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DECISION

IN THE MATTER OF

JOSE ROSARIO (a/k/a Ceasar Garcia)
W69920

TYPE OF HEARING: Initial Hearing
DATE OF HEARING: August 5, 2014
DATE OF DECISION: December 23, 2014

PARTICIPATING BOARD MEMBERS: Tonomey Coleman, 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 unanimous vote that the inmate is not a suitable candidate for parole. Parole is denied with a review in five years from the date of the hearing.

I. STATEMENT OF THE CASE

On August 28, 1999, Jose Rosario participated in the stabbing death of Gilberto Santos Rodriguez, age 22, in Holyoke, Massachusetts. Rosario, then age 28, and his co-defendant, Ramon Santiago, met Mr. Rodriguez, brought him to an underpass under Route 391, and beat him due to a drug related dispute. While Rosario beat Mr. Rodriguez, Santiago pulled out a knife and began stabbing him. Rosario held the victim, while Santiago stabbed him several times.¹ Mr. Rodriguez died from severe blood loss due to multiple stab wounds to his neck, chest, back, and forearms.

¹ At his September 6, 2001 disposition hearing, Rosario admitted to beating and holding the victim as Santiago stabbed him. The autopsy report suggests Rodriguez suffered from up to 20 stab wounds.

On September 6, 2001, Rosario pleaded guilty in Hampden Superior Court to second degree murder. He received a life sentence with an effective date of August 30, 1999. Rosario became parole eligible after serving fifteen years of the life sentence. Santiago, Rosario's co-defendant, was convicted of manslaughter for his role in the killing and received a 19-20 year sentence.

II. PAROLE HEARING ON AUGUST 5, 2014

Jose Rosario, age 43, appeared before the Board for his initial parole hearing after serving fifteen years of a life sentence for second degree murder. Rosario was without representation or supporters.

Rosario made a public apology to the deceased victim, Gilberto Santos Rodriguez, and to Mr. Rodriguez's family. Board Members questioned Rosario about his rehabilitative programming, adjustment to incarceration, and social history as well as the crime. Regarding his program involvement, Rosario said that he has only completed one program, Thinking for a Change. He is currently wait-listed for the Correctional Recovery Academy (CRA), a program he was offered in the past but refused to participate, and Criminal Thinking. He admitted that he has not participated in any programs that address substance abuse or violence reduction, choosing instead to spend his time with other inmates in the recreation area. He agreed with one Board Member that he could have better prepared himself for this hearing. He explained that he would "rather work than do programs because I can earn money for things like cosmetics and food." He told the Board that most of his income is earned from tattooing other inmates (which is in violation of DOC rules and regulations). He identified CRA and Criminal Thinking as the two programs that would help him the most. He claimed to have been trying to get his Graduate Equivalency Diploma (GED) and enrolled in Basic Adult Education and Pre-GED classes.

Rosario spoke of his upbringing and how he came to Massachusetts, from New York City, when he was 14 years old. "I took a bus with my two younger brothers and we lived with different dysfunctional family members like aunts, uncles and cousins. There was lots of drugs, lots of abuse, and no supervision. I started smoking weed at about thirteen and then tried coke, heroin, and crack. I got into trouble at 16 when I was doing dumb teenage stuff like breaking into cars and buildings and receiving stolen property." Rosario could not recall the specifics surrounding many of his crimes. However, he did remember an assault and battery with a dangerous weapon when he "beat up this guy when he was drunk and took his stuff."

When asked to describe the circumstances in his life at the time of the murder, he stated that "I was pretty much living on the streets between 1993 and 1998, sometimes staying at a friend's. I joined a gang when I was 21 and I moved up to the rank of Secretary. I was selling drugs for the gang and carrying a knife every day. I have since renounced my gang affiliation, while at Souza-Baranowski in 2001, and that caused a lot of problems; that created a lot of enemies. I was homeless and selling drugs at the time of the crime." When asked about the murder itself, Rosario described it as a gang ordered "hit." He stated simply that "I was to meet with Gilberto Santos Rodriguez and talk with him and kill him. So we lured him to the underpass; we argued about drugs and money, started to fight; we took out our knives and I stabbed him twice." Rosario agreed that the autopsy report identified up to 18 – 20 wounds, but said he only remembers stabbing Mr. Rodriguez twice. He said he drank alcohol and did heroin prior to the murder in order "to help him get through it."

Rosario described his institutional adjustment by saying, "I've changed." He told the Board that he incurred about 10 disciplinary reports and seemed shocked when he was told it was about 24, saying, "Wow." He has disciplinary reports for fighting other inmates, lying to staff, and forging bank documents as well as for possessing tattooing paraphernalia, weapons, and other contraband. He does not make use of the phone or mail system and has not had a visitor since his incarceration. Besides one sister who writes to him, he has had no contact with anyone in the community that leads a prosocial lifestyle.

Hampden County Assistant District Attorney Howard Safford and two members of the victim's family spoke in strong opposition to Rosario's parole. After the statements from the victim's family, Rosario said that he agrees with much of what they said and that he should "give respect to the victim." Rosario ended the hearing with, "Today, I don't deserve parole. I need more programming."

III. DECISION

Jose Rosario killed Gilberto Santos Rodriguez in a gang-related drug dealing dispute. He and his co-defendant, armed with knives, lured Mr. Rodriguez to an underpass with the sole purpose of killing him. Despite 15 years of incarceration and some programming, Rosario shows little evidence of rehabilitation. He has not changed his criminal thinking, as shown by his wasted years "working" as the prison tattoo artist, which is in clear violation of the institutional rules and regulations. He has refused rehabilitative programs that address issues of substance abuse, violence reduction, and self-improvement. Unfortunately, Rosario struggled through a difficult upbringing, but sadly, he has made no effort during his incarceration to improve himself. Jose Rosario is not rehabilitated and, consequently, remains a danger to the community.

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 Rosario does not merit parole at this time because he is not rehabilitated. The review will be in five years from the date of the hearing, during which time Jose Rosario should commit to a fuller rehabilitation that addresses substance abuse, violence, anger, criminal thinking, and empathy.

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.


James DiLoreto Smith, Executive Director

12/23/14
Date