

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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Executive Director

RECORD OF DECISION

IN THE MATTER OF

JONATHAN CABAN
W84906

TYPE OF HEARING: **Review Hearing**

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

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

PARTICIPATING BOARD MEMBERS: Gloriann Moroney, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Karen McCarthy, Colette Santa

STATEMENT OF THE CASE: On February 2, 2005, in Essex Superior Court, Jonathan Caban pleaded guilty to the second-degree murder of Rodolfo Diaz and was sentenced to life in prison with the possibility of parole.

Mr. Caban appeared before the Parole Board for a review hearing on January 5, 2021 and was represented by Attorney Michael Bourbeau. This was Mr. Caban's second appearance before the Board, having been denied in 2018. The entire video recording of Mr. Caban's January 5, 2021 hearing is fully incorporated by reference to the Board's decision.

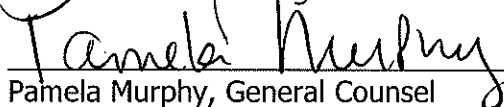
DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, the age of the inmate at the time of offense, criminal record, institutional record, the inmate's testimony at the hearing, and the views of the public as expressed at the hearing or in written submissions to the Board, we conclude by a unanimous decision that the inmate is a suitable candidate for parole. Reserve to Long Term Residential Program after 12 months in lower security. Mr. Caban was 17 years old when he and his co-defendant shot and killed Rodolfo Diaz in 2003. In rendering their decision, the Board did consider Mr. Caban's age and maturity at the time of the offense, vulnerability to negative influences and capacity to change. Since his last hearing in 2018, he has completed several programs to include Restorative Justice Retreat and Victim Offender Education Group, substance abuse education, Alternatives to Violence and Jericho Circle. Mr. Caban has maintained a positive adjustment and employment. A period of transition in a lesser security environment will increase his likelihood of success upon reentry into the community.

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." In the context of an offender convicted of first 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 the 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.*

In forming this opinion, the Board has also taken into consideration Mr. Caban'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. Caban's risk of recidivism. After applying this appropriately high standard to the circumstances of Mr. Caban's case, the Board is of the unanimous opinion that Mr. Caban is rehabilitated and merits parole at this time.

Special Conditions: Reserve to Long Term Residential Program (LTRP) after 12 months in lower security; Waive work for LTRP; Curfew-must be home between 10 p.m. to 6 a.m.; ELMO-electronic monitoring; Supervise for drugs; testing in accordance with agency policy; Supervise for liquor abstinence; testing in accordance with agency policy; Report to assigned MA Parole Office on day of release; No contact with victim's family; Must have mental health counseling for adjustment/transition; AA/NA at least 3 times/week; Mandatory – obtain a sponsor.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing.


Pamela Murphy, General Counsel

6/28/2021
Date