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**DECISION**

**IN THE MATTER OF**

**JOSE CABRERA**

**W69140**

**TYPE OF HEARING:** Initial Hearing

**DATE OF HEARING:** April 24, 2014

**DATE OF DECISION:** January 7, 2015

**PARTICIPATING BOARD MEMBERS:** Sheila Dupre, Ina Howard-Hogan, Tina Hurley, 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 written submissions to the Board, we conclude by a four to one vote that the inmate is not a suitable candidate for parole. Parole is denied with a review in two years from the date of the hearing. Then-Chairman Wall voted to parole Cabrera to Immigrations and Customs Enforcement (ICE) for deportation.

**I. STATEMENT OF THE CASE**

On February 15, 2001, after a jury trial in Essex Superior Court, Jose Cabrera was found guilty of second degree murder and sentenced to life in prison for the 1990 killing of Nelson Liriano<sup>1</sup>, age 34. For nearly ten years after the murder, Cabrera had been a fugitive, used multiple aliases, and had been incarcerated (at various times) under those aliases by both federal and Connecticut authorities.<sup>2</sup>

<sup>1</sup> The victim is referred to as "Nelson Liriano" in *Commonwealth v. Jose Luis Cabrera*, 63 Mass.App.Ct. 1104 (2005), which is a Massachusetts Appeals Court decision affirming Cabrera's conviction of murder in the second degree, however, the death certificate spells the name, "Liriano."

<sup>2</sup> For the murder, Cabrera was first arraigned in Lynn District Court on June 23, 1999, which, for procedural reasons only, was bound over to Essex Superior Court, where he was arraigned on a charge of first degree murder on August

During a party in the early morning hours of May 11, 1990, Cabrera, then 25 years old, and Mr. Liriano argued over a disputed debt at a residence in Lynn. They fought and struggled on the floor. Witnesses saw Cabrera throw several punches at Mr. Liriano and saw him on top of Mr. Liriano, "punching his face." After the fight was broken up, Cabrera (who had consumed a considerable amount of beer and some cocaine) went into the kitchen, retrieved a knife, and fatally stabbed Mr. Liriano two to four times in the chest. Mr. Liriano had nothing in his hands at the time. Cabrera washed off the knife and put it in his pants before he left.

Cabrera called a friend's home later that morning and wanted to know if Mr. Liriano was dead. He asked his friend to "help him to get out of Lynn," which the friend declined to do. Cabrera fled first to New York and then to Waterbury, Connecticut, where he lived under a false name. On November 19, 1990, the Lynn District Court issued a murder warrant for Cabrera. On June 22, 1999, Cabrera (while incarcerated in Connecticut) was returned to Massachusetts on the murder warrant. Upon his return to Massachusetts, Cabrera provided yet another false name and denied that he knew the victim. Indeed, during the nearly ten years since murdering Mr. Liriano, Cabrera managed to use at least eleven aliases, three social security numbers, and four dates of birth.<sup>3</sup>

## **II. CRIMINAL AND INSTITUTIONAL HISTORY**

On September 24, 1990, Cabrera (a fugitive) was arrested by federal Drug Enforcement Agency authorities in Connecticut, just a few months after murdering Mr. Liriano. Cabrera, using one of his false names, was charged with conspiracy to possess cocaine with intent to distribute. On March 14, 1991, Cabrera was convicted, sentenced to 51 months in federal prison, and placed on supervised release for 36 months. While on supervised release, Cabrera violated the conditions<sup>4</sup> of release and was subsequently sentenced to 12 months.

On September 29, 1994, also while he was on supervised release, Cabrera was arrested for selling heroin and was sentenced to two years in the Connecticut Department of Correction. On June 24, 1995, Cabrera was arrested for domestic assault on his live-in girlfriend<sup>5</sup> in Coventry, Rhode Island. According to police reports, Cabrera was heavily intoxicated, punched the victim in the face, and hit her in the head with a whiskey bottle. The victim blacked out for a short time due to these injuries and had to be taken to the hospital by ambulance.

