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Executive Office of Public Safety

PAROLE BOARD

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Josh Wall
Chairman

DECISION

IN THE MATTER OF

GABRIEL MERCADO

W69614

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: July 23, 2013

DATE OF DECISION: October 3, 2013

PARTICIPATING BOARD MEMBERS: Cesar Archilla, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre Ina Howard-Hogan, Lucy Soto-Abbe, Josh Wall

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, institutional record, the inmate's testimony at the hearing, the views of the public as expressed at the hearing or in written submissions to the board, we conclude by a unanimous vote that the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in two years.

I.STATEMENT OF THE CASE

On September 13, 1998, Gregory Suttles, age 16, was shot to death by Gabriel Mercado. This shooting death was precipitated by Mr. Mercado's brother, David Mercado, being beaten up and having his ring stolen. Mr. Suttles was visiting his cousin that evening, and was among a group of people who decided to beat up the next individual who passed by. That individual was David Mercado.

When David Mercado reported what had happened to him, Gabriel Mercado, who had recently purchased a gun, went to retaliate. David Mercado identified Mr. Suttles as being among those who had beaten and robbed him. Mr. Mercado confronted Mr. Suttles and the 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. He fired several shots, hitting Mr. Suttles twice in the back as he

ran. It was later learned that Mr. Suttles was present but did not participate in beating or robbing David Mercado.

After the shooting, Mr. Mercado fled the area with his brother and with his cousin Angel Santiago who was also present. Mr. Suttles was taken by an ambulance to the Boston Medical Center immediately following the shooting. He was pronounced dead at approximately 2:10 a.m. on September 13, 1998.

Mr. Mercado's vehicle was spotted by an eye witness as he fled the area. The police ran the registration which led them to Mr. Mercado's address in Dorchester. Mr. Mercado was questioned and ultimately gave a statement in which he admitted shooting Mr. Suttles. He assisted Boston police by taking them into his house and showed the police the gun that he had used to kill Gregory Suttles.

On June 14, 2001 in Suffolk Superior Court, Gabriel Mercado pleaded guilty to murder in the second degree. He also received a concurrent sentence of 3 to 5 years for possession of a firearm.

II. PAROLE HEARING ON JULY 23, 2013

The Parole Board learned through a series of questions and witness testimony that Mr. Mercado had a dysfunctional and tumultuous early childhood. Although he eventually moved from Puerto Rico to Massachusetts and had periods where he lived in a stable home with relatives, he was in need of mental health, medical, and academic assistance that he failed to receive. Mr. Mercado was treated for epilepsy following a head injury, but also reported a history of mental health issues that became increasingly worse as he grew older. Mr. Mercado left school in grade 10 due to academic barriers and what he described as increased anxiety, depression, and anger. He later entered a school that was more accommodating to his issues and he received his GED.

Mr. Mercado was looked upon by his siblings as being a caretaker of them, and was described as a loyal and supportive family member. Mr. Mercado did secure consistent employment initially, and attended community college in pursuit of a more ambitious career path. Mr. Mercado stated however that he eventually began collecting Social Security disability payments due to his epilepsy and increased depression and anxiety. He also stated that he was unable to maintain an acceptable grade point average due to a language barrier and other academic issues, thus he dropped out of school. Mr. Mercado stated that at this period in his life he began to feel worthless. He simultaneously had a series of failed personal relationships, and appeared quite candid in describing himself as abusive and controlling as he was increasingly angry and in fear of failure. He stated that his poor behavior was the primary reason his relationships failed. While struggling with his own issues, Mr. Mercado reportedly was relied upon by his siblings and other family for support. Mr. Mercado had few friendships, and stated although he would attend events and parties, he did not drink or use drugs and always felt as though he did not belong. Such feelings contributed to a growing sense of failure and inadequacy.

At the time of Mr. Suttles' murder, Mr. Mercado stated that he had bought a gun for protection just several days before. He stated that he was in a confrontation with an ex-girlfriend's boyfriend, and he felt threatened. He denied having ever owned a weapon in the past, and stated on the day of the murder he was test firing the weapon for the first time. Mr. Mercado described the series of events leading to the murder in detail. His recollection was substantially consistent with the eye witness accounts, police reports, and grand jury testimony. There were some discrepancies regarding how many times Mr. Mercado fired his weapon; however, he admits to the most pertinent details which include shooting an unarmed, innocent boy in the back. Mr. Mercado recognizes that Mr. Suttles presented no threat to him or to his brother.

