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# *The Commonwealth of Massachusetts*

## *Executive Office of Public Safety*

### **PAROLE BOARD**

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Charlene Bonner  
Chairperson

Janis DiLoreto Smith  
Executive Director

### **DECISION**

#### **IN THE MATTER OF**

**GEORGE ORTIZ  
W48835**

**TYPE OF HEARING:** Revocation Review Hearing

**DATE OF HEARING:** August 5, 2014

**DATE OF DECISION:** January 7, 2015

**PARTICIPATING BOARD MEMBERS:** Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, Tina Hurley, Lucy Soto-Abbe<sup>1</sup>

**DECISION OF THE BOARD:** After careful consideration of all relevant facts, including the nature of the underlying offense, criminal record, institutional record, the inmate's testimony at hearing, and 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. Parole is denied with a review in two years from the date of the hearing.

#### **I.STATEMENT OF THE CASE**

On August 1, 1990, in Suffolk Superior Court, George Ortiz pleaded guilty to murder in the second degree for the killing of John Stephens,<sup>2</sup> age 28. Ortiz was sentenced to life in prison with the possibility of parole after serving 15 years. This is Ortiz's fourth appearance before the Parole Board. Ortiz was last seen by the full Board for a review hearing, after revocation in 2009, when he was granted a parole.

On March 3, 1990, Ortiz (then age 32), the victim, and Luis Rodriguez were homeless and drinking outside of a building on Harrison Avenue in Boston. After a dispute over a bottle of vodka arose between the victim and Rodriguez, Ortiz responded by putting his arm around the victim and stabbed him in the chest. Although the victim moved away from Ortiz, he continued to stab him. The victim collapsed in the street, was taken to Boston City Hospital,

<sup>1</sup> Chairman Josh Wall and Member Dr. Charlene Bonner did not participate in this hearing.

<sup>2</sup> Previous Board decisions reflect the victim was also known as Shawn O'Neil.

and later succumbed to multiple stab wounds. Ortiz, who turned himself in later that day, had a case pending for assault and battery with a dangerous weapon out of Boston District Court when he was arrested.<sup>3</sup>

## **II. INSTITUTIONAL / CRIMINAL HISTORY**

Prior to the murder, Ortiz's criminal record consisted of several violent and drug related arraignments and convictions. In the 1970's and early 1980's, Ortiz was arraigned for assault and battery, breaking and entering, and larceny from a building. Most of these charges were either dismissed or resulted in suspended sentences, which were later terminated. In 1987, Ortiz was arraigned for assault and battery with a dangerous weapon and armed robbery. Ortiz was convicted and sentenced in Suffolk Superior Court, received a 10-year suspended sentence, and placed on probation. The suspended sentence, however, was terminated in 1989. While on probation, Ortiz received an additional three month suspended sentence for possession of a hypodermic needle and destruction of property, from which he was discharged in February 1990. In 1989 and 1990, Ortiz was also arraigned for robbery, possession of a class D substance, and two counts of assault and battery with a dangerous weapon. These charges were dismissed.

## **III. PAROLE HISTORY**

After serving 15 years of his life sentence for murder, Ortiz appeared before the Board on February 8, 2005 for an initial hearing. The Board noted that Ortiz expressed remorse for the underlying murder, accepted responsibility, maintained a good institutional record, and participated in a variety of programming. Accordingly, the Board granted a parole to Ortiz with several conditions, including completion of the Correctional Recovery Academy prior to release. Ortiz was released on parole on April 27, 2005.

In late 2006, Ortiz's parole was revoked following a dispute with his live-in girlfriend. Ortiz threatened her with a kitchen knife after she told him to leave because he was intoxicated. A restraining order was entered and Ortiz, who had previously committed other parole violations (including the use of alcohol), was returned to custody. Ortiz appeared before the Board on May 8, 2007 for a review hearing following the revocation and was denied re-parole, with a review in two years. The Board noted that Ortiz had failed to adhere to his case management plan, was drinking heavily while on parole, and did not use the tools he learned in treatment to address his relapses.

Ortiz next appeared before the Board on May 19, 2009 and was granted another parole to a long term residential facility with assistance from SPAN, Inc. The Board noted that after his return to custody in 2007, Ortiz re-engaged in programming and was proactive in addressing the Board's concerns, which included both substance abuse and mental health treatment while in prison. Notably, the Board specifically directed that Ortiz be returned to custody at the first indication of substance abuse or non-compliance with his mental health plan.

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<sup>3</sup> The case was dismissed on April 2, 1990.

On September 1, 2011, the Cambridge Police Department sought and received an arrest warrant for Ortiz on two counts of assault and battery with a dangerous weapon. Ortiz, who was living at the YMCA on Massachusetts Avenue in Cambridge, was charged with stabbing two victims, a male and a female, who were homeless. Although non-fatal, the victims suffered finger and chest stab wounds. On September 2, 2011, parole officers took Ortiz into custody on a parole violation warrant. Ortiz, whose parole was provisionally revoked following a preliminary hearing, postponed his final revocation hearing pending the resolution of his new criminal charges. On September 26, 2012, following a jury trial in Cambridge District Court, Ortiz was found not guilty of the charges.

