



The Commonwealth of Massachusetts
Executive Office of Public Safety

PAROLE BOARD

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DECISION

IN THE MATTER OF

JUAN ORTIZ

W43156

TYPE OF HEARING: Review Hearing

DATE OF HEARING: September 25, 2012

DATE OF DECISION: January 29, 2013

PARTICIPATING BOARD MEMBERS: Cesar Archilla, Dr. Charlene Bonner, Sheila Dupre, Ina Howard-Hogan, Roger Michel, Josh Wall. Lucy Soto-Abbe is recused and did not participate in the case.

DECISION OF THE BOARD: Parole to the Interstate Compact for residency in Illinois, after 18 months in lower security at the Department of Correction. The remaining period of incarceration must be completed without disciplinary incident and in compliance with the DOC expectations for programs, activities, and employment. The decision is by a vote of 4-2.

I. STATEMENT OF THE CASE

On November 12, 1985, the inmate's brother Eddie Ortiz shot and killed two Springfield police officers, Alain Beauregard and Michael Schiavina. The inmate was in the car when his brother shot Officer Beauregard and Officer Schiavina. The brothers drove from the scene. Eddie Ortiz killed himself later that night and Juan Ortiz was apprehended and charged with the murders. The evidence was clear that Eddie Ortiz was the shooter, and the prosecution proceeded against Juan Ortiz on a theory of felony murder. Juan Ortiz rejected a prosecution offer to serve concurrent 9 to 10 year sentences for manslaughters and opted for a trial.

On January 22, 1987, the jury convicted Juan Ortiz of two counts of second-degree murder, for which he received concurrent life sentences, and unlawfully carrying a firearm in a motor vehicle. In applying the felony murder rule, the jury concluded that Juan Ortiz should be convicted for the actions of Eddie Ortiz because the brothers had jointly shared control of the handgun before Eddie Ortiz took the weapon and fired; and because Juan Ortiz shared the

intent to possess the handgun, he became criminally responsible for Eddie Ortiz's actions in shooting the two officers. The prosecution did not argue that Juan Ortiz shared his brother's intent to shoot or kill the officers.

The Supreme Judicial Court upheld the felony murder convictions. The following facts are repeated from the SJC decision. Juan Ortiz and Eddie Ortiz got into an automobile to search for Jose Rodriguez. The Ortiz and Rodriguez families had a longstanding feud. Eddie and Juan Ortiz brought a firearm and some ammunition with them in the automobile. Unable to find Rodriguez, they drove back to their father's apartment. As the Ortiz vehicle was arriving at the apartment, a police cruiser with two officers in it, with its lights flashing, pulled up behind the vehicle. The driver of the cruiser, Officer Alain Beauregard, got out and approached the driver's side of the Ortiz vehicle. Officer Beauregard tried unsuccessfully to open the driver's side door of the Ortiz vehicle, after which he was shot and killed by Eddie Ortiz. By then, Officer Schiavina had opened the vehicle's passenger door and was trying to pull Juan Ortiz from the vehicle. Officer Schiavina was then shot and killed by Eddie Ortiz.

II. PAROLE HEARING ON SEPTEMBER 25, 2012

Juan Ortiz apologized for his actions on November 12, 1985. He said that "I have learned many things in prison; I am working hard to improve myself." Attorneys David Martell and Paul Doherty represented Ortiz at the hearing. Ortiz works in the gym three shifts every day. Since his last hearing in 2010, he has completed Jericho Circle and Family Awareness. He said that "Jericho Circle helped me to learn to open up and express myself." He said that he has learned to "listen to people and make better choices."

This parole hearing was the fourth for Juan Ortiz. Parole was denied after hearings in 2000, 2005, and 2010. In past hearings, Ortiz showed little understanding of his role in the murders and displayed little sense of personal responsibility. At every hearing, Board Members encouraged him to see his contribution to the chain of events and think more about the tragic consequences of his actions. At this hearing, Ortiz more clearly identified his own culpability and discussed with more understanding the pain and loss that he and Eddie Ortiz caused. Ortiz said that "it was at 20 years of incarceration when I started to see my responsibility." He admitted for the first time that he struggled to hold the passenger door closed when Officer Schiavina tried to open it. This resistance demonstrates that, like his brother, Juan Ortiz was not willing to cooperate with investigative efforts that were likely to lead to arrest for possession of the handgun in the car.

