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DECISION

**IN THE MATTER OF
HUMBERTO SIERRA
W50777**

TYPE OF HEARING: Review Hearing

DATE OF HEARING: October 15, 2015

DATE OF DECISION: December 22, 2015

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, Tina Hurley, Lucy Soto-Abbe.

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying offenses, 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 are unable to grant a parole permit. The inmate received a vote of 4-3 to deny parole.¹ Accordingly, parole is denied and the review will be in one year from the date of hearing.

I. STATEMENT OF FACTS

A. Murder in Second Degree

On January 17, 1991, Humberto Sierra (age 19) shot and killed Nestor Reyes (age 34). The motive for the killing was related to territorial issues between the two men over drug dealing. Days prior to the murder, Sierra and Reyes were involved in heated arguments over such issues. On January 17, 1991, Sierra spotted Mr. Reyes in what appeared to be an argument with one of his friends. Sierra felt disrespected and frustrated by the ongoing situation between the two of them. Sierra retrieved a firearm that he had previously hidden, and confronted Mr. Reyes, who reportedly had a knife. Mr. Reyes began running when he saw the gun. Sierra shot him in the back as he tried to flee. Mr. Reyes was pronounced dead at a hospital a short time later. After learning that he had killed Mr. Reyes, Sierra fled to Florida where he was apprehended on January 31, 1991 and subsequently extradited to Massachusetts.

¹ Four Board members voted to deny parole with a review in two years. Three Board members voted for reserve to an approved home plan upon successful completion of a period of time in lower security.

B. Assault and Battery by Means of a Dangerous Weapon

On October 13, 1990, Duane Wright and Manuel Colon (Sierra's friend) were involved in a fist fight. Sierra was present during this altercation. During the fight, Colon reportedly told Sierra several times to shoot Mr. Wright, as Colon was losing the fight. When Mr. Wright learned that Sierra actually had a gun, he stopped fighting and began to run away. Sierra shot at Mr. Wright three times as he ran, and one of the bullets struck him in the leg. As Mr. Wright's friends attempted to drive him to get medical care, Colon reportedly shot into the air attempting to prevent them from leaving. Sierra and Colon eventually left the scene and Mr. Wright was driven to the hospital to be treated for a non-fatal gunshot wound to his calf.

On June 17, 1991, in Hampden Superior Court, Humberto Sierra pleaded guilty to the second degree murder of Nestor Reyes. He was sentenced to life in prison with the possibility of parole after serving 15 years. During the same proceedings, Sierra pleaded guilty to assault and battery with a dangerous weapon (gun) and to carrying a firearm without a license. He was sentenced to 6 to 10 years and 3 to 5 years respectively. Both sentences were ordered to run concurrent with his life sentence.²

II. PAROLE HISTORY

Humberto Sierra first appeared before the Parole Board on January 24, 2006. After which, the Board voted to deny parole with a review in three years. The Board noted concerns with his disciplinary record of 27 disciplinary reports including a serious assault on an inmate and corrections officers who attempted to respond to the incident.

On January 13, 2009, Sierra appeared before the Board for a review hearing. The Board voted to parole Sierra to a long-term residential treatment program, noting his significant improvement in institutional behavior and commitment to programming over the past three years. Sierra was released on March 26, 2009 to a long-term residential treatment program. Sierra complied with the terms of his parole, including employment at Stop and Shop and participation in anger management. He completed the long term treatment program on October 26, 2009, and moved in with his mother and daughter. He continued with his parole mandates, including outpatient counseling with a focus on anger management and substance abuse.

At this point in his parole, Sierra had been involved in a minor motor vehicle accident, and required frequent reminders to pay his supervision fee, which ultimately resulted in a graduated sanction in late 2009. On November 2, 2010 he was not home for a scheduled visit and when confronted by phone regarding his absence, Sierra reportedly became "very loud and began yelling" at his parole officer. He was subsequently instructed to report to the parole office. His behavior was addressed and Sierra was not issued any additional formal citations from parole.

