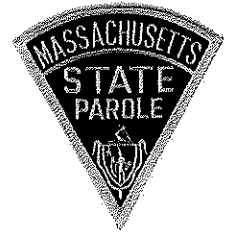


The Commonwealth of Massachusetts  
Executive Office of Public Safety and Security



PAROLE BOARD

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RECORD OF DECISION

IN THE MATTER OF

HOWARD HAMILTON  
W53919

**TYPE OF HEARING:** Review Hearing

**DATE OF HEARING:** March 31, 2022

**DATE OF DECISION:** July 5, 2022

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

**STATEMENT OF THE CASE:** On January 29, 1993, after a jury trial in Suffolk Superior Court, Howard Hamilton was convicted of first-degree murder in the death of 26-year-old Christopher Berry Bailey. He was sentenced to life in prison without the possibility of parole. He was also found guilty of two counts of assault to kill and two counts of assault and battery by means of a dangerous weapon and was sentenced to concurrent terms of nine to ten years on each indictment. Additionally, he was convicted of a firearm. On that same date, he was found guilty of unlawful possession of a firearm and sentenced to a concurrent term of four to five years in state prison.

On December 24, 2013, the Supreme Judicial Court issued a decision in *Diatchenko v. District Attorney for Suffolk County & Others*, 466 Mass. 655 (2013) in which the Court determined that the statutory provisions mandating life without the possibility of parole are invalid as applied to juveniles convicted of first-degree murder. Further, the Court decided that such juvenile offenders must be afforded parole hearing. Accordingly, Mr. Hamilton became eligible for parole.

Mr. Hamilton appeared before the Parole Board for a review hearing on March 31, 2022. He was represented by Attorney Chetan Tiwari. This was Mr. Hamilton's third appearance before the Board having been denied at his initial hearing in 2014 and at his review hearing in 2019. The entire video recording of Mr. Hamilton's March 31, 2022, hearing is fully incorporated by reference to the Board's decision.

<sup>1</sup> Chair Moroney was recused.

**DECISION OF THE BOARD:** 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 a unanimous decision that the inmate is a suitable candidate for parole.

Reserve to his United States Immigration and Customs Enforcement (ICE) detainer. On June 3, 1990, 17-year-old Howard Hamilton and his co-defendants committed the shooting that resulted in the death of 26-year-old Christopher Berry Bailey. The other victims were shot in the incident and survived. He was convicted of first-degree murder. The Board considered Mr. Hamilton's age at the time of the offense as well as factors related to *Miller/Diatchenko* factors including that his participation in the crime was clearly peer driven. He has satisfied all program requirements and has benefitted from treatment and programming. The Board considered the expert evaluation of Dr. Mendoza and Dr. DiCataldo. In addition, the Board considered the testimony of Dr. DiCataldo. Mr. Hamilton has a solid support network that will assist in his reentry. He accepts full responsibility and appears remorseful.

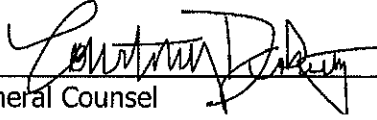
The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the 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 has taken into consideration Mr. Hamilton'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. Hamilton's risk of recidivism. After applying this appropriately high standard to the circumstances of Mr. Hamilton's case, the Board is of the unanimous opinion that Mr. Hamilton is rehabilitated and merits parole at this time.

**Special Conditions:** Reserve to his United States Immigration and Customs Enforcement (ICE) detainer; Approved home plan before release (in the event Mr. Hamilton is released from ICE custody); Waive work for two weeks; Must be at home between 10 p.m. and 6 a.m.; ELMO-electronic monitoring; Must take prescribed medication; 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 or association with co-defendants; No contact with victim(s) family; No contact with victim(s); Must have substance abuse evaluation – adhere to plan; Must have mental health counseling for adjustment/transition and post-traumatic stress disorder.

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

/s/ Pamela Murphy  
Pamela Murphy, General Counsel

A handwritten signature in black ink, appearing to read 'Pamela Murphy', written over a horizontal line.

7/5/22  
Date