

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

IN THE MATTER OF

FRANCISCO MERCADO

W36119

TYPE OF HEARING: Review Hearing

DATE OF HEARING: May 21, 2019

DATE OF DECISION: March 4, 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 five years from the date of the hearing.

I. STATEMENT OF THE CASE

On February 25, 1977, in Suffolk Superior Court, Francisco Mercado was found guilty of second-degree murder in the death of 31-year-old Luz Cintron. He was sentenced to life in prison with the possibility of parole.

On the evening of May 1, 1976, 28-year-old Francisco Mercado went to the apartment of Luz Cintron, with whom he had lived for at least six to eight months. When he entered the apartment, he grabbed Ms. Cintron by the hair, dragged her into the bedroom, and locked the door. Ms. Cintron's 11-year-old daughter heard the sounds of a struggle and called police when her mother told her to do so. When police arrived, Ms. Cintron told them that Mr. Mercado had been hitting her, and that she wanted him to leave. The police ordered him from the apartment and told him not to return that evening, or he would be arrested. After the police left, however, Mr. Mercado returned and attempted to enter the locked apartment by using his key. Ms. Cintron and her daughter held the door against him, but he forced his way in.

Once inside, Mr. Mercado went immediately into the kitchen, picked up a knife, and ran out to Ms. Cintron. Ms. Cintron pushed her daughter out the first floor window, and then jumped out after her. Mr. Mercado ran out the front door, caught up to Ms. Cintron, and grabbed her by the hair. He repeatedly banged Ms. Cintron's head against the sidewalk and then proceeded to stab her. Screaming and crying, Ms. Cintron's daughter watched the assault on her mother from a distance of approximately six feet. Knife in hand, Mr. Mercado then chased the girl, but she eluded him. An eyewitness at an apartment nearby heard the girl screaming and went to the window. She observed Mr. Mercado kneeling over Ms. Cintron, making up and down motions. The witness also observed that Mr. Mercado had something "long and silver" in his hands and chased the girl, who ran off. Ms. Cintron was brought to the hospital, suffering from head trauma and stab wounds. She died seven days later.

II. PAROLE HEARING ON MAY 21, 2019

Francisco Mercado, now 71-years-old, appeared before the Parole Board on May 21, 2019, for a review hearing. He was not represented by counsel, but utilized the services of an interpreter. Mr. Mercado was denied parole after his initial hearing in 1991, and after his review hearings in 1993, 1996, 1999, 2004, 2009, and 2014. In his opening statement to the Board, Mr. Mercado expressed his shame to the Cintron family, as well as his own. He added that he apologizes to everyone, knowing that he is guilty. Mr. Mercado acknowledged that he was "stupid" and ignorant at the time. When speaking of the governing offense, Mr. Mercado described arriving home from work to find Ms. Cintron with someone else. They had a conversation, but they both lost control after approximately five minutes. He also acknowledged that police came to the home earlier in the day. Mr. Mercado admitted that this is the first time he told the Board that Ms. Cintron was with another man at the time of the offense.

When Board Members questioned him as to the governing offense, Mr. Mercado stated that he had a couple of beers, but that he was not "drunk." He claims that he does not need Alcoholics Anonymous/Narcotics Anonymous (AA/NA) since he did not use drugs or alcohol when he was "on the street." In regard to his education, Mr. Mercado said that he completed the third or fourth grade. He told the Board that he experiences medical issues, such as diabetes, high blood pressure, and heart attacks. Mr. Mercado denies any mental health issues prior to his incarceration. When Board Members questioned Mr. Mercado as to how many times he beat Ms. Cintron prior to the murder, he responded, "Before the incident, I never touched that woman because she was really good to me." He further denied any problems during their relationship.

Mr. Mercado has participated in some programming since his last parole hearing, telling the Board that the "violence" program has been most useful to him. He denies any disciplinary issues since his last hearing in 2014. When speaking about his employment history during his incarceration, Mr. Mercado said that he has worked in the laundry department for 14 years. The Board, however, noted that Mr. Mercado's focus during his incarceration has been employment, rather than furthering his education or expanding his programming efforts.

The Board considered testimony in support of parole from Mr. Mercado's sister. The Board considered testimony in opposition to parole from Ms. Cintron's son and two daughters.

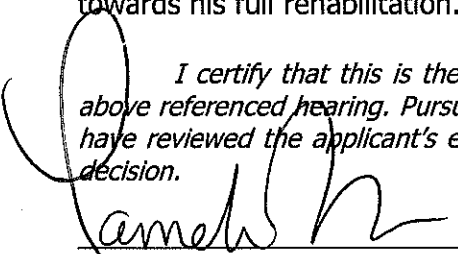
III. DECISION

The Board is of the opinion that Francisco Mercado has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Mercado has been in custody for 43 years. During this time, he has yet to engage in rehabilitative programming to address his causative factors. Additionally, he lacks candor and insight as to the governing offense.

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

Mr. Mercado's next appearance before the Board will take place in five 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

3/4/2020
Date