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PAROLE BOARD

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Josh Wall
Chairman

DECISION

IN THE MATTER OF

JAVIER G. TORRES

W66610

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: January 10, 2012

DATE OF DECISION: May 1, 2013¹

PARTICIPATING BOARD MEMBERS: Cesar Archilla, Charlene Bonner, Sheila Dupre, Ina Howard-Hogan, Roger Michel, Lucy Soto-Abbe, Josh Wall.

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 writing, we conclude by unanimous vote that the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in five years. The next hearing will be in January of 2017.

I. STATEMENT OF THE CASE

Javier Torres appeared before the Parole Board for his initial eligibility hearing on January 10, 2012. He pleaded guilty to second-degree murder on June 7, 1999, in Hampden Superior Court and was sentenced to serve life in prison.

In mid-March 1997, Javier Torres murdered 41-year-old Maria D. Gutierrez in Holyoke. Her body was discovered in her home on March 17, 1997. The house was in disarray, and looked as though it had been ransacked. It was also apparent to first responders that her body had been there for some time. Mr. Torres had slashed her throat and stabbed her between 17 and 19 times.

¹ This decision was delayed because it had been assigned to an employee who left the agency without completing the decision. The Parole Board regrets the uncertainty and inconvenience that this delay caused to those involved.

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 Francisco Resto, also known as Macaco. Mr. Resto told police that Mr. Torres and another man had used the van and, when Mr. Torres returned, he had a deep gash on one of his fingers. Mr. Resto showed the officers where Mr. Torres lived. During a subsequent interview, Mr. Torres admitted to murdering the victim, denied that he had intended to rob her, and told the police that he had killed her because, he alleged, she was planning to have "some kids" killed.

II. PAROLE HEARING ON JANUARY 10, 2012

Javier Torres has served 15 years of his life sentence and this is his first parole hearing. The hearing was conducted with a Spanish interpreter. Mr. Torres moved with his family from Puerto Rico to Holyoke at age 19. He said that his father moved the family because they had been falsely accused of stealing drugs in Puerto Rico. He has one daughter, age 15; she lives in Puerto Rico and he has no contact with her. He received only a sixth grade education and does not have a GED. He used cocaine several times a day at the time of the murder. He also drank alcohol and used heroin and marijuana.

Mr. Torres gave the following account of the crime: throughout the day he drank alcohol, used cocaine and marijuana, and sold heroin; he visited the victim in her apartment; she asked him to kill a man who owed her some money for two small drug transactions; this upset him so he grabbed a knife and killed her. When asked, Mr. Torres said he has "no idea how many times he stabbed her." The grand jury minutes include autopsy results of 17 to 19 stab wounds and three slashes to the neck.

The witness statements and grand jury testimony include evidence that Mr. Torres robbed the victim of drugs. At the hearing, Mr. Torres admitted that in his plea colloquy he admitted to the prosecution's robbery motive, but he denies it now. Board Members pointed to witness statements contradicting Mr. Torres' statements, but he insisted that he took nothing from the victim. He denied making admissions to his friends who reported those statements to police: "I never told them that; I don't know how they say that." He admitted that he burned his bloody clothes in a dumpster. He could not explain why a bedroom in the victim's apartment appeared ransacked.

Mr. Torres began program participation in 2007 when he was transferred to MCI – Norfolk. He completed Active Listening and two phases of Alternatives to Violence. He said that he started the Correctional Recovery Academy, but "they wouldn't let me back in because my point score was low." A Board Member pointed out that Mr. Torres told the Department of Correction, falsely, that he did not have a history with drug use and that drugs were not connected to his offense. Mr. Torres said, "I am not a drug addict." His conduct is above average: he had several disciplinary reports while awaiting trial and only five disciplinary reports at the Department of Correction.

Board Members told Mr. Torres that his version of events does not include a believable motivation and that "you do not have a realistic view of what you did to the victim."


There were no supporters in attendance at the hearing. Hampden Assistant District Attorney Howard Safford testified in opposition to parole.

III. DECISION

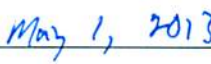
Javier Torres has had above average conduct during his first 15 years of incarceration, but he has limited program participation. He provided a version of the murder that conflicted with his plea admissions and his statements to witnesses. Mr. Torres appears to believe that there is some honor in claiming that he was so offended when the victim asked him to kill someone that he reacted by killing her. By advancing this odd and contradictory motive, Mr. Torres revealed his lack of rehabilitation.

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, the Board finds that Mr. Torres is not a suitable candidate for parole. Accordingly, parole is denied. The review will be in five years, during which time Mr. Torres needs to become more insightful about his substance abuse issues and his own criminal conduct leading up to and including the murder.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing. This signature does not indicate authorship of the decision.



Josh Wall, Chairman



Date