individual at the time of the offense, the criminal record, the institutional record, the incarcerated individual's testimony at the hearing, and the views of the public as expressed at the hearing and/or in written submissions to the Board (if applicable).

DECISION OF THE BOARD: Mr. Pena is 39 years old and has been incarcerated for 15 years. Mr. Pena has completed over 30 programs directly related to the causative factors which led to his incarceration, disassociated his gang membership, and demonstrated his commitment to rehabilitation when incarcerated. At the start of his incarceration, Mr. Pena read at a first-grade level. Mr. Pena has now earned his HiSET. Mr. Pena indicates his strong faith supports his efforts towards rehabilitation. During the hearing, Mr. Pena was forthcoming about the underlying crime and expressed remorse for the harm he has caused. Mr. Pena has strong family support and a solid home release plan. He has been sober for three years. Mr. Pena has engaged in mental health programming and treatment and will continue to do so when released. Middlesex County ADA Alicia Walsh spoke in opposition to parole. A family friend spoke on behalf of Mr. Pena's family in support of parole. The Board concludes by unanimous decision that Mr. Pena has demonstrated a level of rehabilitation that would make his release compatible with the welfare of society.

SPECIAL CONDITIONS: Waive work for program; Curfew: Must be at home between 10PM & 6AM for duration of LTRP; Electronic monitoring for duration of LTRP; Must take prescribed medication; Supervise for drugs with testing in accordance with Agency policy; Supervise for liquor abstinence with testing in accordance with Agency policy; Report to assigned MA Parole Office on day of release; No contact or association with gangs/gang activities; No contact with victim(s)' family; Counseling for childhood trauma and transition, Bi-polar Disorder, depression, anxiety; Long Term Residential Program; AA/NA at least 3 times per week.

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.


Tina M. Hurley, Chair

12/12/24
Date