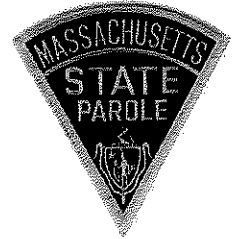


The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

IN THE MATTER OF

FRANCIS SEPULVEDA

W83038

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: December 12, 2017

DATE OF DECISION: October 23, 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 that the inmate is not a suitable candidate for parole.¹ Parole is denied with a review scheduled in four years from the date of the hearing.

I. STATEMENT OF THE CASE

On January 13, 2004, in Lawrence Superior Court, Francis Sepulveda pleaded guilty to the second degree murder of 7-year-old Eva Rojas and was sentenced to life in prison with the possibility of parole. Mr. Sepulveda also pleaded guilty to four counts of armed assault in a dwelling, four counts of stealing by confining or putting in fear, and one count of armed robbery. Mr. Sepulveda received nine life sentences with the possibility of parole for these convictions. In addition, Mr. Sepulveda pleaded guilty to four counts of assault and battery with a deadly weapon, for which he was sentenced to serve 8-10 years and one count of armed assault with intent to

¹ One Board Member voted to deny parole with a review in five years.

murder, for which he was sentenced to 18-20 years. All sentences were to be served concurrently. In 2010, Mr. Sepulveda's motion to withdraw his guilty plea was denied.²

On or about September 11, 1994, Francis Sepulveda (age 24) and three co-conspirators committed an armed home invasion of a three story dwelling in Lawrence. As planned, Mr. Sepulveda knocked on the third floor apartment and, when a man answered, the group (armed with a baseball bat and rifle) rushed in and overpowered him. They tied him up and duct-taped his mouth. While Mr. Sepulveda acted as a lookout, his co-conspirators tied up the man's wife and 7-year-old daughter, duct-taping their mouths as well. While Mr. Sepulveda guarded the victims on the third floor, the other men broke into the first floor apartment. The occupant of the first floor apartment engaged the home invaders and was shot 5 times. However, he survived the shooting. The 7-year-old victim suffocated from having both her nose and mouth taped shut.

II. PAROLE HEARING ON DECEMBER 12, 2017

Francis Sepulveda, now 47-years-old, appeared before the Parole Board for an initial hearing on December 12, 2017. He was represented by Attorney John Rull. In his opening statement to the Board, Mr. Sepulveda admitted his responsibility for his role in the joint venture that resulted in the death of Ms. Rojas and the shooting of the first floor victim. Mr. Sepulveda apologized to the victims' families and expressed his remorse. The Board noted that in his written social history, Mr. Sepulveda said that he was abused as a child by his mother and sexually assaulted by a babysitter's son. Also noted was that he left home and dropped out of school at age 15 due to this abuse. Mr. Sepulveda told the Board that he soon began abusing alcohol, marijuana, and cocaine. Around the time of the murder, Mr. Sepulveda said he was living with his girlfriend and selling drugs.

The Board noted that after learning that one of the victims of the home invasion had died, Mr. Sepulveda fled to New York and hid for nearly seven years. When the Board asked why he did not turn himself in earlier, Mr. Sepulveda said that he was afraid and acted like a coward. The Board questioned Mr. Sepulveda about a statement he allegedly made to a New York detective while being fingerprinted. Mr. Sepulveda told the detective that he went into the apartment where the family was tied up and told the 7-year-old victim to calm down and not to yell, and then he put the tape back on her mouth.³ At this hearing, Mr. Sepulveda denied ever touching the tape and said if he knew that the young girl was having trouble breathing, he would have taken the tape off. When the Board asked Mr. Sepulveda whether he felt he was guilty of second degree murder, Mr. Sepulveda said that he admitted he was guilty of the alleged acts, but filed a motion to withdraw his guilty plea because he thought he could get a lesser sentence. Mr. Sepulveda went on to say that, as a joint venturer in a felony where a victim died, he now feels lucky not to have a first degree murder sentence.

When the Board asked Mr. Sepulveda if he was a member of a security threat group (STG), he said that he joined a group prior to his trial, but renounced 6 months after his conviction. Although he had two disciplinary reports for fighting, he denied that any of the fights were related to his membership in a security threat group. The Board noted that Mr. Sepulveda

² *Commonwealth v. Francis Sepulveda*, 16 Mass. L. Rptr. 231, 2003 WL 21027147 (Mass. Super.), *affirmed*, 78 Mass. App. Ct. 1107 (2010), *cert. denied*, 459 Mass. 1102 (2011)

³ This statement came from the denial of Mr. Sepulveda's motion to suppress statements made to the police. *Commonwealth v. Francis Sepulveda*, 16 Mass. L. Rptr. 231, 2003 WL 21027147 at 2 (Mass. Super.)

had completed many programs and asked him which he found most helpful. Mr. Sepulveda said that the Correctional Recovery Academy (CRA) was helpful in identifying and avoiding stressors that can lead to bad behavior. Alternatives to Violence was helpful in learning how to avoid, defuse, or leave altercations before they become violent. Restorative Justice helped him take responsibility for his actions. Mr. Sepulveda said that he completed the re-entry and reading portions of Restorative Justice and is on the waiting list for the 32 week Restorative Justice program.

Mr. Sepulveda submitted a parole plan that requested housing in a lower security facility for 12 months, followed by a reserve to a long term residential program (LTRP), after which he would live with his mother. Mr. Sepulveda completed his G.E.D. and needs seven classes to complete his degree at Boston University. Upon release, he would like to pursue a master's degree in urban planning and eventually do community work. He told the Board that he has been sober for 15 years and has the support of family and friends. He would attend Alcoholics Anonymous/Narcotics Anonymous meetings, seek individual counseling, and take Vivitrol, if released.

Mr. Sepulveda's family and mentor testified and sent letters in support of parole. Essex Assistant District Attorney Elin Graydon testified in opposition to parole. The Essex District Attorney sent a letter of opposition, as well.

III. DECISION

The Board is of the opinion that Francis Sepulveda has not yet demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board is also of the opinion that Mr. Sepulveda is minimizing his culpability as it relates to the governing offense. Mr. Sepulveda should invest in his rehabilitation and maintain a positive adjustment.

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

Mr. Sepulveda'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. Sepulveda 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, General Counsel/Executive Director

10/23/18
Date