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Paul M. Treseler
Chairman

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DECISION

IN THE MATTER OF

GABRIEL MERCADO

W69614

TYPE OF HEARING: Review Hearing

DATE OF HEARING: September 29, 2016

DATE OF DECISION: March 7, 2017

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. Parole is denied with a review scheduled in one year from the date of the hearing.¹

I. STATEMENT OF THE CASE

On September 13, 1998, 16-year-old Gregory Suttles was shot to death by 22-year-old Gabriel Mercado. On June 14, 2001, Gabriel Mercado pled guilty to murder in the second degree in Suffolk Superior Court. He also received a concurrent sentence of 3 to 5 years for possession of a firearm.

The shooting death was precipitated by an incident in which Mr. Mercado's brother, David Mercado, was beaten and had his ring stolen. At the time, Gregory Suttles was visiting his cousin and was among a group of people who had decided to beat the next individual who passed by (David Mercado). After David Mercado had been beaten, he ran to his older brother, Gabriel Mercado, and reported what had happened to him. Gabriel Mercado, who had recently

¹ The Parole Board's decision was split. Three Board Members voted to reserve Mr. Mercado to a long-term residential program upon successful completion of 18 months in lower security. Three Board Members voted to schedule a review hearing on Mr. Mercado's petition for parole in two years.

purchased a gun, went to retaliate. David Mercado identified Mr. Suttles as being among those who had beaten and robbed him. Gabriel Mercado, with a loaded .38 caliber handgun in his possession, confronted Mr. Suttles and a group of other young men. No one would confess to the incident, so Gabriel Mercado (who, at this point, had targeted Mr. Suttles) began to shoot at him. He chased Mr. Suttles into the home he was visiting, while firing his gun. Gabriel Mercado fired several shots, hitting Mr. Suttles twice in the back inside the house. It was later learned that Mr. Suttles was present, but did not participate, in the beating or robbing of David Mercado.

After the shooting, Gabriel Mercado fled the area with his brother and his cousin, who was also present. Mr. Suttles was taken by ambulance to Boston Medical Center, where he was pronounced dead at approximately 2:10 a.m. on September 13, 1998. Mr. Mercado's license plate number was taken down by an eye witness as he fled the area. This information led police to Gabriel Mercado's address in Dorchester. Mr. Mercado gave a statement to police in which he admitted shooting Mr. Suttles. He assisted Boston police by taking them into his house and showing them the gun that he had used to kill Gregory Suttles.

II. PAROLE HEARING ON SEPTEMBER 29, 2016

Gabriel Mercado, now 40-years-old, appeared before the Parole Board for a review hearing on September 29, 2016, and was represented by Attorney Frank H. Spillane. Mr. Mercado was denied parole after his initial hearing in 2013 and, again, after his review hearing in 2015. In his opening statement to the Board, Mr. Mercado apologized for the pain and suffering he caused by taking the life of Mr. Suttles. He expressed remorse for his "senseless" actions and his "destructive behavior." At various points during the hearing, Board Members noted their concern with Mr. Mercado's threats to harm others (or himself), after experiencing difficulties with relationships and stress. When asked about his prior suicide attempts, Mr. Mercado stated, "I was ignorant. I was very immature at the time and selfish as well." Mr. Mercado said that he had viewed suicide as the "easy way out." Although he could not recall the specific reasons for his first suicide attempt, Mr. Mercado acknowledged that his second suicide attempt was the result of a breakup with his girlfriend. Mr. Mercado's third admission to the hospital for suicidal behavior and thoughts (shortly before the murder of Mr. Suttles) stemmed from stress in his relationship with his girlfriend.

When questioned about the gun that he used to kill Mr. Suttles, Mr. Mercado said that he obtained it roughly three to four weeks after having a confrontation with a man he saw speaking to his girlfriend. He purchased the gun because he believed that the man owned guns and had shot others in the past. He also said that the man was spotted near his mother's home. A Board Member asked Mr. Mercado if it was fair to say that he was in a state of mental decline, or crisis, during the weeks leading up to his purchase of the gun, two days prior to the murder. Mr. Mercado responded, "Yes." At that time in his life, Mr. Mercado said that he did not want to admit that he was "sick." Rather, he felt that he was being "victimized" and that the world was against him. He did not realize that he was suffering from stress, depression, and anger issues.

The Board questioned Mr. Mercado about his current treatment and programming. He said that he participates in many different programs, including Stress Reduction, Alternatives to Violence Program, Restorative Justice, La Familia, Bible study, and church services. Mr.

Mercado indicated that Stress Reduction has helped him learn how to control his emotions. The program taught him that "life is too short" and that he needs to ask for help with his problems, instead of trying to deal with everything on his own. When asked about coping skills to help manage his stress, Mr. Mercado said, "Think before I act or react." He also said that he does not allow the actions of others control his own actions. When asked about dealing with relationships in the future, Mr. Mercado responded that he does not have any concerns, as he does not have the same mentality that he had 18 years ago. He added that he is very ashamed of the things he has done and the mistakes he has made. He is aware that he must continue to address his anger and mental health issues for the rest of his life. Mr. Mercado is currently employed as an industries clerk, a position he has held since 2010. While incarcerated, he also developed skills with computers, plumbing, machine repair, and electrical.

Mr. Mercado had many supporters in attendance at his hearing, including his brother who provided oral testimony. The Board also received letters in support of parole. A forensic mental health evaluation was submitted by Dr. Frank DiCataldo, Ph.D. Suffolk County Assistant District Attorney Charles Bartoloni spoke in opposition to parole. Letters of opposition were submitted by ADA Bartoloni and Boston Police Commissioner William B. Evans.

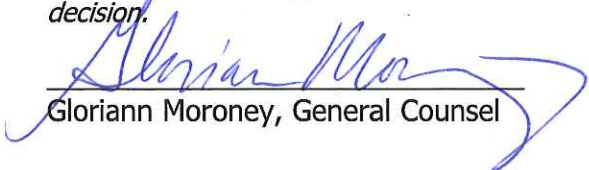
III. DECISION

The Board is of the opinion that Mr. Mercado has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board believes that a longer period of positive institutional adjustment and programming would be beneficial to Mr. Mercado's rehabilitation.

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 opinion that Mr. 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 one year from the date of this hearing. During the interim, the Board encourages Mr. Mercado 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

3/2/17
Date