

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



PAROLE BOARD

*12 Mercer Road
Natick, Massachusetts 01760*

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

Charles D. Baker
Governor

Karyn Polito
Lieutenant Governor

Terrence Reidy
Secretary

Gloriann Moroney
Chair

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Executive Director

RECORD OF DECISION

IN THE MATTER OF

**HERIBERTO HERNANDEZ
W64557**

TYPE OF HEARING: Review Hearing

DATE OF HEARING: May 13, 2021

DATE OF DECISION: November 2, 2021

PARTICIPATING BOARD MEMBERS: Gloriann Moroney, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Colette Santa

STATEMENT OF THE CASE: On April 29, 1998, in Hampden County Superior Court, Heriberto Hernandez pleaded guilty to the second-degree murder of Juan Cruz Santiago and was sentenced to life in prison with the possibility of parole. Mr. Hernandez and his two co-defendants, Jose Robles and Miguel Lozada, secured plea agreements to second-degree murder by testifying against Angel Rivera, the leader of a gang who ordered the murder. Mr. Rivera was convicted of first-degree murder. Mr. Hernandez was 16-years-old at the time of the offense.

Mr. Hernandez appeared before the Parole Board for a review hearing on May 13, 2021, and was represented by Attorney Michael Bourbeau. This was Mr. Hernandez's third appearance before the Board having been denied in 2011 and 2016. The entire video recording of Mr. Hernandez's May 13, 2021, hearing is fully incorporated by reference to the Board's decision.

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 that the inmate is a suitable candidate for parole¹. Reserve to Long Term Residential Program upon completion of one year in lower security where he is to complete the automotive or barber program. Mr. Hernandez was 16-years-old when he participated in the murder of Juan Cruz Santiago. The offense was related to his gang affiliation, where at 16-years-old he was ordered along with co-

¹ Five Board Members voted to grant parole, and one Board Member voted to deny parole.

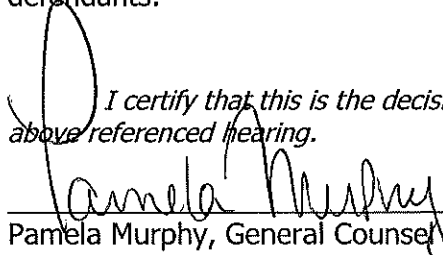
defendants by an older individual of a security threat group (STG) to commit murder. Mr. Hernandez has engaged in rehabilitative programming since 2016 per the Board's suggestion. Mr. Hernandez appears to have benefitted from his participation. He has invested in his rehabilitation and submitted a thoughtful release plan. He has a strong community support system and he worked with Kimberly Mortimer, a reentry specialist. Mr. Hernandez requested to transition through lower security in order to complete the automotive or barber program to aid him in his successful reentry.

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.*


In forming this opinion, the Board also has taken into consideration Mr. Hernandez'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. Hernandez's risk of recidivism. After applying this appropriately high standard to the circumstances of Mr. Hernandez's case, the Board is of the opinion that Mr. Hernandez is rehabilitated and merits parole at this time, subject to special conditions, and after one year in lower security.

Special Conditions: Reserve to Long Term Residential Program (LTRP) after completion of one year in lower security; Waive work for two weeks/LTRP; Must be at home between 10 p.m. and 6 a.m.; ELMO-electronic monitoring; 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 – STG affiliation or activity; No contact with the victim's family; Must have mental health evaluation to rule out cognitive issues; Must have mental health counseling for adjustment/transition; Mandatory no contact with co-defendants.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing.



Pamela Murphy, General Counsel



Date