

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

**PAROLE BOARD**

*12 Mercer Road*  
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**Tina M. Hurley**  
*Chair*

**RECORD OF DECISION**

**IN THE MATTER OF**

**JOSHUA HALBERT**

**W47550**

**TYPE OF HEARING:**            **Review Hearing**

**DATE OF HEARING:**        **November 1, 2022**

**DATE OF DECISION:**       **January 19, 2023**

**PARTICIPATING BOARD MEMBERS:** Tina Hurley, Dr. Charlene Bonner, Tonomey Coleman, Dr. Maryanne Galvin, James Kelcourse, Colette Santa

**STATEMENT OF THE CASE:** On February 7, 1989, after a jury trial in Essex County Superior Court, Joshua Halbert was found guilty of the first-degree murder of David McLane. He was sentenced to serve life in prison without the possibility of parole. Mr. Halbert was a juvenile at the time of the offense, making him eligible for parole.<sup>1</sup>

Mr. Halbert appeared for a parole review hearing on November 1, 2022. He was represented by Attorney Erica Cushna. Mr. Halbert was denied parole after his initial hearing in 2014 and after his review hearings in 2018 and 2021. The entire video recording of Mr. Halbert's November 1, 2022 hearing is fully incorporated by reference to the Board's decision.

**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 a suitable candidate for parole.

Reserve to LTRP after one year from the date of the decision in lower security. On September 28, 1988, 17-year-old Mr. Halbert and his codefendants participated in the murder of 38-year-old

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<sup>1</sup> *Diatchenko v. District Attorney for Suffolk District & Others*, 466 Mass 655 (2013).

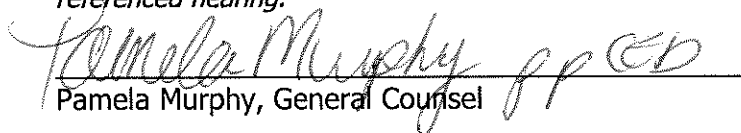
David McLane. He has been incarcerated for thirty-four years and sober for fifteen years. Mr. Halbert was a juvenile at the time of the offense and the Board considered the expert evaluation of Dr. Tabashneck and the testimony of social worker Jeffrey Whiteside. Mr. Halbert experienced a difficult childhood, born to parents addicted to heroin. He was exposed to violence from a young age and was placed in foster care where he was sexually abused. Mr. Halbert began abusing substances as a teenager. He is low risk on the LS/CMI and has been in minimum security for a few months. He has not received a sanctioned disciplinary report since 2010. The Board encourages him to complete the automotive program and continue with counseling and mental health treatment while in lower security. He should remain committed to his sobriety and continue attending AA/NA.

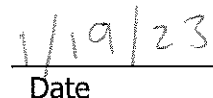
The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." 120 C.M.R. 300.04. In the context of an offender convicted of first or second-degree murder, who was a juvenile at the time the offense was committed, the Board takes into consideration the attributes of youth that distinguish juvenile homicide offenders from similarly situated adult offenders. Consideration of these factors ensures that the parole candidate, who was a juvenile at the time they committed murder, has "a real chance to demonstrate maturity and rehabilitation." *Diatchenko v. District Attorney for the Suffolk District*, 471 Mass. 12, 30 (2015); See also *Commonwealth v. Okoro*, 471 Mass. 51 (2015).

The factors considered by the Board in Mr. Halbert's case include the offender's "lack of maturity and an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking; vulnerability to negative influences and outside pressures, including from their family and peers; limited control over their own environment; lack of the ability to extricate themselves from horrific, crime-producing settings; and unique capacity to change as they grow older." *Id.* The Board also recognizes the petitioner's right to be represented by counsel during his appearance before the Board. *Id.* at 20-24. In forming this opinion, the Board has taken into consideration Mr. Halbert'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. Halbert's risk of recidivism. Applying this standard to the circumstances of Mr. Halbert's case, the Board is of the unanimous opinion that Joshua Halbert is rehabilitated and, therefore, merits parole at this time.

**Special Conditions:** Reserve to LTRP; Waive work for program; Curfew – Must be at home between 10pm and 6 am; ELMO-electronic monitoring; Supervise for drugs, testing in accordance with agency policy; Supervise for liquor abstinence, testing in accordance with agency policy; Report to assigned MA Parole Office on day of release; No contact with victim's family; Counseling for adjustment/transition; AA/NA at least 3 times/week.

*I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing.*

  
Pamela Murphy, General Counsel

  
Date