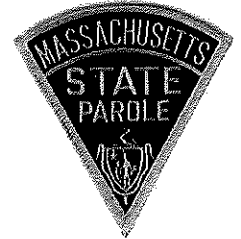


*The Commonwealth of Massachusetts*  
*Executive Office of Public Safety and Security*



**PAROLE BOARD**

*12 Mercer Road*  
*Natick, Massachusetts 01760*

**Charles D. Baker**  
*Governor*

**Karyn Polito**  
*Lieutenant Governor*

**Thomas A. Turco III**  
*Secretary*

*Telephone # (508) 650-4500*  
*Facsimile # (508) 650-4599*

**Gloriann Moroney**  
*Chair*

**Kevin Keefe**  
*Executive Director*

**DECISION**

**IN THE MATTER OF**  
**HECTOR CUSTODIO**  
**W59389**

**TYPE OF HEARING:** **Review Hearing**

**DATE OF HEARING:** **March 19, 2019**

**DATE OF DECISION:** **February 18, 2020**

**PARTICIPATING BOARD MEMBERS:** Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Gloriann Moroney, Colette Santa, Paul Treseler<sup>1</sup>

**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 a Long Term Residential Program after 18 months in lower security, subject to special conditions.

**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

<sup>1</sup> Board Member Treseler was present at the hearing, but was no longer a Board Member at the time of vote.

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 informed others that he had 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.

### **I. PAROLE HEARING ON MARCH 19, 2019**

Hector Custodio, now 45-years-old, appeared before the Parole Board for a review hearing on March 19, 2019. He was not represented by counsel.

He was denied parole after his initial hearing in 2010, and after his review hearings in 2015 and 2017. In his opening statement to the Board, Mr. Custodio apologized for taking the life of Mr. Brassil and expressed his remorse. He discussed his difficult upbringing, explaining that he was put in a foster home at age 13. As a child, he witnessed his father's physical and emotional abuse toward his mother and discussed her death when he was 13-years-old. At that age, he started smoking marijuana and, eventually, he smoked it daily. Mr. Custodio explained that he only consumed alcohol socially, but went to a detox center for a cocaine addiction.

Mr. Custodio discussed his life as an active gang member 3 to 4 years before the murder. When Board Members questioned him as to why he killed Mr. Brassil, Mr. Custodio explained that he mistook him for a rival gang member. Prior to the murder, Mr. Custodio's friend had been attacked by a member of a rival gang, so he (Mr. Custodio) sought retaliation. He recruited an individual to be the driver for a drive-by-shooting. As the car approached individuals on the sidewalk, Mr. Custodio claims to have shouted, "Represent." When Mr. Custodio (mistakenly) believed that an individual answered using the name of a rival gang, he fired 5 shots out the window of the car, killing Mr. Brassil.

While incarcerated, Mr. Custodio has participated in many programs, including Environmental Companion Program, CRA, and Community Outreach. He stated that he renounced his gang affiliation in 1999, and received his renunciation letter from the Department of Corrections in 2001. Mr. Custodio attends Alcoholics Anonymous and Narcotics Anonymous regularly. He earned his G.E.D. in 2012, and recently completed Alternatives to Violence, Cognitive Thinking, and the General Maintenance Program. He reported that he works in the kitchen 7 days a week at NCCI-Gardner. Previously, he was a cleaner and a runner at MCI-Shirley.

When asked about his parole plan, Mr. Custodio explained his interest in a program, such as the 2 year Delancey program in New York, and plans to work in construction upon completion. He corresponds with relatives in New York, who will support him. He has a relationship with church members, who will help him with reintegration. He will also seek one-on-one counseling to help with his transition into society. Mr. Custodio plans to continue with Alcoholics Anonymous and Narcotics Anonymous and obtain a sponsor.

Several friends of Mr. Custodio wrote letters in support of parole. The Board considered oral testimony from Mr. Brassil's sister in opposition to parole. A Victim Service's Coordinator read a letter in opposition to parole on behalf of Mr. Brassil's two other family members. Hampden County Assistant District Attorney Howard Safford testified in opposition to parole and submitted a letter of opposition.

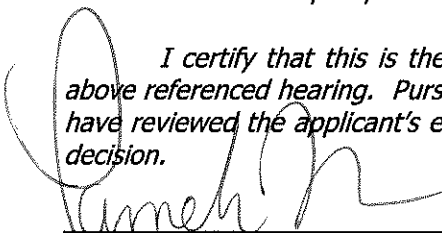
### **III. DECISION**


The Board is of the opinion that Hector Custodio has demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. He would benefit from a gradual transition and continued treatment and programming.

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. Custodio'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. Custodio's risk of recidivism. After applying this appropriately high standard to the circumstances of Mr. Custodio's case, the Board is of the opinion that Hector Custodio is rehabilitated and, therefore, merits parole at this time. Parole is granted to a Long Term Residential Program after 18 months in lower security, subject to special conditions.

**SPECIAL CONDITIONS:** Waive work for Long Term Residential Program; Must be home between 10PM and 6AM; Electronic Monitoring; Supervise for drugs, testing in accordance with agency policy; Supervise for alcohol 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 adjustment/ transition; Long Term Residential Treatment no less than 6 months; AA/NA at least three times/week.

*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.*

  
Pamela Murphy, General Counsel

  
Date