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Paul M. Treseler
Chairman

DECISION

IN THE MATTER OF

JOSE MALDONADO

W38184

TYPE OF HEARING: Review Hearing
DATE OF HEARING: October 26, 2017
DATE OF DECISION: September 13, 2018

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Lucy Soto-Abbe

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 a 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 April 16, 1981, in Hampden County Superior Court, a jury found Jose Maldonado guilty of the first degree murder of 22-year-old Lydia Velez. In 1983, the Supreme Judicial Court affirmed the conviction and declined to reduce the first degree murder verdict.¹ On January 23, 1993, Mr. Maldonado filed an amended motion for new trial. After a hearing, a Superior Court judge denied a new trial, but reduced the conviction to second degree murder, thus making him eligible for parole.

On February 6, 1980, at approximately 10:00 p.m., 25-year-old Jose Maldonado went to the apartment of Lydia Velez in Holyoke. Mr. Maldonado was drinking, staggering, and slurring his speech. Mr. Maldonado and Ms. Velez began to argue, as he accused her of trying to break

¹ *Commonwealth v. Jose Maldonado*, 389 Mass. 626 (1983)

up his other romances. When Ms. Velez began to scream at him to leave, a struggle ensued. When a witness saw Mr. Maldonado strike at Ms. Velez's throat with a knife, he left the apartment to seek help. When the witness returned, Ms. Velez was slumped in a corner outside the apartment, and Mr. Maldonado was pulling a knife out of her chest and putting it back in. Ms. Velez received six stab wounds, one which penetrated her heart and one of which penetrated her lung. Mr. Maldonado fled to an apartment building across the street and, subsequently, fled to Hartford, Connecticut, where he was arrested on February 11, 1980.

II. PAROLE HEARING ON OCTOBER 26, 2017

Jose Maldonado, now 63-years-old, appeared before the Parole Board for a review hearing on October 26, 2017. He was represented by Student Attorney Alexandra Gennaro from the Northeastern University Law Clinic. Mr. Maldonado was denied parole after his initial hearing in 1995, as well as after his review hearings in 1999, 2003, 2009, and 2012. In his opening statement to the Board, Mr. Maldonado apologized for his mistakes and took full responsibility for his actions. He stated that Ms. Velez was a wonderful person, a good mother, and a friend and that she didn't deserve to die. He said he will never forget what he did to her and that "[his] guilt and remorse will stay with [him] forever." Mr. Maldonado said he was born in Puerto Rico and left school after fourth grade. He had 13 other siblings, and his father used to beat him because of his behavior. He started drinking at age 12 and hanging out with older kids, who were drinking and smoking, as well. He went to reform school. Once he came to the United States (with his mother) at age 16, he was hanging out "in the streets" with his brother and his brother's friends. His drug of choice was heroin and drinking alcohol and acknowledged that he used heroin daily. He said he never married, but believes he has a daughter.

A Board Member noted that Mr. Maldonado's version of events surrounding the murder have changed. Mr. Maldonado stated that in the beginning, he was trying to "beat the case, and stay on the street" because he was scared to go to prison. He admitted, however, that during the trial, he lied about certain facts. He stated that at the time of the murder, he was drinking alcohol and using heroin. As a result, he could not remember everything due to alcohol consumption. When the Board questioned Mr. Maldonado about the events surrounding the murder, they noted that Ms. Velez had a friendship with a woman who was involved with Mr. Maldonado. Mr. Maldonado heard from others, however, that this woman was looking for him with a gun.

On the day of the murder, Mr. Maldonado went to Ms. Velez's apartment. He knew that her friend was going to be there because he saw her car parked outside. He said he was really "pissed off" and that he went in to "clear the air" and "get it over with." He stated that he was tired of hiding from her. Mr. Maldonado claimed that an argument started and, since Ms. Velez was defending her friend, his anger shifted to Ms. Velez. He told the Board that he was in the kitchen, grabbed a knife, and stabbed her two times. While he claims that he doesn't remember the other four stabbings, he is not blaming the murder on anyone else. Mr. Maldonado indicated that he didn't know she was dead after he stabbed her. He said he left the apartment because he was scared and fell asleep in someone's porch. The following morning, he went to his mother's house and she told him that Ms. Velez had died. He stated that he was "shocked" and didn't believe her. Subsequently, he went to Connecticut and was arrested about a week later.

It was noted by a Board Member that this sentence is his 10th incarceration, and that Mr. Maldonado has two escapes on his record. Mr. Maldonado explained that it was a slow process to turn his life around and that he started to change when his sentence was changed. He explained that his mother has since passed away, but he has support from his brothers, sisters, nieces, and nephews. It was noted by a Board Member that since his last hearing, Mr. Maldonado had a disciplinary report for a fight in 2013. Board Members also questioned Mr. Maldonado about a 2008 disciplinary report (which involved a female correctional officer), as well as a 1999 disciplinary report (which involved an inmate cut in the neck). Mr. Maldonado denied affiliations with any security threat groups. The Board noted that Mr. Maldonado has not participated in the Restorative Justice program. Since the last hearing, he completed the Violence Reduction Program and participates in Alcoholics Anonymous (AA) and Narcotics Anonymous (NA). Mr. Maldonado stated, "I haven't drank since I came to prison." He said he also participated in the Alternatives to Violence Program. If paroled, he would prefer a step-down to lower/minimum security, then placement in a long term treatment program and therapy.

The Board considered testimony in support of parole from Mr. Maldonado's brother. The Board considered testimony from Hampden County Assistant District Attorney Howard Safford.

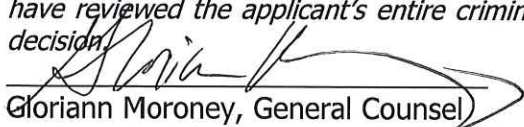
III. DECISION

The Board is of the opinion that Mr. Maldonado has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Maldonado has made strides in his rehabilitation, but there remains work to be done. Mr. Maldonado should continue to invest in treatment/programming, coupled with a positive adjustment. He should fully engage in the Restorative Justice program to fully come to terms with his culpability regarding the governing offense.

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

Mr. Maldonado'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. Maldonado 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.


Gloriann Moroney, General Counsel

9/13/18
Date