Cabrera's history of substance abuse is both admitted and documented. Connecticut Department of Correction records provide that Cabrera has a significant history of substance abuse, having admittedly abused cocaine since the age of 15 and heroin since the age of 24. Cabrera had also consumed approximately eight beers before stabbing his murder victim, Mr. Liriano.

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10, 1999. A jury found him guilty of second degree murder after a trial in 2001. His life sentence has an effective date of June 23, 1999, or when he was initially arraigned in Lynn District Court.

<sup>3</sup> Cabrera's Massachusetts Criminal Justice Information Service (CJIS) record provides that his date of birth is December 13, 1964.

<sup>4</sup> Those conditions included drug monitoring and counseling.

<sup>5</sup> According to the police report, Cabrera and the victim had lived together "on and off" for approximately 13 years and had four children together.



On September 7, 1997, Cabrera was charged with escape for failing to return from a 48 hour furlough from a Connecticut residential treatment provider. Cabrera received a one year committed sentence. In 1998, while incarcerated in Connecticut, Cabrera was arrested on a fugitive from justice warrant, extradited to Massachusetts on June 22, 1999, and convicted of second degree murder. After sentencing, Cabrera said that he had two options: "go crazy" or "start doing things the right way." Cabrera has attended institutional drug and alcohol programs, as well as programming in violence reduction, parenting, education, and speech craft. He has also served as a youth group facilitator. Cabrera said that the programs have taught him to be a "humble man," and consider the "space and personal decisions of others." Cabrera has not, however, attended drug and alcohol related programming since 2010. Additionally, Cabrera said he is currently a block runner and volunteers in church. He received a certification in welding. Finally, Massachusetts Department of Correction records reflect that Cabrera has remained free from disciplinary reports and has not been considered a management problem.

### **III. PAROLE HEARING ON APRIL 24, 2014**

Jose Cabrera, now age 49, appeared for his initial parole hearing after serving fifteen years of a life sentence for second degree murder. At the hearing, Cabrera testified through a Spanish interpreter. Cabrera began the hearing by asserting that he was a man with deep remorse for his actions on May 11, 1990, when he took the life of his "dear friend," Nelson Liriano. Cabrera testified that he has spent every day for the past 24 years regretting his actions. Cabrera apologized to the family of Mr. Liriano and to his own family for the hurt he has caused and the "blood stain" on society.

In discussing his background, Cabrera said he was born and raised in the Dominican Republic. He said he got along well with his parents and brother growing up. Cabrera said his parents worked very hard and played a significant role in his upbringing. Despite his "humble life," Cabrera said he had a good education and a really good life, which included the Christian faith. Cabrera said his relationship with his family remains strong. He has seven children. Growing up in the Dominican Republic, Cabrera said he regularly used marijuana and consumed beer. After his arrival in the United States in 1987, he married a U.S. citizen and settled in Lynn. He said he wanted to "live the American dream." Cabrera said he continued to use marijuana and drink alcohol on a daily basis. He said he also used and sold cocaine. According to Cabrera, that was the start of his downfall. On the evening of the murder, Cabrera said he consumed eight to nine beers and used "a little bit" of cocaine.

In describing his relationship with the victim, Cabrera said Nelson Liriano was one of the first individuals he met when he came to the United States. He said they were very good friends and shared a lot together. Regarding the stabbing of Nelson Liriano, Cabrera said he went to club Casa De Sol in Lynn to play pool with his friends over a few beers. At some point while at the club, he said Mr. Liriano called him and they argued over money. Cabrera said they were involved in a drug business together and Mr. Liriano said he owed him \$1,000. Cabrera said he told Mr. Liriano that he needed a couple of days, but Mr. Liriano demanded his money back. Cabrera asserted that things escalated quickly, so he left the club and went to a friend's house in Lynn for a party. He said there were approximately 30 to 40 people at the party and there was loud music playing.



