



Charles D. Baker
Governor

Karyn Polito
Lieutenant Governor

Daniel Bennett
Secretary

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



Paul M. Treseler
Chairman

Michael J. Callahan
Executive Director

DECISION

IN THE MATTER OF

JAVIER TORRES

W66610

TYPE OF HEARING: Review Hearing

DATE OF HEARING: January 10, 2017

DATE OF DECISION: July 25, 2017

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

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 by unanimous vote that the inmate is not a suitable candidate for parole. Parole is denied with a review scheduled in three years from the date of the hearing.

I. STATEMENT OF THE CASE

On June 7, 1999, in Hampden Superior Court, Javier Torres pled guilty to second degree murder for the stabbing death of Maria Gutierrez. Accordingly, he was sentenced to life in prison with the possibility of parole.

In mid-March 1997, 19-year-old Javier Torres murdered 41-year-old Maria Gutierrez. Her body was discovered in her Holyoke home on March 17, 1997. The house was in disarray, and looked as though it had been ransacked. Mr. Torres had slashed her throat and stabbed her between 17 and 19 times. Prior to the murder, Mr. Torres sold and used drugs. The victim was also a known drug-dealer, and the apparent motive for this murder was to rob her. Six days before the murder, Mr. Torres drove a stolen van to the victim's apartment. Witnesses saw him arrive, and then leave, shortly thereafter. Investigating officers tracked down the van and questioned an individual known as "Macaco." Macaco, a friend and fellow drug dealer with Mr. Torres, told police that Mr. Torres and another man had used the van on the day in question. Macaco reported that when Mr. Torres returned, he had a deep gash on one of his

fingers. Macaco showed officers where Mr. Torres lived, and Mr. Torres was taken into custody. During a subsequent interview with police, Mr. Torres admitted that he stabbed and killed the victim, but denied that he had intended to rob her. He told police that he had killed Ms. Gutierrez because she was planning to have "some kids" killed.

II. PAROLE HEARING ON JANUARY 10, 2017

Javier Torres, now 39-years-old, appeared before the Parole Board on January 10, 2017, for a review hearing. He was represented by Attorney John Rull, and the hearing was conducted with a Spanish interpreter. Mr. Torres' initial hearing in 2012 resulted in the denial of parole with a review in five years. In his opening statement to the Board, Mr. Torres apologized to the victim's family and friends, and to the community, for his selfish behavior in murdering the victim. Mr. Torres said that when he was 18-years-old, his father moved the family to Holyoke because they had been falsely accused of stealing drugs in Puerto Rico. Leaving Puerto Rico was difficult for him because he had to leave his pregnant girlfriend behind. He received only a sixth grade education and has not yet earned his GED.

Mr. Torres was asked to discuss the events that led to the murder of Ms. Gutierrez. Mr. Torres said that at the time of the murder, he used cocaine several times a day, drank alcohol, and used marijuana. He was using and selling drugs with his friend Macaco and another individual. He and Macaco would obtain drugs from Ms. Gutierrez and sell them. Mr. Torres told the Board that he only met Ms. Gutierrez a few times prior to killing her, but that she trusted him because he told her the truth about what Macaco was doing with her drugs and money. Mr. Torres said he went to Ms. Gutierrez's home on the day of the murder "to find out what [she] was thinking" about Macaco and the money he owed her. Mr. Torres maintained that he did not go over to her house with the intent of hurting her, nor did Macaco ever ask him to kill Ms. Gutierrez. He told the Board that once he was in her apartment, Ms. Gutierrez told him to kill Macaco and his child, and then she turned her back on him. He claims he was so outraged by Ms. Gutierrez's statement about killing Macaco and his son, that he took out his knife, sliced her throat from behind, and then stabbed her 17-19 times.

Board Members told Mr. Torres that his version of events does not include a believable motivation and that "believability is [his] problem - [his] version of events does not make sense." Board Members pointed out that his statements to police after his arrest clearly indicate he told detectives (several times) that he killed the victim because she told him she wanted "some children" killed. Mr. Torres did not mention anything about Macaco and his son being the target of the victim's murderous intentions. Mr. Torres told the Board at this hearing that the police reports were wrong, as he never said anything about children being the target. He could not, however, offer an explanation as to why the police reports would have been incorrect.

One Board Member noted that Mr. Torres had given the Board several conflicting statements during this hearing. He told one Board Member that he was good friends with the victim and then told another he was not really friends with the victim, since he had only met her a few times. He also stated that he was good friends with Macaco, yet told the Board that he had no problem telling the victim that his "good friend" was stealing drugs and money from her. The Board expressed concern in trying to reconcile his positive institutional adjustment and program participation with his presentation at both parole hearings, in which he made

conflicting statements regarding his motive for brutally stabbing to death a woman he barely knew.

Mr. Torres had several disciplinary reports while awaiting trial, but only five disciplinary reports at the Department of Correction since his sentencing in 1999. He has not received any disciplinary reports since his last hearing in 2012. Since his last hearing, Mr. Torres has completed numerous programs, including the Correctional Recovery Academy (CRA), Restorative Justice, and Jericho Circle. He told the Board that programming has helped him learn about himself and how his past ways were negative and hurtful. He is employed and regularly attends AA/NA.

Mr. Torres' brother, and his brother's fiancé, provided oral testimony in support of parole. Hampden County Assistant District Attorney Howard Safford spoke in opposition to parole.

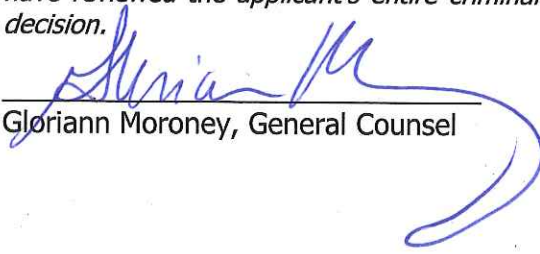
III. DECISION

The Board is of the opinion that Mr. Torres has not yet demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Torres continues to provide a version of the murder that remains conflicted with his plea. Mr. Torres should continue to engage in relevant programming.

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

Mr. Torres' next appearance before the Board will take place in three years from the date of this hearing. During the interim, the Board encourages Mr. Torres 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.


Gloriann Moroney, General Counsel

7/25/17
Date