Mr. Mercado expressed his sincere remorse with an appreciation for the life he took, and the future that Mr. Suttles could have had with his family. He also recognized the pain and significant secondary trauma his actions have caused the Suttles family. Mr. Mercado recognized that it was his impulse to seek revenge on those who had hurt his brother, and his displaced anger and feelings of personal inadequacies that were solely responsible for the senseless death of Mr. Suttles.

In terms of Mr. Mercado's personal growth and rehabilitation, he appears to have made a significant effort to prepare himself for the possibility of re-entering society. Mr. Mercado began to receive mental health treatment while awaiting trial following a failed suicide attempt. He also received consistent treatment for his epilepsy that he agrees may have also benefitted his mood (medications can be used for both seizure disorder and mood disorder). He is no longer in need of mental health services and appears to have made progress in addressing the issues that contributed to his impulsive, angry behaviors. Mr. Mercado stated that he slowly began to find hope for the future and became increasingly invested in programming and occupational skill building in hopes that he would one day be released into the community. To date Mr. Mercado has completed numerous relevant programs to address his history of anger, poor coping skills, feelings of failure and appreciation for the harm that he has caused. Through the course of the hearing, and as evidenced by his supporters, Mr. Mercado demonstrated that he has benefited from his investment in rehabilitation.

Mr. Mercado improved his English, completed the Auto Mechanics Program and has consistently worked in the institution. He has been employed as an office clerk in the maintenance department since 2010, which is a job reserved for inmates who have gained a level of trust and shown good work ethic. Mr. Mercado's institutional behavior has primarily been good; however, he required two periods of special management placement due to poor behavior and engaging in a fight with another inmate in 2006. Mr. Mercado discussed his behavior and appears to have made appropriate steps in his rehabilitation as he continues to address the issues that precipitate mal-adaptive responses to the stressors he has faced.

Mr. Mercado had several people testify in support of his parole release, including his wife whom he married in 2004. Mr. Mercado's wife, Brenda Hernandez stated that she has personally seen Mr. Mercado's positive growth as she has known him for many years prior to the offense and during his incarceration. Ms. Hernandez reports that she believes he has benefitted from his incarceration and rehabilitation and would support him upon his release. Mr. Mercado's brothers, Simon and David Mercado, described Mr. Mercado's nature as being the individual in the family who was caring, responsible, never abused drugs or alcohol, and took

on the role of supporting his siblings and family at a very young age. They also agreed to be of support upon his release.

There were many members of Mr. Suttles family who spoke in opposition of his release, including his stepmother and father, uncle, cousin and grandfather. Each family member described Gregory Suttles as a good person, and good student with high aspirations in life. Mr. Suttles grandfather, Harvey Jackson was particularly poignant in his description of Mr. Suttles as person and the loss the family has suffered as a result of his death. The family unanimously opposed Mr. Mercado's release.

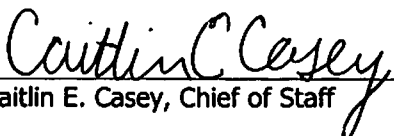
Suffolk Assistant District Attorney Charles Bartoloni spoke in opposition of Mr. Mercado's release and provided a letter. ADA Bartoloni was particularly concerned with Mr. Mercado's level of rage on that evening and the potential for such anger to re-surface.

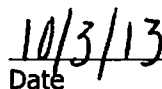
III. DECISION

This was Gabriel Mercado's first appearance before the Parole Board. He presented as having benefitted from his incarceration and rehabilitation to date. Mr. Mercado continues to engage in programming and opportunities that will enhance his ability to successfully re-enter into society. Although he has made significant strides, Mr. Mercado received two concerning disciplinary issues as recently as 2006 that involved insolence and violence. Mr. Mercado has since engaged in further programming to address the factors that contributed to this behavior, and he does appear to have made significant progress in his areas of need. It is hoped that he will continue to enhance his positive coping skills, as the Parole Board believes that there is more work to do. The four goals of sentencing – punishment, deterrence, rehabilitation, and public protection – have not yet been accomplished.

The standard for parole is set out in 120 C.M.R. 300.04, which provides that "Parole Board members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such an 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." Applying that appropriately high standard, given the nature of the offense, which took the life of a young man who was not involved in the events that led to the confrontation, and the time Mr. Mercado has spent to date in prison, the Parole Board deems that a period of further incarceration is warranted. Mr. Mercado is expected to continue with his rehabilitation efforts and to remain free of disciplinary issues. The Parole Board will review Mr. Mercado's eligibility for parole release in two years.

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.


Caitlin E. Casey, Chief of Staff


Date