Many people connected to Officers Alain Beauregard and Michael Schiavina attended the hearing. Michael Schiavina's brother and two sisters gave public testimony in which they described Michael's personality and character, and remarked on the many difficulties the family has endured. They noted how difficult it has been in prior parole hearings to hear Juan Ortiz deny certain actions and accept no blame for the events. Paula Kenney, Michael Schiavina's fiancé, remembered that Officer Schiavina "loved being a police officer; he always performed his duties with courage and fairness." Doris Beauregard-Shecrallah, Officer Beauregard's widow, and his son, Eric Beauregard, spoke on behalf of the family. Doris remembered her husband as "a loving, caring, kind, intelligent man, who was also a man of faith." She said, "I want some goodness to come out of this tragedy, so if he is paroled give him the steps to be successful."

Springfield Police Commissioner William Fitchet gave public testimony. He was on duty and responded to the murder scene 27 years ago. He remembered Officers Alain Beauregard and Michael Schiavina as dedicated officers who were kind and respectful at all times and in all situations. He noted the difficulty of the parole decision and stated that "we want some good to come out of this." Hampden Assistant District Attorney Dianne Dillon testified in opposition to parole and provided information concerning the facts of the case.

III. DECISION

Juan Ortiz is 50 years old and had been incarcerated 27 years. Ortiz did not fire the fatal shots and he declined a plea bargain offer of concurrent 9 to 10 year sentences for manslaughters. Based on those two facts, Juan Ortiz could have taken a different path in the Department of Correction that would have resulted in an earlier parole release. Contrition and rehabilitative efforts, however, were lacking. After the 2010 hearing, the Parole Board decision recommended that Ortiz make additional rehabilitative efforts that might finally get him to understand his role in the murders in a manner that demonstrates that he is unlikely to repeat the criminal conduct. Juan Ortiz has made progress: he completed the Jericho Circle program, which prompted him to be more honest about his conduct and more thoughtful about how to improve that conduct. He does not present a current risk for violence, a conclusion that is partly based on his long record of good conduct in prison. He has only two disciplinary reports (1987 and 1996); neither infraction involved violence or substance abuse. His history of steady employment before the crimes and during his incarceration demonstrates a likelihood of successful employment if paroled. He has followed the rules of the Department of Correction, which indicates that he should be responsive to the requests and requirements of parole.

Under these improved circumstances, the Parole Board, by a vote of 4-2, concludes that Juan Ortiz is unlikely to re-offend if paroled and his parole is now compatible with the welfare of society. Accordingly, parole is granted. Juan Ortiz needs a period of adjustment before release; for that purpose, he is required to complete 18 months in lower security in the custody of the Department of Correction. Lower security should lead to transition through minimum security to pre-release employment in the community. The DOC will supervise the transition that will increase the likelihood of long term success. He has requested relocation to live with family members in Chicago, and that relocation will be a condition of parole. Upon release, Ortiz will be provided with one-on-one counseling for at least six months in order to give him professional assistance with the psychological issues associated with transition after years of incarceration. Electronic monitoring by GPS device is required for at least one year to assist the parole officer in supervision.

Board Members Sheila Dupre and Roger Michel dissented. They favored denial of parole with a review in three years. They were not satisfied with the inmate's description of the crime or his commitment to rehabilitative programs. Ms. Dupre noted that he "still minimizes his involvement and has not made strides in his rehabilitation."

Assisted by Juan Ortiz, Eddie Ortiz murdered two police officers who were dedicated and brave public servants. Alain Beauregard and Michael Schiavina are still remembered for their many fine qualities that contributed to their personal and professional success. After 27 years, Juan Ortiz finally admitted the role he played and verbalized an understanding of the tragic loss

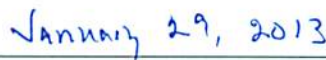
he and his brother caused. He is now ready to return to the community as a law-abiding parolee whose period of incarceration was sufficient to punish him, deter others, and rehabilitate him. Juan Ortiz should have extra motivation to succeed based on a sentiment generously expressed by several who gave public testimony: his success on parole is the only possible good that can result after all the pain and loss endured by the families, fellow police officers, and the community.

SPECIAL CONDITIONS: Parole to Interstate Compact for residency in Illinois, after 18 months in lower security at the Department of Correction with no disciplinary incidents and in compliance with all DOC expectations for programs and activities; no drug use; no alcohol use; one-on-one counseling for one year to assist with transition issues (then at discretion of parole officer); no contact with victims' families; not permitted to work or live in Hampden County; GPS electronic monitoring for one year (then at parole officer discretion).

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing. This signature does not indicate authorship of the decision.



Josh Wall, Chairman



Date