During this period of parole (2009-2010), and what was not known to parole staff at that time, was that he was having ongoing disputes with his then 18 year-old daughter. On August 21, 2011, Sierra was served with a restraining order taken out by his now 20 year-old

² Both the assault and battery and firearms violation sentences have expired.

daughter after she reported she had been assaulted by him and placed in fear secondary to his behavior and verbal threats. After being interviewed by parole, his daughter reported that she had also been assaulted on two other occasions by her father. The first incident reportedly occurred in May 2009, and she did not notify police. The second incident reportedly occurred on December 24, 2009, where she did call the police reporting that she had been struck in the head by Sierra. The police responded to investigate but were apparently told during the investigation that the altercation was verbal and the police ultimately did not press charges. Based on the above, Sierra's parole was violated and he was returned to custody on August 23, 2011.

On May 8, 2012, Sierra appeared before the Board for his parole eligibility review hearing. The Board denied him parole with a review in three years. The Board noted his rehabilitation progress and his accomplishments while on parole, however they were concerned with his history of violence, both in the community and while incarcerated. They felt Sierra needed more programming and rehabilitation focused on violence reduction.

III. PAROLE HEARING ON OCTOBER 15, 2015

Humberto Sierra, age 43, appeared for the fourth time before the Parole Board for a parole eligibility hearing. He was represented at the hearing by Attorney John Rull.

In his opening remarks, Sierra accepted responsibility for the murder of Mr. Reyes. In addition, he apologized to the members of the parole board, his parole officer, and the parole revocation hearing examiner for failing to be completely honest and forthcoming when he attempted to deflect and place blame on his daughter for the parole violation. Attorney Rull also made opening remarks, stating that Sierra has been incarcerated for four years since his return to custody and since then has completed 31 programs. Sierra has gained conflict resolution skills, and the programs he completed have reduced his risk of violence. He is better equipped to resume a life in the community and will continue with mental counseling, anger management and attend a batterers program. Sierra would like to transition back into the community through a long term residential program. In addition, he has a standing offer of employment with his former employer, Accu Tech.

The Parole Board reviewed pertinent information regarding Sierra's prior parole supervision and his 2012 review hearing. Sierra acknowledged that he was not prepared to deal with his daughter's issues and sought to control the situation. Furthermore, he failed to report the incidents to his parole officer as he was afraid of being returned to prison. Previously, Sierra "pointed the finger" at his daughter and didn't accept responsibility for his own behavior. He admits to all three assaults on his daughter, who was 18/19 years-old at the time. Sierra acknowledged that he failed to "communicate and listen" to his daughter.

The Board asked Sierra to discuss the recent disciplinary report he received in March 2015 for fighting with another inmate. Sierra stated "I got into an argument over a window with one of my bunk mates. We got into a shoving match, the other individual struck me and I was forced to defend myself." Sierra recognized that he was under a lot of stress and didn't follow through with mental health counseling. However, several Board Members expressed concern with Sierra's "lack of self-control" and "communicating aggressively."

Sierra had numerous family members and friends attend the hearing in support of parole. His mother, his daughter, and a friend all spoke in support of his release. In addition, the brother of Nestor Reyes (the murder victim) spoke in support of parole for Sierra. Hampden County Assistant District Attorney Howard Safford spoke in opposition.

IV. DECISION

Humberto Sierra has been incarcerated for four years since his return to custody in 2011 following a parole violation. During this time, he has regularly participated in rehabilitative programs, with emphasis on dealing with anger and non-violent conflict resolution. In addition, he is involved with mental health treatment through the Department of Correction. In March of 2015, Sierra received a disciplinary report for a fight with another inmate. Although he takes responsibility for the parole violations and his most recent disciplinary report, the Board notes that Sierra still needs to be more in control and utilize the skills acquired from the programs. In addition, there is a pattern of behavior which has followed Sierra throughout his life where he continues to exhibit aggression when in conflict.

The four Board members, who voted to deny parole with a review in two years, encourage Sierra to continue addressing his anger issues, self-control, and effective communication. In addition, Sierra needs to maintain positive institutional behavior and engage in mental health counseling.

Three Board Members voted to parole Sierra to an approved home plan after a period in lower security at the Department of Correction, during which time he would have to maintain good conduct and complete Cognitive Skills. Parole special conditions would have included mental health counseling.

The standard we apply in assessing candidates for parole is set out in 120 C.M.R. 300.04, which provides that, "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." Further, by statute, granting of parole is accomplished only when the Board Members by a two thirds majority vote to grant a parole, which did not occur here. Accordingly, parole is denied and the review will be in one year.

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.


Michael J. Callahan


Date