



Charles D. Baker
Governor

Karyn Polito
Lieutenant Governor

Daniel Bennett
Secretary

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security

PAROLE BOARD

12 Mercer Road
Natick, Massachusetts 01760

Telephone # (508) 650-4500

Facsimile # (508) 650-4599



Paul M. Treseler
Chairman

Michael J. Callahan
Executive Director

DECISION

IN THE MATTER OF

JOSE MACIERA
W56377

TYPE OF HEARING: Review Hearing

DATE OF HEARING: September 1, 2015

DATE OF DECISION: December 14, 2015

PARTICIPATING BOARD MEMBERS: Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, Tina Hurley, Lucy Soto-Abbe.

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 unanimous vote that the inmate is a suitable candidate for parole. Parole is granted to an interstate compact (Puerto Rico) with special conditions.

I. STATEMENT OF THE CASE

On September 19, 1993, Jose Maciera (18 years-old) shot and killed 28-year-old Julio Vargas at a house party in Holyoke. On May 2, 1994, in Hampden Superior Court, Jose Maciera pleaded guilty to second degree murder and was sentenced to life in prison with the possibility of parole after serving 15 years of his sentence. Maciera's appeal and request for further appellate review were denied.¹

On the day of the murder, Jose Maciera attended a party in Holyoke. According to police reports, several young women at the party complained to Maciera that the victim, Julio Vargas, was drunk, grabbing at them and bothering other people at the party. Maciera followed Mr. Vargas to the porch, where he told him to stop his offensive behavior towards the other guests. When Mr. Vargas responded by attempting to push Maciera, Maciera pulled out a

¹ See *Commonwealth v. Maciera*, 427 Mass. 1102 (1998).

gun and shot Mr. Vargas. Maciera admitted that he was under the influence of alcohol and cocaine at the time of the murder.

II. CRIMINAL AND PAROLE HISTORY

The second degree murder is Maciera's first and only conviction on his criminal record.

In September of 2008, Maciera appeared before the Board for his initial parole eligibility hearing. The Board denied parole with a review in two years. In July of 2010, Maciera came before the Board for his review hearing. The Board voted to grant Maciera a parole on or after February 23, 2011, after successful completion of six months in Pre-Release. Maciera was released on parole in October of 2012.

In September of 2013, Maciera's parole was provisionally revoked and he was returned to custody after some conflict with his now ex-wife and for failing to notify his parole officer that he had contact with the police in August of 2013. After a final revocation hearing, the Parole Board voted "Revocation Not Affirmed" and re-paroled Maciera with the added condition that he have no contact with his wife and that he attend anger management classes. Maciera was compliant on parole, maintaining employment and attending programming, until he was returned to custody in March of 2015 for violating the no-contact condition by visiting his ex-wife. In May of 2015, the Board voted to revoke his parole, and a review hearing was scheduled for September.

III. PAROLE HEARING ON SEPTEMBER 1, 2015

On September 1, 2015, Jose Maciera appeared before the Parole Board for a review hearing. He was represented by Attorney Amy Belger. Maciera provided an opening statement where he thanked the Parole Board for the opportunity to appear before them, stating that he takes "full responsibility" for his actions in shooting Mr. Vargas 21 years ago. He also apologized for his "lapse in judgement" in going to visit his wife in violation of the no contact condition.

The Board focused on Maciera's parole violations and questioned him regarding his behavior. He provided a credible and detailed description of the incident that led to his re-incarceration. Maciera also provided the Board with the history of his relationship with his now ex-wife. He said he met her while incarcerated and married her in 2004. Following his positive parole vote in 2010 and release in 2012, Maciera moved into her home. Maciera described her as controlling and jealous, and provided examples where she would call to find out his whereabouts, even if he was running errands or traveling home from work. Maciera testified that he used the skills he learned through institutional programming, such as walking away, but that this further angered his ex-wife as she felt he was ignoring her.

