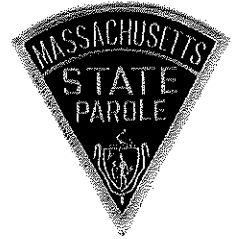


The Commonwealth of Massachusetts  
Executive Office of Public Safety and Security



PAROLE BOARD

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**AMENDED DECISION**

**IN THE MATTER OF**

**JEAN ALMODOVAR**

**W68354**

**TYPE OF HEARING:** Review Hearing

**DATE OF HEARING:** October 30, 2018

**DATE OF DECISION:** July 22, 2019

**PARTICIPATING BOARD MEMBERS:** Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Colette Santa, Lucy Soto-Abbe<sup>1</sup>

**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 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 July 17, 2000, in Hampden Superior Court, Jean Almodovar pleaded guilty to the second-degree murder of Alexander Rosa and was sentenced to life in prison with the possibility of parole. On that same date, Mr. Almodovar also pleaded guilty to possession of a firearm with intent to commit a felony and unlawful carrying of a firearm. He received a 1 year sentence and a 3-5 year sentence, respectively. These sentences were ordered to run concurrently with his life sentence. Mr. Almodovar unsuccessfully appealed his convictions.<sup>2</sup>

<sup>1</sup>Board Member Soto-Abbe was present at the hearing, but was not a Board Member at the time of vote.

<sup>2</sup> *Commonwealth v. Jean Almodovar*, 91 Mass. App. Ct. 1126 (2017); *Commonwealth v. Jean Almodovar*, 60 Mass. App. Ct. (2004) cert. denied 442 Mass 1103 (2004)

On October 26, 1999, Jean Almodovar (age 16) and his uncle, Kelvin Gutierrez (age 18), shot and killed 21-year-old Alexander Rosa in Holyoke. Around 11:30 p.m., Holyoke police officers responded to Southbridge Street, where they found Mr. Rosa on the sidewalk, suffering from multiple gunshot wounds and near death. Despite first aid, Mr. Rosa died at the hospital a short time later. The autopsy revealed that Mr. Rosa had been shot with both a .38 caliber firearm and a shotgun. Earlier that evening, Mr. Rosa and an associate had encountered Mr. Almodovar, Mr. Gutierrez, and two other unidentified individuals on Southbridge Street. Witnesses reported that Mr. Gutierrez said, "That's the guy that ratted on my brother." As Mr. Rosa began to flee, Mr. Gutierrez pulled out a .38 caliber handgun and shot him. Mr. Almodovar then shot Mr. Rosa with a sawed-off shotgun. A witness stated that he saw Mr. Almodovar and Mr. Gutierrez hide the murder weapons on the fourth floor of an apartment building before dumping them in the Connecticut River the following day. On November 3, 1999, Mr. Almodovar turned himself in to Holyoke police, eventually confessing to the murder of Mr. Rosa.

## **II. PAROLE HEARING ON OCTOBER 30, 2018**

On October 30, 2018, Jean Almodovar, now 35-years-old, appeared before the Parole Board and was represented by Attorney Lisa Newman-Polk. Mr. Almodovar had been denied parole after his initial hearing in 2014. In his opening statement to the Board, Mr. Almodovar apologized to Mr. Rosa's family and friends, as well as the Holyoke community. He also apologized to his own family for setting a bad example. Mr. Almodovar explained to the Board that he was put into foster homes at age 6. He was an "emotional wreck" as a young man, bouncing from one foster home to another and attending different schools in different cities without much support. Mr. Almodovar discussed how he was arrested at age 11, and charged with assault and battery and indecent assault on a child, after he and a friend attacked one of their classmates. Mr. Almodovar was adjudicated delinquent of assault and battery, which resulted in a commitment to the Department of Youth Services. Mr. Almodovar's charge of indecent assault on a child was dismissed. Mr. Almodovar also said that he had joined a Holyoke gang at 12-years-old that helped meet his emotional needs, as he had family members in positions of power.

