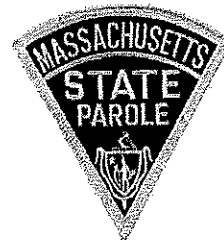


*The Commonwealth of Massachusetts  
Executive Office of Public Safety and Security*



**PAROLE BOARD**

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*Chair*

**Kevin Keefe**  
*Executive Director*

**DECISION**

**IN THE MATTER OF**

**JAMES BARNES**

**W47856**

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

**DATE OF HEARING:** **June 16, 2020**

**DATE OF DECISION:** **November 24, 2020**

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

**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 not a suitable candidate for parole. Parole is denied with a review scheduled in two years from the date of the hearing.<sup>1</sup>

**I. STATEMENT OF THE CASE**

On January 29, 1990, in Suffolk Superior Court, James Barnes pleaded guilty to the second-degree murder of Samuel Hernandez and received a life sentence with the possibility of parole. On that same date, Mr. Barnes received additional concurrent sentences of 3 to 5 years for unlawfully carrying a handgun, and 4 to 7 years for two counts of armed robbery.<sup>2</sup>

On May 19, 1989, in Dorchester, 25-year-old James Barnes shot and killed 18-year-old Samuel Hernandez. Mr. Barnes and Mr. Hernandez were known to have had problems with each other in the past. On that day, in the early morning hours, the two men were arguing with each other near the neighborhood playground. A witness heard Mr. Barnes say to Mr. Hernandez, "Watch your back." She then heard a bang and saw a flash. Mr. Hernandez fell to

<sup>1</sup> One Board Member voted to deny parole with a review in three years.

<sup>2</sup> All concurrent sentences have since expired.

the ground, yelling several times, "I've been shot." Mr. Barnes then fled the area. Mr. Hernandez died the following day.

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

## **II. PAROLE HEARING ON JUNE 16, 2020**

James Barnes, now 57-years-old, appeared before the Parole Board on June 16, 2020. He was not represented by counsel. Mr. Barnes was denied parole after his initial hearing in 2004, and after his review hearings in 2009, 2010, and 2015. In his opening statement to the Board, Mr. Barnes expressed remorse and offered his "sincere" apology for "doing what he did" to Mr. Hernandez and his family. When the Board questioned him as to what led to the animosity with Mr. Hernandez, Mr. Barnes explained that "it all started" when Mr. Hernandez threw a gas bomb in his window. When questioned as to the events leading up to the gas bomb incident, Mr. Barnes admitted to being involved in an altercation with some of Mr. Hernandez's friends. Mr. Barnes claimed, however, that he was not involved in an incident directly with Mr. Hernandez. The following day, after he was told that Mr. Hernandez was the person responsible for throwing the gas bomb, Mr. Barnes confronted him and told him to "watch his back." When asked what happened next, Mr. Barnes stated, "I ended up shooting the kid."

Upon questioning as to how often he had carried a firearm, Mr. Barnes asserted that this was his first time using a gun. He then claimed that he never felt the need to carry a gun because he "knew how to fight." When asked why he chose to carry a firearm at the time of the governing offense, Mr. Barnes indicated that he needed protection, as he viewed the gas bomb as an attempt on his life. Mr. Barnes, however, adamantly denied going to see Mr. Hernandez with the intent to shoot him. Board Members expressed their concern over Mr. Barnes' tendency to minimize his culpability, noting that he was angry, and armed with a gun, and that the likelihood of the confrontation ending amicably was extremely low.

Board Members discussed the relationship of Mr. Barnes and Mr. Hernandez prior to the governing offense. Mr. Barnes explained that they were both selling drugs at the time of the murder. Mr. Barnes said that he was making approximately \$30,000 a week and had people who worked for him. He and Mr. Hernandez were friends until Mr. Hernandez began associating with a group of people from a different neighborhood. When asked as to what caused the feud, Mr. Barnes stated that "it was not about drugs, there was enough drugs and money for everyone." When the Board asked, specifically, what caused him to shoot Mr. Hernandez, Mr. Barnes indicated that it had to do with "respect" and "alleviating a problem." He stated, "Everyone wanted respect in the drug game at that time." Mr. Barnes explained, "I was a good person in the community" and stated that he was someone that people went to for help. When Board Members inquired as to whether he recognized the harm that his drug dealing had caused the community, Mr. Barnes failed to make the connection, stating that "it was not a problem" because "everyone" used and sold drugs at the time.

Board Members noted Mr. Barnes' problematic institutional adjustment. He would often make threats and become assaultive with staff and was disrespectful toward women. When the Board asked him to explain his poor adjustment, Mr. Barnes stated, "I was doing the best I could." However, he ultimately blamed the environment within the prison for his actions. Mr. Barnes also revealed that he often felt the need to "go against" the officers and other inmates to appear strong. His behavior led to an extensive enemy list and multiple out-of-state transfers. Mr. Barnes told the Board that, through his programming efforts, he learned that maintaining such combative behavior was "wrong" and explained that he is "not proud" of his adjustment. When Board Members inquired as to what precipitated his behavioral change, Mr. Barnes explained that he separated himself from old friends and began to realize that he needed to "change," so that he could "become a better man."

Initially, Mr. Barnes did not believe that he needed program participation, stating, "I just wanted to do my time." However, after receiving the Board's last decision in 2015, he realized that his involvement was important. Mr. Barnes has participated in programs, such as Anger Management, Criminal Thinking, Restorative Justice, and Trauma Group. He is currently on the waitlist for the Correctional Recovery Academy. Additionally, Mr. Barnes has become a group facilitator, as well as a mentor for younger inmates. When the Board asked, specifically, about his involvement in Restorative Justice, Mr. Barnes said that he learned about the impact of his crime and the importance of giving back to the community. Mr. Barnes further stated that through rehabilitative work, he has gained meaningful insight into his childhood trauma, which he had never been able to deal with previously. When asked what he thought of his past behavior, Mr. Barnes stated, "I was terrible." He indicated that he allowed himself to "be someone [he's] not." Mr. Barnes' received his last disciplinary report, in 2014, for being in an unauthorized area.

The Board considered oral testimony in opposition to parole from Mr. Hernandez's sister. The Board also considered a letter submitted in opposition to parole from Boston Police Commissioner William Gross.

### **III.DECISION**

Mr. Barnes has served 31 years for the murder of Samuel Hernandez. He has an extensive criminal history. He is serving his second state and fifth overall [sentence]. Although it appears that he has invested in his rehabilitation, the Board is of the opinion that he has more work to do to address his causative factors. Although his adjustment was problematic at times, it appears he has benefitted from participating in meaningful treatment and programming, as his last disciplinary infraction occurred in 2014. He is encouraged to pursue recommended programming according to his personalized program plan. He should also develop a more comprehensive parole plan to address his risks and needs.

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. Barnes' 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.

Barnes' risk of recidivism. After applying this standard to the circumstances of Mr. Barnes' case, the Board is of the opinion that James Barnes is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Barnes' next appearance before the Board will take place in two years from the date of this hearing. During the interim, the Board encourages Mr. Barnes to continue working towards his full rehabilitation.

*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

11/24/2020

Date