

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



**PAROLE BOARD**

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*Chair*

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*Executive Director*

**RECORD OF DECISION**

**IN THE MATTER OF**

**JOHN WHITNEY  
W68219**

**TYPE OF HEARING:** Review Hearing

**DATE OF HEARING:** January 5, 2021

**DATE OF DECISION:** September 28, 2021

**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.<sup>1</sup> Parole is denied with a review in two years from the date of the hearing.

**I. STATEMENT OF THE CASE**

On June 9, 2000, after a jury trial in Norfolk Superior Court, John Whitney was convicted of second-degree murder in the death of 28-year-old Alberto Portal and was sentenced to life in prison with the possibility of parole.

In December 1997, Mr. Whitney, age 35, was living in Natick. As a result of a previous relationship, Mr. Whitney's son was being raised in a separate residence by his son's mother and her husband Alberto Portal. One evening in early December 1997, at approximately the time of night that Mr. Portal typically left his home for work, Mr. Whitney had a friend drop him off in an area close to Mr. Portal's home. Mr. Whitney then planned to meet his friend at a nearby bar shortly thereafter. After Mr. Whitney arrived by car, his friend followed him to an Enterprise Rent-a-Car parking lot, where Mr. Whitney left the vehicle. Mr. Whitney was then driven home by his friend. Unbeknownst to Mr. Whitney's friend, the car that Mr. Whitney was driving that evening had belonged to Mr. Portal. Mr. Portal's dead body was in the trunk.

<sup>1</sup> Three Board Members voted to grant parole to either a long-term residential program or approved home plan.

Mr. Portal and his vehicle were reported missing on December 4, 1997, when he failed to report to work. On March 9, 1998, Mr. Portal's decomposing body was found inside his car at the Enterprise Rent-a-Car parking lot. A subsequent autopsy indicated that the cause of death was blunt force trauma to the head.

## **II. PAROLE HEARING ON JANUARY 5, 2021**

John Whitney, now 59-years-old, appeared before the Parole Board on January 5, 2021, for a review hearing. He was represented by Attorney John Rull. Mr. Whitney was denied parole after his initial hearing in 2013, and after his review hearings in 2016 and 2018. In his opening statement to the Board, Mr. Whitney apologized for the harm he caused Mr. Portal and his family. Mr. Whitney told the Board that he grew up in a loving, supportive home. However, when faced with adversity, he turned to drugs and alcohol to cope with his depression and uncontrolled anger. Mr. Whitney's ex-wife, with whom he shares his first son, was married to Mr. Portal. He met Mr. Portal once prior to the murder and claimed to have no issues with him. Mr. Whitney explained that he usually spoke with his ex-wife about their son. At some point, however, she disclosed to him that she had obtained a restraining order against Mr. Portal, which she later vacated.

On the day of the murder, Mr. Whitney visited his ex-wife's home to give her money for their son. He denied knowing that Mr. Portal was at the home, or that he intended to harm him. Mr. Whitney explained that he and Mr. Portal had an argument, which escalated into a physical altercation. Mr. Whitney admitted that he decided to harm him, after Mr. Portal kicked him in the ribs. Mr. Whitney clarified that he intended to kill Mr. Portal, and that his actions constituted murder, not self-defense. When Board Members questioned Mr. Whitney as to how he could have been capable of such violence, Mr. Whitney replied that he was angry and had been drinking alcohol. Mr. Whitney also admitted to being a dishonest, frightened person, who lacked empathy for others at the time. He claims to have lived with guilt since the day of the murder. The Board confronted Mr. Whitney, however, with the view that they expressed at his 2013 hearing; Mr. Whitney spent the first 15 years after the murder deflecting responsibility and fabricating what Mr. Portal had said or done to him. The Board also reminded Mr. Whitney that he had initiated an interview with state police in 2009, where he attempted to exonerate himself and implicate his ex-wife in the murder. Mr. Whitney stated that his prior attempts to distance himself from the crime were inexcusable.

The Board noted that Mr. Whitney is involved in religious services and AA/NA. He pursued mental health counseling until it was deemed to be no longer necessary. Mr. Whitney has completed Alternatives to Violence, Restorative Justice, Countdown to Freedom, and other programs to address his anger issues. He also serves as a tutor to a fellow inmate, who is relearning English after suffering a stroke. Mr. Whitney believes that he has bettered himself through his programming efforts since his 2018 hearing. While the Board acknowledges Mr. Whitney's treatment and programming efforts, they remain concerned as to his actions throughout his incarceration that minimize his culpability. Board Members explained that such actions are "major flaws in his rehabilitation."

The Board considered testimony in support of parole from Mr. Whitney's family and friends. The Board considered testimony in opposition to parole from Norfolk County Assistant District Attorney Michael McGee. The Board also considered a letter in opposition to parole submitted by Norfolk County District Attorney Michael Morrissey.

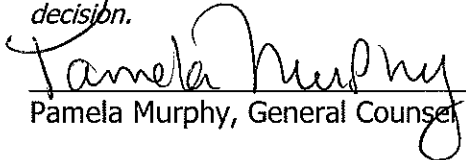
### **III. DECISION**

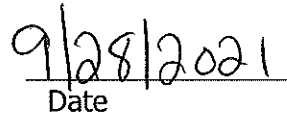
The Board is of the opinion that John Whitney has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Whitney beat to death Alberto Portal in December of 1997. Despite his continued participation in rehabilitative treatment and programming, the Board remains concerned as to the lack of candor in his presentment. Mr. Whitney does not present as credible. The Board did consider his underlying medical issues in light of COVID-19.

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

Mr. Whitney's next appearance before the Board will take place in two years from the date of this hearing. During the interim, the Board encourages Mr. Whitney to continue working toward 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

  
Date