



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

IN THE MATTER OF

GIBNEY GABRIEL

W47019

TYPE OF HEARING: Review Hearing

DATE OF HEARING: July 10, 2018

DATE OF DECISION: March 21, 2019

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Colette Santa, 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 the 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 a suitable candidate for parole. Parole is granted to an approved home plan on or after 14 days from the date of decision with special conditions.

I. STATEMENT OF THE CASE

On September 11, 1989, in Suffolk Superior Court, Gibney Gabriel pleaded guilty to the second degree murder of 16-year-old Michael Alexandre and was sentenced to serve life in prison with the possibility of parole. At the time of Mr. Alexandre's murder, Mr. Gabriel was 17-years-old.

On September 7, 1988, at approximately 8:30 p.m., Mr. Gabriel went to the Dorchester home of Ralph and Michael Alexandre. Mr. Gabriel told Ralph Alexandre that another teenager wanted to "beef" with him outside. Ralph Alexandre went outside with his brother Michael Alexandre and Mr. Gabriel. When Ralph Alexandre and the other teenager began to shove each other, his brother Michael Alexandre attempted to intervene. Mr. Gabriel then grabbed Michael Alexandre, told him to "stay out of this," produced a black .22 revolver, and fired it once into Michael Alexandre's face. Ralph Alexandre stated that Mr. Gabriel turned the gun on him and

pulled the trigger twice, but that the gun did not fire. Ralph Alexandre ran home and called the police. Michael Alexandre was transported to Boston City Hospital, where he was pronounced dead on September 8, 1988. A warrant for Mr. Gabriel was issued, and he was subsequently arrested in South Burlington, Vermont.

II. PAROLE HEARING ON JULY 10, 2018

Gibney Gabriel, now 47-years-old, appeared before the Parole Board on July 10, 2018, for a review hearing and was represented by Attorney Jason Benzaken. Mr. Gabriel was first paroled in December 2005, but was returned to custody in June 2008. Revocation was not affirmed, and he was returned to parole supervision in August 2008. On October 11, 2010, Mr. Gabriel was returned to custody on a parole violation warrant, and revocation was affirmed. After a hearing on October 18, 2011, parole was denied with a four year review. A review hearing was held on July 26, 2016, and parole was denied with a two year review.

Mr. Gabriel told the Board that he grew up surrounded by a supportive family. As a young man, he had many friends, the best of whom was the victim. On the day of the murder, Mr. Gabriel agreed to hold onto a gun (the murder weapon) for a friend. Mr. Gabriel acknowledged that holding onto the gun and encouraging Ralph to fight were behaviors of a young man who was not thinking. He explained to the Board that he now understands how he should have de-escalated the situation. During the commotion of the fight, Mr. Gabriel observed (what he believed to be) aggressive movements in his peripheral vision and rashly fired the gun in that direction, shooting and killing Michael. When the Board asked why he fled to Vermont, he explained that he was frightened and shocked at the result of his actions. Mr. Gabriel further expressed his immense remorse for taking the life of Mr. Alexandre and for the effect his actions had on Mr. Alexandre's family.

The Board discussed Mr. Gabriel's prior parole history and how, if granted parole, his behavior would change. Mr. Gabriel said that he previously "dropped the ball" after being given a good opportunity. He stated that he takes full responsibility for his prior parole failure because he was a poor communicator and did not use his support system to cope with the stressors that accompany reentry. He admitted that instead of relying upon his parole officer in times of hardship, he attempted to deal with stress by using marijuana. The Board asked Mr. Gabriel about his current attitude towards marijuana usage, to which he responded that it was an unproductive coping mechanism in which he is no longer interested.

The Board also questioned Mr. Gabriel as to what he has accomplished since he was denied parole in 2016. Mr. Gabriel stated that he completed the CRA program and now serves as a mentor, while being gainfully employed as a unit runner. He told the Board he remains interested in the fashion industry and, as such, has educated himself about a related business plan that he could put in place, if released. When asked about his parole plan, Mr. Gabriel requested mental health counseling for support, as he adjusts to living in the community. He further detailed a desire to live with his niece with whom he is close. Mr. Gabriel also informed the Board that his cousin has already extended a job offer to him at his clothing company.

Mr. Gabriel's father and niece testified in support of parole. Mr. Gabriel's girlfriend submitted a letter in support of parole. Suffolk County Assistant District Attorney Kathryn Leary submitted a letter in opposition to parole.

III. DECISION

The Board is of the opinion that Gibney Gabriel has demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board believes that Mr. Gabriel has availed himself of programming/treatment to address the actions that resulted in his return to custody. His release meets the legal standard.

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 the context of an offender convicted of first or second degree murder, who was a juvenile at the time the offense was committed, the Board takes into consideration the attributes of youth that distinguish juvenile homicide offenders from similarly situated adult offenders. Consideration of these factors ensures that the parole candidate, who was a juvenile at the time they committed murder, has "a real chance to demonstrate maturity and rehabilitation." *Diatchenko v. District Attorney for the Suffolk District*, 471 Mass. 12, 30 (2015); See also *Commonwealth v. Okoro*, 471 Mass. 51 (2015).

The factors considered by the Board include the offender's "lack of maturity and an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking; vulnerability to negative influences and outside pressures, including from their family and peers; limited control over their own environment; lack of the ability to extricate themselves from horrific, crime-producing settings; and unique capacity to change as they grow older." *Id.* The Board also recognizes the petitioner's right to be represented by counsel during his appearance before the Board. *Id.* at 20-24. The Board has also considered whether risk reduction programs could effectively minimize Mr. Gabriel's risk of recidivism. After applying this standard to the circumstances of Mr. Gabriel's case, the Board is of the opinion that Gibney Gabriel is rehabilitated, and his release is compatible with the welfare of society. Mr. Gabriel, therefore, merits parole at this time. Parole is granted to an approved home plan on or after 14 days from the date of decision with special conditions.

SPECIAL CONDITIONS: Approve home plan before release; Waive work for two weeks; Must be at home between 10pm and 6am at PO discretion; Electronic monitoring – GPS at PO discretion; Supervise for drugs, testing in accordance with agency policy; Supervise for liquor abstinence, testing in accordance with agency policy; Report to assigned MA Parole Office on day of release; No contact with victim's family; Must have mental health counseling for cognitive behavioral therapy; Mandatory no marijuana usage.

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.



Shara Benedetti, Acting General Counsel

3/21/19

Date