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

**PAROLE BOARD**

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Charlene Bonner  
Chairperson

**DECISION**

**IN THE MATTER OF**

**JAMES BARNES**

**W47856**

**TYPE OF HEARING:** Review Hearing

**DATE OF HEARING:** April 28, 2015

**DATE OF DECISION:** August 12, 2015

**PARTICIPATING BOARD MEMBERS:** Charlene Bonner, Tonomey Coleman, Sheila Dupre, Lee Gartenberg, 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 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 five years from the date of the hearing.

**I. STATEMENT OF THE CASE**

On January 29, 1990, in Suffolk Superior Court, James Barnes pleaded guilty to second degree murder and was sentenced to life in prison for killing Samuel Hernandez. On that same date, Barnes received additional concurrent sentences of three to five years for unlawfully carrying a handgun, and four to seven years for two counts of armed robbery.<sup>1</sup>

On May 19, 1989, in Dorchester, 25-year-old James Barnes shot and killed 18-year-old Samuel Hernandez. Barnes and Hernandez were known to have had problems with each other in the past. In the early morning hours of May 19, 1989, Barnes and Hernandez were arguing with each other near the neighborhood playground. A witness heard Barnes say to Hernandez, "Watch your back." At that time, she heard a bang and saw a flash. Hernandez fell to the ground and yelled several times, "I've been shot." Barnes then fled the area. Hernandez died the following day.

<sup>1</sup> The concurrent sentences are expired.

On that same date, Barnes robbed both Ronald Spencer and Barbara Young as they were leaving a package store in Dorchester. Barnes approached them and placed a gun to Mr. Spencer's neck, while two other unnamed individuals placed a knife to Ms. Young's back. Barnes and his accomplices robbed the victims of a case of beer, two bottles of wine, and cigarettes.

## **II. PAROLE HEARING ON APRIL 28, 2015**

James Barnes appeared for his fourth parole hearing, after being denied parole in 2010. Barnes is now 51-years-old and has served 26 years of his life sentence. His initial hearing was conducted in April 2004, when the Board voted to deny parole with a review in five years. In its decision, the Board determined that Barnes minimized the murder, had disciplinary issues during his entire incarceration, and was a risk to re-offend. In 2009, Barnes appeared before the Board for a review hearing. The Board denied parole again, but with a review in one year. Barnes was seen for a third appearance in 2010 and the Board denied parole again, but with a review in five years. The Board stated Barnes continued to minimize the murder and failed to take responsibility for his participation in violations of institutional rules, as reflected in multiple disciplinary reports.

Attorney Peter Eikann represented Barnes at the hearing. Attorney Eikann provided an opening statement that outlined Barnes' abysmal institutional adjustment, as well as his transformation through on-going participation in treatment/programming that addressed aggression and violence. In addition, he summarized Barnes' parole plan to include the necessity of a support network to aid in his reintegration. Barnes provided an opening statement in which he extended an apology to the Hernandez family. He stated that he is very remorseful and acknowledged the negative impact his actions and lifestyle have had on his community.

Barnes was born in Augusta, Georgia. Although his mother died when he was an infant, Barnes was adopted by his aunt and uncle who provided him with a stable home life. Indeed, Barnes described his childhood as good, having attended camp and having gone fishing. His aunt and uncle relocated Barnes to Roxbury when he was approximately two-years-old and he then had the additional support and nurturing of his grandparents. He attended the local school system and graduated from West Roxbury High School in 1983. Barnes was also able to maintain employment by working at the Four Seasons Hotel, Watt Security, Glynn Security, and a variety store in Roxbury. Despite this seemingly promising start, Barnes immersed himself in the illicit drug trade. Barnes, admittedly, was able to make a lot more money by selling crack cocaine. According to Barnes, he began selling marijuana at the age of 15. By the time he was 17 or 18-years-old, Barnes was selling large amounts of crack cocaine. He reportedly made \$30,000 a week and had several individuals working for him.

Barnes also has an extensive criminal history, having incurred charges as a juvenile (although the charges were eventually dismissed). Barnes was 20-years-old when he was first incarcerated for two years for assault and battery and he also received a three year suspended sentence for armed robbery. In November 1985, Barnes was convicted of breaking and entering. In March 1989, he was convicted of being disorderly, which were in addition to convictions for assault and battery with a dangerous weapon and two counts of assault and battery on a police officer. Barnes then murdered Hernandez and committed the armed

robbery. Shortly after being incarcerated, Barnes was charged with assaulting a correctional officer and the case was filed.