When the Board questioned him about the murder, Mr. Almodovar claimed that he and his co-defendant, who was an "enforcer" in the gang they belonged to, did not personally know Mr. Rosa. Mr. Almodovar reported that they had orders from their gang's leader to kill Mr. Rosa on sight. The gang erroneously believed that Mr. Rosa had provided the murder weapon used to kill one of their gang members. Mr. Almodovar stated that after his uncle shot Mr. Rosa several times with a handgun and had begun to flee, he went back to Mr. Rosa and shot him with a shotgun. Mr. Almodovar could not explain why he felt the need to shoot Mr. Rosa, after he had already been shot and lay dying on the sidewalk.

Board Members questioned Mr. Almodovar about his parole denial after his initial hearing. Mr. Almodovar admitted that he was not ready for parole 4 years ago; he recognized that he was in maximum security and affiliated with a security threat group. Mr. Almodovar reported that he has since completed the renunciation process and is no longer associated with a security threat group. He pointed out that he has stepped down to medium security and, based on his current risk assessment, is qualified to step down to lower security. Mr. Almodovar reported that since his last hearing, he has obtained a G.E.D., OSHA certificate, computer certificate, and welder's license. Additionally, Mr. Almodovar informed the Board that

he completed the Correctional Recovery Academy, the Graduate Maintenance Program and General Population Maintenance Program. He attends monthly ex-offender meetings through the Massachusetts Community Outreach Initiative, a Hispanic Heritage group, and is in his third semester of Project Youth.

If paroled, Mr. Almodovar requests a step down to lower security followed by a release to the Transitional Treatment Program for 90 days. After completing the program, he would request a move to Florida, where his brothers live. One of his brothers has offered him housing and any other support he may need on parole. Mr. Almodovar hopes to find work in the welder's union. He plans to continue attending Alcoholics Anonymous meetings and would seek counseling for re-entry transitioning.

Two of Mr. Almodovar's brothers and a former basketball coach testified in support of parole. A third brother and the basketball coach submitted letters in support of parole. Dr. Robert Mendoza Psy.D. presented his findings based on a psychological evaluation of Mr. Almodovar. Hampden County Assistant District Attorney Howard Safford testified in support of parole and the Hampden County District Attorney's Office submitted a letter of support.

### **III. DECISION**

The Board is of the opinion that Jean Almodovar has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. He should avail himself of relevant treatment and programming and refrain from engaging in anti-social behavior.

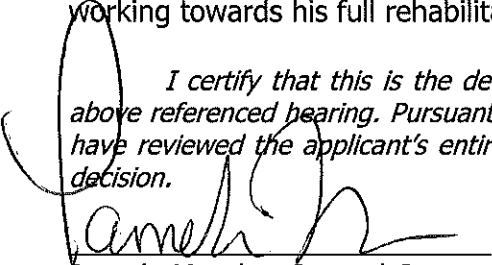
The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." 120 C.M.R. 300.04. In the context of an offender convicted of first or second degree murder, who was a juvenile at the time the offense was committed, the Board takes into consideration the attributes of youth that distinguish juvenile homicide offenders from similarly situated adult offenders. Consideration of these factors ensures that the parole candidate, who was a juvenile at the time they committed murder, has "a real chance to demonstrate maturity and rehabilitation." *Diatchenko v. District Attorney for the Suffolk District*, 471 Mass. 12, 30 (2015); See also *Commonwealth v. Okoro*, 471 Mass. 51 (2015).

The factors considered by the Board include the offender's "lack of maturity and an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking; vulnerability to negative influences and outside pressures, including from their family and peers; limited control over their own environment; lack of the ability to extricate themselves from horrific, crime-producing settings; and unique capacity to change as they grow older." *Id.* The Board also recognizes the petitioner's right to be represented by counsel during his appearance before the Board. *Id.* at 20-24. In forming this opinion, the Board has taken into consideration Mr. Almodovar's 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 psychological evaluation prepared by Dr. Robert Mendoza, Psy.D., as well as a risk and needs assessment, and whether risk reduction programs could effectively minimize

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

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

7/22/2019  
Date