



The Commonwealth of Massachusetts  
Executive Office of Public Safety and Security



PAROLE BOARD

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Chairman

**DECISION**

**IN THE MATTER OF**

**EMILE FRATUS**

**W37726**

**TYPE OF HEARING:** Review Hearing

**DATE OF HEARING:** September 21, 2017

**DATE OF DECISION:** August 24, 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 two years from the date of the hearing.

**I. STATEMENT OF THE CASE**

On June 19, 1980, in Bristol Superior Court, a jury convicted Emile Fratus 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.<sup>1</sup>

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 the 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

<sup>1</sup> Commonwealth v. Emile Fratus, 385 Mass 551 (1982)

on the side of the head. The baby fell backward, striking the other side of his head on the crib. Mr. Fratus and Shawn's mother then left the room. When she returned 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 to 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 them 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 21, 2017**

Emile Fratus, now 63-years-old, appeared before the Parole Board for a review hearing on September 21, 2017. He was not represented by counsel. Mr. Fratus was denied parole after his initial hearing in 1995, as well as after review hearings in 2001, 2006, and 2012. Mr. Fratus told the Board that he is one of eight children. As a child, he was victimized by his father. He indicated that his father beat him with his hands, stating, "I think I took the worst of the beatings." He went on to say that "sometimes, I deserved them." Mr. Fratus told the Board that he went to school until the eighth grade, but indicated that he didn't have any interest in earning his G.E.D. while incarcerated. At 16-years-old, he started working construction and drinking heavily. He experienced alcohol induced blackouts and stated that he used drugs "a little bit," which included the use of cocaine and marijuana. He told that Board that he has been married four times, the last two while incarcerated. He stated that he has four children.

Mr. Fratus spoke about the events that took place on the day of the murder. He stated that he was dating Shawn's mother for approximately 3 or 4 years, and they had argued a lot about his drinking. Mr. Fratus believed Shawn to be his child, but he found out later that he was not the father, which upset him. Mr. Fratus stated that on the day of the murder, he worked and then went to a bar, where he drank and played pool. When he got home, he argued with his wife, while Shawn was crying. The next thing he remembered was giving the baby mouth to mouth to try to resuscitate him. He panicked and went to his family's house. He denied going to the hospital. When questioned by the Board, he couldn't offer any other details of the incident because he claimed he couldn't remember. Mr. Fratus indicated that, at times, he has issues with his memory. He stated that he has since learned that Shawn's cause of death was "a blow to the head," but he doesn't remember causing the injury. A Board Member asked Mr. Fratus why he stayed silent for so long in regards to the murder. He stated, "I never knew what really happened." He further denied knowing how Shawn obtained the bruises on his body.

When a Board Member asked Mr. Fratus to describe what has changed since his hearing in 2012, he said, "I feel that I have changed a lot, I am not as angry." He explained that programming has helped him deal with anger issues. When the Board noted that Mr. Fratus has a good work ethic, he said he has been working since his incarceration and, currently, works in

the kitchen. Mr. Fratus admitted that alcohol was an issue in the past, stating that the only time he became violent was when he was drinking. He stated, "I had a bad temper." Currently, he said he is attending Alcoholics Anonymous (AA) one or two days a week. He completed the Correctional Recovery Academy and Domestic Violence Intervention Program. He told the Board that he works in the garden at the facility and that he is on a waitlist for the General Population Maintenance Program and Able Minds Program.

Mr. Fratus stated that he sees his mental health counselor once a month and a psychiatrist once every two months. He is on medication for his heart, diabetes, cholesterol, blood pressure, and depression. When a Board Member questioned Mr. Fratus about a letter he wrote to his daughter in 1995 that contained sexually explicit language, he was unable to provide the reasoning behind such a letter. Mr. Fratus told the Board that he has contact with his brother, ex-wife, daughter, and son. He stated that his home plan is to live with his ex-wife. If paroled, he said he would continue with mental health counseling, psychiatrist visits, and alcohol treatment.

Bristol County Assistant District Attorney Michael Sheehan provided testimony 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 should engage in treatment/programming to further address substance abuse, anger management, and domestic violence. In the interim, Mr. Fratus should provide a parole plan to address housing and medical needs.

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 two years from the date of this hearing. During the interim, the Board encourages Mr. Fratus 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 p.p. gmb  
Gloriann Moroney, General Counsel

8/24/18  
Date