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Paul M. Treseler
Chairman

Michael J. Callahan
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DECISION

IN THE MATTER OF

JAVISH MARRERO

W84632

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: January 31, 2017

DATE OF DECISION: August 7, 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 four years from the date of the hearing.

I. STATEMENT OF THE CASE

On December 9, 2004, in Middlesex Superior Court, Javish Marrero pled guilty to the second degree murder of Souvanna Chittaphong and was sentenced to life in prison with the possibility of parole. Mr. Marrero was also sentenced to a concurrent term of 7 to 10 years for armed assault to rob.

On January 19, 2002, during an arranged drug transaction and subsequent intended robbery in Lowell, Souvanna Chittaphong was killed by Xavier Mille. Javish Marrero and his co-defendants were participants in this crime. During the commission of the crime, Mr. Marrero struck an intermediary (of the drug transaction) on the head with a sawed off shotgun. Following an investigation, police determined that Mr. Marrero was one of the individuals at the scene of the shooting, as well as the individual with the sawed off shotgun. Mr. Marrero was arrested on February 9, 2002.

II. PAROLE HEARING ON JANUARY 31, 2017

Mr. Marrero, now 36-years-old, appeared before the Parole Board for an initial hearing on January 31, 2017. He was represented by Student Attorneys Lauren Kuhlík and Liz Valentin. Mr. Marrero was also accompanied by a Spanish Interpreter, Aaron Mendoza.

In his opening statement to the Board, Mr. Marrero apologized for taking Mr. Chittaphong's life and expressed his remorse. During the course of the hearing, Mr. Marrero discussed his lifestyle in the years leading up to the murder. He grew up in a violent neighborhood in Puerto Rico. His mother and father divorced when he was about 3-years-old, due to violence between the couple. Mr. Marrero explained that his biological father was never there for him and that he experienced physical abuse by his mother. After his mother remarried, his step-father would drink, leading to violence between the couple. At times, when Mr. Marrero intervened to protect his mother, his step-father abused him as well. Before coming to the United States at age 18, Mr. Marrero completed eleventh grade. He discussed his struggles in school and his failure to maintain good grades. Mr. Marrero excelled at sports, but his grades held him back from pursuing college. Marijuana, alcohol, and friends started to take preference over school. After moving to the United States, Mr. Marrero eventually moved to Massachusetts to live with the Mille family. Xavier Mille was close in age to Mr. Marrero, and the two became friends.

The Board asked Mr. Marrero about his friendship with his co-defendants and to explain how a drug deal ended up as a murder. Mr. Marrero said that he did not know any of his co-defendants well, and he did not know the victim at all. Mr. Marrero explained that there was a plan in place to meet the intermediary (for the drug transaction) and the victim for \$25,000, in exchange for Ecstasy pills. One of his co-defendants spoke to the intermediary, who was in contact with the victim, to make the deal at a motel in Methuen. Mr. Marrero, along with the other three individuals in the car, decided that they were taking too long, and they planned a new transaction location in Lowell. Before leaving to make the transaction, Mr. Marrero and Mr. Mille armed themselves with firearms. When they arrived in Lowell, Mr. Marrero explained that one of his co-defendants went inside the apartment with the intermediary. When they came out of the apartment, they told Mr. Marrero and Mr. Mille that it was okay to go inside. Mr. Marrero and Mr. Mille went into the apartment, while another individual stayed in the car. The intermediary was in front as they went into the apartment, and Mr. Marrero was right behind him. Once up the stairs, Mr. Marrero hit the intermediary twice with the firearm. The intermediary made it to another room, while Mr. Chittaphong ran down the stairs, where he was shot by Mr. Mille.

The Board questioned Mr. Marrero as to the purchase of the gun. Mr. Marrero explained that he bought the gun approximately 6-7 weeks earlier, with money he had saved from working, in order to show off to his friends and gain respect. Mr. Marrero alleged that he never used the gun, since the bullets he purchased did not fit in the firearm. The Board expressed concern regarding the truthfulness behind Mr. Marrero's reasoning in buying the gun. In addressing what went through his mind when pleading guilty, Mr. Marrero said that he knew he was responsible for the crime due to his actions that day. He believed his sentence to be fair, even though he was not the shooter, because he was just as guilty. The Board, however, questioned Mr. Marrero about an affidavit he signed when Mr. Mille was appealing his case. Mr. Marrero explained that the affidavit was not truthful, but that he decided to sign it anyways in

order to help his codefendant. Board Members expressed serious concerns about trying to protect his co-defendant by signing paperwork that was not truthful. The Board also noted that Mr. Marrero wanted to rescind his affidavit, just 10 days before his initial parole hearing.

Mr. Marrero would like to go to the Dismas House in Worcester or to a minimum security prison, if released. He would like to get a job, continue to attend programs, and eventually be paroled to New Jersey to live with his father and step-mother. While incarcerated, Mr. Marrero participated in many programs, including the Correctional Recovery Academy (CRA), Mental Health Programs, and Violence Reduction Programs. Mr. Marrero is also the head of the softball and handball league. He continues to learn English and hopes to obtain his GED in the future. He has also maintained employment throughout his entire incarceration.

The Board considered oral testimony from Mr. Marrero's mother, father, and step-mother, who expressed support for parole. Mr. Marrero also had many other family members present in support of parole. The Board considered testimony from Middlesex County District Attorney John Dawley, who spoke in opposition to parole.

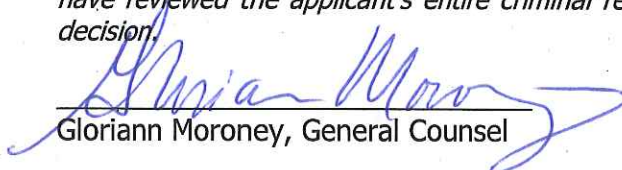
III. DECISION

The Board is of the opinion that Mr. Marrero has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board believes that a longer period of positive institutional adjustment and programming would be beneficial to Mr. Marrero's rehabilitation. Although Mr. Marrero engaged in numerous programs, the Board is concerned with Mr. Marrero's falsified affidavit regarding his co-defendant.

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 considered a risk and needs assessment, and whether risk reduction programs could effectively minimize Mr. Marrero's risk of recidivism. After applying this standard to the circumstances of Mr. Marrero's case, the Board is of the unanimous opinion that Mr. Marrero is not yet rehabilitated, and therefore, does not merit parole at this time.

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


Gloriana Moroney, General Counsel

8/7/17
Date