Cabrera said that shortly after his arrival, and while he was in the kitchen eating food and drinking a beer, Mr. Liriano arrived at the party. Cabrera said police also arrived and told them to turn the music down. After the police left, Cabrera said Mr. Liriano approached him and the argument resumed. He said it quickly escalated into a physical fight. Cabrera said he made his way back into the kitchen when he heard someone entering the room. He said he turned and saw Mr. Liriano. Cabrera maintained that he was acting in self-defense, despite the jury's rejection of that defense. Cabrera said that he warned Mr. Liriano not to come near him. Cabrera said he was scared, and within seconds, he grabbed the knife on the table and "cut" his friend.

When a Board Member asked him why he did not leave the house instead of retrieving the knife, Cabrera said he thought Mr. Liriano was "coming after him" and "he didn't think right." He said, "It was so quick. I was confused and lost control." When asked why his account differed from the testimony of the witnesses, Cabrera said he could not explain it because "he is giving the version of what happened to him." After the stabbing, Cabrera said he left the party and called a friend to find out if he had "cut" Mr. Liriano. After learning Mr. Liriano was dead, he said he asked another friend to help him get out of Lynn. Cabrera said he fled first to Lawrence and then to Connecticut because he was "scared" and "didn't want to get locked up." Cabrera said he initially denied stabbing Mr. Liriano when questioned by the Lynn Police Department in June 1999 because he was "scared." When the Board asked why he used so many alias names, Cabrera said, "my life was a disaster," and "I did a lot of bad things." He said that between 1990 and 1998, he was "hiding in shadows" and "running away from the circumstances."

When asked about the status of his case, Cabrera said he is no longer appealing his sentence.<sup>6</sup> Cabrera said he was trying to get his second degree murder conviction reduced to manslaughter because he believed he was acting in self-defense. Cabrera maintains that Mr. Liriano was armed, but acknowledged that the evidence does not support this. Cabrera provided a parole plan to Immigration and Customs Enforcement (ICE) for deportation to the Dominican Republic.<sup>7</sup>

Six family members and friends spoke in support of his petition for parole. Assistant District Attorney Marcia H. Slingerland of the Essex County District Attorney's Office provided a letter in opposition to parole and outlined the reasons for opposition at the hearing.

#### **IV. DECISION**

Despite his participation in programming and the considerable passage of time since killing his victim in 1990, Jose Cabrera has not yet taken full responsibility for murdering Nelson Liriano. His statement to the Board was in direct contrast to the testimony given at trial by witnesses in key areas. Until recently, Cabrera was appealing his case by claiming the stabbing was in self-defense.

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<sup>6</sup> Cabrera appealed the conviction of second degree murder which was affirmed on March 3, 2005. The docket sheet (ESCR1999-01557) reflects no further developments since that time. *Commonwealth v. Jose Luis Cabrera*, 63 Mass.App.Ct. 1104 (2005).

<sup>7</sup> On November 17, 2014, an Immigration Judge for the United States Department of Justice ordered Cabrera to be deported to the Dominican Republic.

Cabrera's criminal history since murdering Mr. Liriano is substantial. Immediately after the murder, Cabrera fled the state to avoid prosecution. He was on the run for nearly 10 years and committed additional crimes using false names and while on supervised release. Cabrera committed the murder while under the influence of drugs and alcohol and has an admitted and demonstrated history of drug abuse and dealing. While he has participated in a number of programs to address drug and alcohol issues, he is not currently involved in substance abuse programming. This is a significant concern of the Board given the long standing nature of his substance abuse and its relationship to his violent crimes. Casting further doubt upon his rehabilitation is Cabrera's claim at the hearing that AA has been a strong part of his release plan, yet he has not attended the program since 2010.

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, it is the opinion of the Board by a four to one vote that Jose Cabrera does not merit parole at this time because Cabrera is not rehabilitated. The review will be in two years, during which time Cabrera should commit to a more comprehensive rehabilitation that addresses his lack of candor, anger, violence, substance abuse, and criminal thinking.

*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.*

  
Janis DiLoreto Smith, Executive Director

1/7/15  
Date