Maciera described the incident that led to his provisional parole revocation in September of 2013. He said on August 18, 2013, his ex-wife requested that he return the cell phone she had given him. He said no, and she threatened to call the police if he did not immediately give the phone to her. Maciera testified that he went into the basement with the cell phone to write down information from it before giving it to his wife, but she called the police before he returned the phone. Maciera said that the police came, spoke to both parties, and left without

arresting or charging anyone. Maciera admitted he did not think to tell his Parole Officer about the police contact since he was not arrested or charged. Maciera testified that upon his release in 2014, he was admitted to Brooke House for three months and then transitioned to a friend's home in Revere. Maciera indicated that he maintained full-time work and developed and maintained friendships with people in the community. He identified welding, dog training, and painting as his jobs while on parole. Maciera also testified that he attended Anger Management classes.

Regarding his most recent parole violation, Maciera told the Board that he traveled to his ex-wife's home in an attempt to make peace with her and to offer money to help pay her bills. He indicated that he thought this was the right decision because he was planning to ask to transfer his parole to Puerto Rico. He testified that she denied his money and then became angry with him. Maciera assured the Board that he had not been drinking prior to going to see his ex-wife.

Maciera told the Board that he has had no contact with his ex-wife since his regrettable lapse in judgement by going to her house in March of 2015. When a Parole Board member noted Maciera's apparent inability to have no contact with his ex-wife, he reiterated that his reasoning was to try "to make peace with my family." Maciera testified that he does not want to enter a relationship with anyone at this point and wants to receive life coaching to help him in creating healthy relationships.

Maciera testified that he hopes to transfer his parole to Puerto Rico to be with his family. He said that he has a positive relationship with his brother and sister who reside in Puerto Rico, and that they would be his primary support.

Maciera's friend and former boss spoke in support of parole. He testified that they met approximately one and half years ago when Maciera began working at his high-end painting business in 2013. He indicated that there were "no issues" with Maciera during his year of employment, that he was "quiet" and "kept to himself," and that there was no indication of anger or substance use. He testified that Maciera painted multi-million dollar homes and had no problems being left alone both when clients were home and when they were not home. A co-worker from the painting company provided a letter of support that comments on Maciera's strong work ethic, and their good friendship.

Hampden County Assistant District Attorney Howard Safford spoke in opposition to parole and submitted a letter in opposition. The Chief of Police of the Holyoke Police Department also provided a letter to the Board opposing Maciera's parole.

Maciera provided a closing statement where he apologized to the Parole Board and promised to have no contact with his ex-wife. He testified that upon returning to Puerto Rico, he is hoping to return to school and eventually open a business of repairing computers and telephones. Attorney Belger also provided a comprehensive closing statement reiterating how Maciera merits re-parole.

IV. DECISION

Jose Maciera was paroled in 2012. While under parole supervision, he maintained consistent work and attended anger management. In addition, he gained respect from his co-worker and his boss, who both acknowledged their friendship with Maciera and his strong work ethic. While Maciera was mostly successful throughout his parole, the ultimate reason for his failure was due in large part to his inability to form healthy relationships. Maciera's struggles within the relationship with his ex-wife can be attributed to his lack of emotional development and immaturity. With the right support system and counseling that focuses on healthy relationships, Maciera can develop life skills needed to engage in positive relationships. Since his return to custody he has not had any contact with his ex-wife.

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 unanimous opinion of the Board that Jose Maciera is suitable for re-parole.

SPECIAL CONDITIONS: Reserve to Interstate Compact to Puerto Rico; no alcohol or drug use, with testing to assure compliance; must attend Alcoholics Anonymous or Narcotics Anonymous at least three times per week; curfew of 10pm to 6am or at the discretion of the parole officer; counseling to focus on healthy relationships; no contact with victim's family; no contact or association with ex-wife; must report to assigned parole office on day of release.

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.


Michael J. Callahan, Executive Director

December 14, 2015
Date