The finding of not guilty is the result of uncooperative witnesses. Notably, the Court issued an order of *habeas corpus* to secure the male victim's presence in court. Despite informing police that Ortiz had stabbed him, this victim also made it clear to Cambridge authorities that he would not "rat" on Ortiz, instead opting for "street justice." At trial, this victim refused to identify Ortiz as the man who stabbed him. The female victim testified that she had no recollection of the incident. The Cambridge authorities noted that in addition to the victims' own account, other circumstantial evidence demonstrated Ortiz had stabbed the victims. This information was relied upon by the Board and made available to Ortiz during the parole revocation proceedings.

Although Ortiz was found not guilty on the criminal charges, the full Board nevertheless voted to revoke Ortiz's parole. While a criminal jury did not conclude that Ortiz committed the crimes beyond a reasonable doubt, the Board, in discharging its duty to oversee parolees and uphold public safety, determined by a much less stringent civil evidentiary standard that Ortiz committed a parole violation. Accordingly, Ortiz remained in custody and was placed on the next available Board docket for a review hearing which resulted in the hearing scheduled on August 5, 2014.

#### **IV. PAROLE HEARING ON AUGUST 5, 2014**

George Ortiz opened the hearing by emphasizing that he was found not guilty of the criminal charges for assaulting the homeless victims in Cambridge. While acknowledging his responsibility for the murder of Mr. Stephens in 1990, Ortiz frequently remarked on his fortunate not guilty verdict of the homeless victims and insisted that he did not commit those acts of violence. Ortiz thus disclaimed any responsibility for his return on the parole violation in 2011, despite the Board's findings to the contrary. Ortiz maintained the very stance that resulted in the revocation of his parole.

Ortiz described his institutional efforts since his return to custody in 2011. Ortiz testified that he participated in regular AA meetings and Companion Group and spent the balance of his time assisting another inmate, who was disabled, with daily activities. Ortiz maintains that he has been waitlisted for a violence reduction program and stated that he believed such programming would allow him to maintain "an open mind" to help himself.

Ortiz described his parole in 2005. Ortiz was released to reside with his fiancé on the condition that he participates in the Moving Ahead Program (MAP), which he completed in January 2006. Ortiz testified that he attended AA meetings and was regularly employed. About six months into his parole, however, Ortiz could not manage the pressures of work and

maintaining his relationship with his fiancé. His commitment to treatment thus waned and eventually failed, resulting in a relapse. Ortiz acknowledged that while on parole he regularly used alcohol, drinking as much as two pints of vodka per day (including during break times at work).

His relapse reached its nadir when on October 16, 2006, Ortiz and his fiancé got into an argument after she told him to leave due to his drinking. Ortiz responded by threatening her with a kitchen knife. Police responded and intervened, the fiancé obtained a 209A protective order, and Ortiz was taken into custody three days later on a parole violation warrant. At the hearing, Ortiz downplayed the violent nature of this parole violation. Despite the police report and the 209A order, Ortiz denied that he threatened his fiancé with a kitchen knife. He instead testified that he carried a knife on that one occasion for protection. Ortiz only accepted responsibility for drinking while on parole. He insisted that he never threatened his fiancé with a knife and that he never even argued with her, other than during this incident.

His minimization of violent conduct extended from the parole failures to his criminal history. When asked by Board Members as to the number of occasions he has been charged with a crime involving his use of a knife, Ortiz initially avowed that occurred on only two occasions: when he murdered Mr. Stephens and his 2011 criminal charges. However, when pressed on the issue, Ortiz stated that there had been a third occasion when he had threatened another with a knife.

When he was re-paroled in 2009, Ortiz testified that he was released to a sober home with supports from SPAN, Inc. Ortiz stated that he graduated from MAP after three months and then moved to a Cambridge YMCA. Ortiz denied any alcohol or substance abuse while on this parole and participated in AA. Ortiz also managed his mental health issues, which included depression, through counseling and medication. Ortiz did not work while on this parole, instead relying on SSI for support. After participating in counseling and treatment, Ortiz testified that he filled the remainder of his time caring for a relative who was suffering from cancer.

If granted a parole, Ortiz presented a plan remarkably similar to those that had failed twice before. Ortiz would like to attend counseling, outpatient treatment, and AA and NA meetings. Ortiz would like to resume employment and would reach out to SPAN, Inc. to assist him in that endeavor. Ortiz would also like to live with his fiancé.

No one spoke in opposition, or in support, of parole.


## **V. DECISION**

While Ortiz has made strides in addressing substance abuse and mental health issues, his lack of candor concerning his violent conduct while on parole in 2006 and 2011 raises serious concerns about his overall rehabilitation. Two paroles resulted in failures because Ortiz engaged in violent conduct for which he has denied any responsibility at the hearing. Given the nature of his underlying crime, his parole failures, and a criminal history replete with examples of violent behavior, George Ortiz plainly has deficits that must be addressed in order to merit a parole. Mr. Ortiz's minimization of the role that violent propensities has played in his parole failures, as well as his criminal past, satisfies this Board that Mr. Ortiz is not rehabilitated and must complete the violence reduction programming for which he has been waitlisted.

The standard we apply in assessing candidates 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 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 here, it is the unanimous opinion of the Board that George Ortiz does not merit parole at this time because he is not rehabilitated. The review will be in two years from the date of this hearing, during which time George Ortiz should continue his commitment to living a substance-abuse free lifestyle and to mental health counseling, and he must also commit to a fuller rehabilitation that addresses issues concerning his anger and violence.

*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.*

  
Janis D. Loreto Smith, Executive Director

  
Date