Barnes provided a detailed and comprehensive version of the murder and armed robbery. Barnes informed the Board that he knew the victim and they had been best friends at one time. He said that he shot and killed Hernandez in retaliation for his apartment window being blown out earlier that evening with some type of gas bomb. He acknowledges that the incidences were directly related to a turf war. Barnes, however, disputed the official version as it relates to his conviction for armed robbery, which followed the murder of Hernandez. Barnes was at a liquor store on American Legion Highway with two friends. He stated that he never had a gun or took anything from the people who were robbed. There were two people standing there and his friends took their possessions.

Following his conviction for murder and armed robbery, Barnes' initial adjustment was problematic. Department of Correction records reflect that Barnes had significant enemy issues for assaults, which resulted in one Disciplinary Detention Unit placement and two returns to higher custody. Barnes also had two out of state placements, one of which was a stint in New Mexico beginning in October 1997 and was "due to being a constant management problem requiring maximum security." Barnes has also incurred multiple disciplinary reports to date. Barnes, who is currently incarcerated at the Adult Correctional Institution (ACI) in Rhode Island – Maximum Security, was transferred there on February 3, 2004. While at ACI-Rhode Island, Barnes incurred three disciplinary infractions since his last hearing. The most egregious of these infractions occurred in August 2011 for conduct which disrupts or interfering with the security of the facility, and for engaging in or encouraging a group demonstration.

Barnes' institutional history has shown some positive adjustment. The Board noted that during his incarceration, Barnes has completed several programs that address his criminal behavior. Barnes provided the Board with an overview of the treatment and programming, which included: Cognitive Restructuring/Anger Management, Successful Communication & Success Leadership, Decision Making – Overcoming Setback and Disappointments, Overcoming Addiction, and Path to Freedom. Barnes has also been involved in the Learning to Live Initiative (Personal Integrity, Phase II, and Path to Freedom). Barnes had an opportunity to act as a mentor in programming, and thus has had the opportunity to positively influence the younger population by sharing his life experiences. At the hearing, Barnes averred that through programming, he has developed a skill set to resolve conflict without violence and aggression. In addition to the above, Barnes continues to participate in religious services. The Board also notes that although his history of employment while incarcerated had been sporadic, he has been employed as a head chef for the past seven years.

Barnes seeks parole to a long term residential program, via the Interstate Compact with Rhode Island, after a gradual reduction in security to aide in his reintegration. Upon completion of a program, he would reside with his wife in Providence. He plans to attend outpatient counseling and marriage counseling, as well as participate in a domestic violence group. He also indicated that he would like to give back to the community and work with at-risk youth. If paroled, Barnes has been accepted into the Amos House Program in Providence, Rhode Island. Several family members and friends attended the hearing in support of his petition for parole. His wife, step-daughter, and cousin spoke in support of his parole and noted that they will provide him with the necessary supports to successfully re-enter the community.

Samuel Hernandez's sister spoke in opposition to Barnes' release. The Office of Suffolk County Assistant District Attorney Charles Bartoloni provided a letter and outlined the reasons for opposition at the hearing, citing in part that "Mr. Barnes has trouble listening to authority figures as shown through his criminal and incarceration history. He has continued to minimize the murder and failed to take responsibility for his participation in more than 40 disciplinary reports."

### **III. DECISION**

Barnes was 25-years-old when he took the life of Samuel Hernandez in 1989. He has served 26 years on this sentence and has struggled to maintain a moderate record within the correctional system. Barnes' behavior was problematic early in his incarceration, replete with violence and assaultive behavior. He became attracted to street life at an early age, engaged in anti-social behavior within the community, and continued this conduct within the correctional system. Paradoxically, Barnes has also increased his participation in rehabilitation, including that of skill building, education, employment, and treatment for factors related to his criminal history. This contradictory behavior demonstrates that Barnes has more work to do. The Board is of the opinion that Barnes needs to demonstrate his rehabilitative progress and success during a longer period of positive institutional adjustment, as well as continued programming, before his release is compatible with the welfare of society.

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." Applying that appropriately high standard here, it is the unanimous opinion of the Board that James Barnes does not merit parole at this time because he is not fully rehabilitated. The review will be in five years from the date of the hearing, during which time Mr. Barnes should continue to engage in available programming and continue to exhibit positive behavior. He should avoid the troublesome behavior that has tarnished his rehabilitative efforts to date.

*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, General Counsel

August 12, 2015  
Date