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*The Commonwealth of Massachusetts*  
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**PAROLE BOARD**

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**Paul M. Treseler**  
Chairman

**Michael J. Callahan**  
Executive Director

**DECISION**

**IN THE MATTER OF**

**HECTOR CUSTODIO**

**W59389**

**TYPE OF HEARING:** Review Hearing

**DATE OF HEARING:** March 7, 2017

**DATE OF DECISION:** August 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 by unanimous vote that the inmate is not a suitable candidate for parole. Parole is denied with a review scheduled in two years from the date of the hearing.

**I. STATEMENT OF THE CASE**

On October 6, 1995, in Hampden Superior Court, Hector Custodio pled guilty to the second-degree murder of Daniel Brassil and was sentenced to life in prison with the possibility of parole. On that same date, Mr. Custodio also pled guilty to unlawful possession of a firearm and receipt of a stolen motor vehicle. The court sentenced him to serve one year for each crime and ordered the sentences to run concurrently.

On February 27, 1995, 21-year-old Hector Custodio shot and killed 16-year-old Daniel Brassil in a drive-by shooting. On that evening, Mr. Custodio (a gang member) was driven by an unknown accomplice to an address in Springfield. Mr. Custodio intended to seek revenge against rival gang members, whom he believed to be responsible for a previous assault on a member of his gang. Upon arriving at the location, Mr. Custodio rolled down the vehicle's window and shouted, "Represent!" (a request to identify gang affiliation) to the two young men



who were standing in front of the building. Mr. Brassil responded, "Solo!" (meaning no gang affiliation). However, Mr. Custodio, believing the response was that of a gang name, pointed a .38 caliber pistol towards Mr. Brassil and fired five shots. Mr. Brassil, who was not affiliated with any gang, was struck in the chest and killed. Mr. Custodio and his accomplice fled the scene after the shooting.

Mr. Custodio was identified as the shooter, shortly after an investigation revealed he had informed others that he mistakenly shot Mr. Brassil. The vehicle used in the shooting was determined to be stolen. Two days after the shooting, on March 1, 1995, Mr. Custodio confessed to the shooting, but failed to identify his accomplice.

## **II. PAROLE HEARING ON MARCH 7, 2017**

Hector Custodio, now 43-years-old, appeared before the Parole Board for a review hearing on March 7, 2017. His initial hearing in 2010, as well as his review hearing in 2015, resulted in the denial of parole. In his opening statement to the Board, Mr. Custodio apologized for taking the life of Mr. Brassil and expressed his remorse. Mr. Custodio discussed his difficult upbringing, explaining that he was put into a foster home at the age of 13. As a child, he witnessed his father's physical and emotional abuse on his mother. Mr. Custodio also discussed his mother's passing (at age 32) from liver cancer. He experimented with drugs and alcohol, eventually checking himself into detox when he realized he had a problem with cocaine. Mr. Custodio also discussed being an active member in a gang for approximately 3-4 years before the murder. He explained that he was in charge of terminating members of the gang and giving them "beat downs." Board Members expressed concern that the extent of his involvement (with the gang) was never discussed in previous hearings. Mr. Custodio explained that at his prior hearing, he was not focused, or honest about everything, because he had just lost his grandmother.

When addressing the reasons as to why he killed Mr. Brassil, Mr. Custodio explained that Mr. Brassil was not the intended target. Mr. Custodio said that his friend was jumped (prior to the murder) by a member of a rival gang. Mr. Custodio then asked permission from the lead member of the gang to take revenge, and it was granted. The murder was pre-planned, and the intended target was a man named Carlos. Mr. Custodio, accompanied by another individual, sought to complete the mission by stealing a car and buying a gun for \$100. Mr. Custodio said that the other individual was driving the stolen vehicle. As they approached individuals on the sidewalk, Mr. Custodio shouted, "Represent." Mr. Custodio, believing he heard the response of a rival gang, discharged five shots. One shot struck Mr. Brassil in the chest, killing him. Mr. Custodio now thinks that the individuals did not shout the response of a rival gang, but shouted "Solo," indicating that they were not in a gang.

The Board expressed their concern for Mr. Custodio's truthfulness over the past 20 years regarding the identity of his accomplice and questioned his credibility. Mr. Custodio explained that he was never questioned by police as to his involvement in the gang, nor was he pressed to give the identity of the other individual involved in the crime. The Board expressed concern regarding the extensive interrogation, noting that Mr. Custodio's cooperation with police was minimal, as he would not provide any information about the murder. The Board questioned Mr. Custodio about the reasons why it took him so long to be truthful. Mr. Custodio explained that



previously, he was in denial and did not want to accept what he had done. He also discussed his lack of focus, in his previous hearing, due to the loss of his grandmother.

While incarcerated, Mr. Custodio has participated in many programs, including Environmental Companion Program, CRA, Community Outreach, etc. He also "resigned" as a member of the gang. When Board Members asked Mr. Custodio about his parole plan, he responded that while he lacks family in the community, he is very connected with his church. He would prefer to go to a step down program for approximately six months and then continue with his education. His long term goals include becoming a father, getting a job, and gaining knowledge in the computer and electronic field.

The Board considered oral testimony from Mr. Brassil's two sisters. One of his sisters spoke in opposition to parole, while the other sister expressed support for Mr. Custodio being given a second chance. A Victim Service's Representative read a letter in opposition to parole on behalf of Mr. Bassil's step-father.

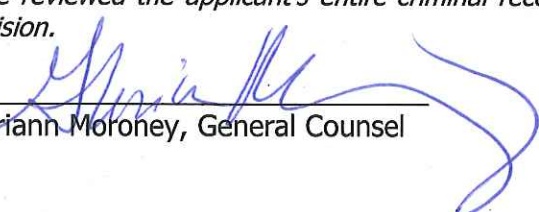
### **III. DECISION**

The Board is of the opinion that Hector Custodio has not yet demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Custodio's presentation continues to suggest he is not fully rehabilitated. Mr. Custodio continues to exhibit a lack of candor as to his criminal culpability regarding the governing offense. The Board believes that he should continue to engage in available programming, continue his positive behavior, and prepare to be more forthright and truthful in addressing his crime.

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 considered a risk and needs assessment, and whether risk reduction programs could effectively minimize Mr. Custodio's risk of recidivism. After applying this standard to the circumstances of Mr. Custodio's case, the Board is of the unanimous opinion that Mr. Custodio is not yet rehabilitated, and therefore, does not merit parole at this time.

Mr. Custodio's next appearance before the Board will take place in two years from the date of this hearing. During the interim, the Board encourages Mr. Custodio 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

Date 8/7/17