

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



PAROLE BOARD

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DECISION

IN THE MATTER OF

JOSE ROSARIO

W69920

TYPE OF HEARING: **Review Hearing**

DATE OF HEARING: **August 27, 2019**

DATE OF DECISION: **May 18, 2020**

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 by unanimous vote that the inmate is not a suitable candidate for parole. Parole is denied with a review scheduled in four years from the date of the hearing.

I. STATEMENT OF THE CASE

On September 6, 2001, in Hampden Superior Court, Jose Rosario pleaded guilty to second-degree murder in the death of 22-year-old Gilberto Santos Rodriguez. He was sentenced to life in prison with the possibility of parole.

On August 28, 1999, Jose Rosario, 28-years-old, participated in the stabbing death of Gilberto Santos Rodriguez in Holyoke. Mr. Rosario and his co-defendant, Ramon Santiago, met Mr. Rodriguez and brought him to an underpass under Route 391, where they beat him due to a drug related dispute. While Mr. Rosario beat Mr. Rodriguez, Mr. Santiago pulled out a knife and began stabbing him. Mr. Rosario then held Mr. Rodriguez, while Mr. Santiago stabbed him approximately 20 times. Mr. Rodriguez died from severe blood loss due to multiple stab wounds to his neck, chest, back, and forearms.

II. PAROLE HEARING ON AUGUST 27, 2019

Jose Rosario, now 49-years-old, appeared before the Parole Board on August 27, 2019, for a review hearing. He was not represented by counsel. Mr. Rosario had been denied parole after his initial hearing in 2014. In his opening statement to the Board, Mr. Rosario said that he was "truly sorry" for the pain he caused the Rodriguez family and apologized for not being able to look at them during his initial hearing. Mr. Rosario explained that he could not bring himself to do so, knowing what he had done to them. Mr. Rosario told the Board that he was a heroin addict and member of a security threat group, prior to the governing offense. He rose up the ranks by selling drugs in the Holyoke community, eventually becoming responsible for disciplining other group members. He acknowledged that he destroyed his community through gang activity. About five months before the murder, Mr. Rosario said that he was terminated from the group because of his sexuality and his lack of interest in the group's activities.

For approximately 20 years, Mr. Rosario maintained that Mr. Rodriguez's murder was ordered by the security threat group of which he was a former member. At this hearing, however, Mr. Rosario provided the Board with a new version of the motive behind the governing offense. Mr. Rosario stated that he "should have come forward before" about what happened that night, but he was fearful of retribution while his co-defendant was in prison. He explained that Mr. Rodriguez owed Mr. Santiago money from a drug sale. Because he could not pay, Mr. Santiago and Mr. Rosario agreed to lure Mr. Rodriguez to an underpass to beat him up. Mr. Rosario lay in wait until the others arrived, at which time a physical struggle broke out. Mr. Santiago and Mr. Rodriguez each produced a knife, but Mr. Rosario took Mr. Rodriguez's knife and used it to stab him twice. Mr. Rosario sustained an injury to his hand during the stabbing, so he left the other men, who continued to fight, to get first aid supplies at a nearby store. Afterward, Mr. Rosario went to Mr. Santiago's home, where Mr. Santiago informed him that he left Mr. Rodriguez's dead body under the bridge. He acknowledged that Mr. Rodriguez sustained at least 20 stab wounds. The Board told Mr. Rosario that it struggled with how much weight to assign this new version, as it was introduced some 20 years after the murder.

Mr. Rosario agreed with the Board that his institutional adjustment has been problematic; he has accrued 34 disciplinary reports, 20 of which were received after his initial hearing. Four of these reports resulted in disciplinary detention placements. The Board also noted a history of tattooing other inmates as a side business. When asked if such behavior was indicative of an individual who should be released on parole at this time, Mr. Rosario stated, "No." The Board acknowledged Mr. Rosario's completion of Alternatives to Violence, Criminal Thinking, and Peace Education. He also participates in AA/NA and GED classes. Mr. Rosario explained his interest in the Correctional Recovery Academy, but claims that its schedule conflicts with his GED classes. The Board encouraged Mr. Rosario to take part in the Correctional Recovery Academy and attend additional substance abuse programming or counseling.

A Victim Services Unit staff member read a statement in opposition to parole on behalf of the Rodriguez family. Hampden County Assistant District Attorney Howard Safford testified in opposition to parole.

III. DECISION

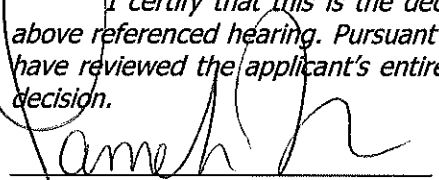
It is the opinion of the Board that Jose Rosario has yet to demonstrate a level of rehabilitation that would be compatible with the welfare of society. He spent over 20 years lying

about the motive for the murder. In addition, his department remains a concern coupled with limited programming to address his causative factors.

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

Mr. Rosario's next appearance before the Board will take place in four years from the date of this hearing. During the interim, the Board encourages him 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.


Pamela Murphy, General Counsel

5/18/2020
Date