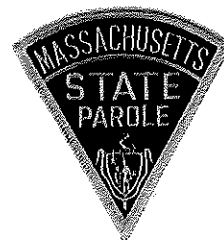




*The Commonwealth of Massachusetts
Executive Office of Public Safety and Security*



PAROLE BOARD

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DECISION

IN THE MATTER OF

EMILE FRATUS

W37726

TYPE OF HEARING: **Review Hearing**

DATE OF HEARING: **September 5, 2019**

DATE OF DECISION: **April 27, 2020**

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

STATEMENT OF THE CASE

On June 19, 1980, in Bristol Superior Court, Emile Fratus was found guilty of second-degree murder. He was sentenced to life in prison with the possibility of parole. On March 12, 1982, the Supreme Judicial Court upheld Mr. Fratus' conviction.¹

On July 21, 1977, at his Taunton home, 23-year-old Emile Fratus struck his six-month-old step-son, Shawn Gillette, on the side of his head, killing him. Earlier that evening, Mr. Fratus pushed Shawn's chair to the floor while the baby was seated in it. Later, at approximately 9:00 p.m., the baby began to cry in his crib, while Shawn's mother and Mr. Fratus were watching television. Mr. Fratus rushed into the bedroom, lifted Shawn from the crib, and struck him hard on the side of his head. The baby fell backward, striking the other side of his head on the crib. Mr. Fratus and Shawn's mother left the room. When she returned

¹ *Commonwealth v. Emile Fratus*, 385 Mass 551 (1982)

a few minutes later, she saw that Shawn was not breathing. She called Mr. Fratus into the room, and he tried to resuscitate the baby, but was unable to do so. He instructed his wife to call an ambulance and say that the baby fell off the bed. While she accompanied her son to the hospital, Mr. Fratus was observed running down the street in the opposite direction of the ambulance.

The cause of Shawn's death was blunt force injury to the head. The force necessary to cause the fatal injury was severe and not consistent with a fall from a bed. Aside from the fatal injury, the medical examiner found bruises on Shawn's face, chest, right leg, left elbow, and back. At the time of Shawn's death, Shawn's mother was interviewed by a police officer, but she did not tell him that Mr. Fratus had struck Shawn. In March 1980, when Shawn's mother began divorce proceedings against Mr. Fratus, she revealed to police, and to the District Attorney's Office, that Mr. Fratus struck Shawn on July 21, 1977. Soon after, Mr. Fratus was indicted for murder and arrested.

II. PAROLE HEARING ON SEPTEMBER 5, 2019

Emile Fratus, now 65-years-old, appeared before the Parole Board on September 5, 2019 for a review hearing. He was not represented by counsel. Mr. Fratus was denied parole after his initial hearing in 1995, and after his review hearings in 2001, 2006, 2012, and 2017. He waived his review hearings in 1998 and 2011. In his opening statement to the Board, Mr. Fratus proclaimed that he was a changed man and wanted a chance to prove himself in the community.

Mr. Fratus spoke about the precipitants leading up to the murder of his six-month-old step-son. After a three to four-year period of dating, Mr. Fratus and Shawn's mother married in 1977. He denied any incidences of domestic violence with her, although he admitted to pushing and grabbing her, which caused bruising. Mr. Fratus acknowledged that he could be a violent person when under the influence of alcohol and drugs. He described himself as a "blackout drinker" at the time of the offense; he was unable to recall or account for his behavior that resulted in murder. Mr. Fratus continued to deny ever striking or lashing out at the baby, despite an autopsy report noting multiple bruises, on multiple areas of the body, that were in various stages of healing. Shawn's frequent bouts of crying annoyed him at times and resulted in arguments between Shawn's mother and him. When questioned by the Board as to why he was unable to curb his addiction issues after the birth of Shawn, Mr. Fratus stated, "No matter how much or how bad I tried to stop, I couldn't." During the two to two and a half years before being charged with murder, he said that his drinking intensified and he was self-medicating, and that he could not think about what had transpired. He never spoke of Shawn's death. It wasn't until Shawn's mother testified in court that he accepted responsibility for hitting the baby, resulting in his death.

The Board discussed Mr. Fratus' institutional adjustment; he is currently incarcerated at North Central Correctional Institution (NCCI). He is employed in supplies, where he works seven days a week. Mr. Fratus continues to attend Alcoholics Anonymous (AA) and the 12 Step program on a regular basis. Since his last hearing, he has not engaged in treatment/programming to further address substance abuse, anger management, or domestic violence. He is compliant with his mental health treatment plan. When a Board Member questioned him about a letter he wrote to his daughter, in 1995, that contained sexually explicit

language, Mr. Fratus was unable to provide the reasoning behind it. There has been no indication of substance use throughout his 39 years of incarceration.

Bristol County Assistant District Attorney Jason Mohan spoke in opposition to parole.

III. DECISION

The Board is of the opinion that Emile Fratus has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Fratus has served approximately 39 years for the murder of six-month-old step-son Shawn Gillette. Since his last hearing, he failed to further address his causative factors. The Board is of the opinion that he continues to minimize his criminal culpability and lacks insight. He should also develop a viable parole plan that would aid in his reintegration.

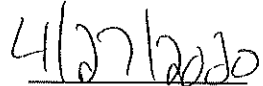
The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the 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. Fratus' 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. Fratus' risk of recidivism. After applying this standard to the circumstances of Mr. Fratus' case, the Board is of the unanimous opinion that Emile Fratus is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Fratus' next appearance before the Board will take place in three years from the date of this hearing. During the interim, the Board encourages him 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



Date