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Paul M. Treseler
Chairman

Michael J. Callahan
Executive Director

DECISION

IN THE MATTER OF

JOSEPH VAZQUEZ
W60696

TYPE OF HEARING: **Review Hearing**

DATE OF HEARING: **June 14, 2016**

DATE OF DECISION: **October 24, 2016**

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 the 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 two years from the date of the hearing.

I. STATEMENT OF THE CASE

On May 29, 1996, in Essex Superior Court, Joseph Vazquez pleaded guilty to second-degree murder for the death of Acie Avery and was sentenced to life in prison with the possibility of parole.

In 1995, Mr. Vazquez (age 32) had been living with his long-time girlfriend in a Lynn apartment. On August 16, 1995, Mr. Vazquez (who had been drinking and using drugs for hours) and his girlfriend walked to the nearby apartment of Mr. Avery, a 60-year-old man who lived alone on Washington Street. Mr. Avery let the couple into his apartment and, for reasons that have never been established conclusively, Mr. Vazquez used a pipe to beat Mr. Avery to death.

Mr. Vazquez's girlfriend, however, told police that she went to Mr. Avery's apartment to borrow money, and that Mr. Vazquez insisted on coming with her. Mr. Avery allowed them into the apartment. The girlfriend said that she was in the bathroom when the beating began and, when she heard the commotion, walked into the living room. She saw Mr. Vazquez repeatedly beating Mr. Avery with a pipe that Mr. Vazquez had carried with him.

II. PAROLE HEARING ON JUNE 14, 2016

Joseph Vazquez, now 53-years-old, appeared before the Parole Board for his third parole hearing after 21 years of incarceration. Parole was denied in 2010 after his initial parole hearing, and a review was set for two years. Parole was denied again in 2012, and a review was set in four years.

At this hearing, Mr. Vazquez testified that he came from a dysfunctional family in which his father regularly beat his mother, and physically and mentally abused the children. Mr. Vazquez said that he began drinking at age 11, graduated from high school, and entered the army. He was discharged from the army due to behavior related to drug and alcohol abuse. Mr. Vazquez returned to Lynn and began work as a roofer. Mr. Vazquez was living with his girlfriend at the time of the crime; they had been involved for 10-11 years. It was a tumultuous relationship characterized by alcohol abuse, drug use, and frequent arguments and fights. Mr. Vazquez stated that he was arrested several times for assault and battery on his girlfriend. In addition, he said that his anger and alcohol abuse led to frequent barroom fights.

Mr. Vazquez said that he has almost no memory of the murder due to his extreme intoxication. He stated that after a day of work, he drank vodka and beer all afternoon and into the evening. He said that his friends told him about issues with his girlfriend, and he took that to mean that she was cheating on him. When he got home that night and his girlfriend was not there, he drank more beer and smoked crack. He remembers nothing else, except waking up the next day. Despite saying that he has no memory of the murder, Mr. Vazquez claimed he is certain that he neither intended to rob, nor did he rob, Mr. Avery. Mr. Vazquez also testified that he thought he had hit Mr. Avery two times, but later learned he had hit him 13 times. Board Members questioned Mr. Vazquez about the evidence that suggested robbery as the likely motive. They also asked him how he can be certain about some things, and at the same time, assert that he has no memory of the events.

Mr. Vazquez acknowledged that he had domestic violence issues with his girlfriend. He admitted to hitting her often, including times that he was not arrested for such. He stated that on the night of the murder, he was mad at his girlfriend. He now thinks that he transferred his rage at her onto Mr. Avery. The Board questioned Mr. Vazquez about his alcohol and drug abuse. Mr. Vazquez admitted that he had a serious alcohol problem. He stated that he had other altercations that he did not remember, including a few times that he awoke in the local jail. He also stated that he was barred from certain bars for fighting in events that he could not remember. Mr. Vazquez testified that he has no memory of the murder, and that he doesn't know why he directed his anger at Mr. Avery. He admitted that he was a "blackout drinker." Mr. Vazquez testified that he has never been treated for mental health issues.

Mr. Vazquez stated that he has not received a disciplinary report since his last parole hearing. The Board questioned him about a serious 2002 disciplinary report in which he violated Department of Correction rules and regulations when he had his wife send money to another inmate. At the hearing, Mr. Vazquez acknowledged that he had a friendship with the other inmate. He said that he took money that his wife gave him and sent it to another inmate for canteen items. Mr. Vazquez stated that he is no longer married to that woman and that he no longer has a relationship with the inmate. Mr. Vazquez also said that he has completed all of the programs that make up the Correctional Recovery Academy, and that he participates regularly in Alcoholics Anonymous (AA) and, occasionally, in Narcotics Anonymous (NA). Mr. Vazquez said that he is on the waitlist for a domestic violence course, and that he teaches music classes to other inmates.

The Board considered oral testimony from Mr. Vazquez's sister and brother, both of whom expressed support for Mr. Vazquez being granted parole. His sister stated that they grew up in a severely dysfunctional home, and that she thought her brother had become desensitized to violence. Essex County Assistant District Attorney Elin Graydon spoke in opposition to parole. The Board also considered testimony from Mr. Avery's son, who spoke in opposition to parole on behalf of the whole family.

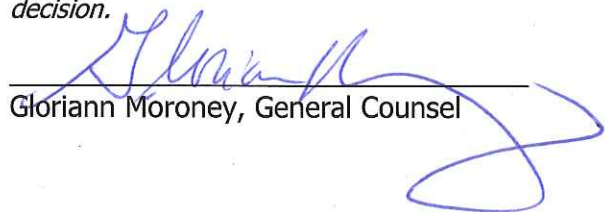
III. DECISION

The Board is of the opinion that Mr. Vazquez has not yet demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board believes that a longer period of positive rehabilitative adjustment and programming would be beneficial to Mr. Vazquez's rehabilitation. The Board recommends that Mr. Vazquez obtain an attorney, as well as develop a parole plan to address his causative factors. The Board is unclear if he is being manipulative or has cognitive limitations. The Board recommends that he pursue mental health services.

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

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

10/24/16
Date