

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



PAROLE BOARD

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DECISION

IN THE MATTER OF

JUAN PAGAN

W90314

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: March 3, 2022

DATE OF DECISION: October 26, 2022

PARTICIPATING BOARD MEMBERS: Gloriann Moroney, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, 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 that the inmate is not a suitable candidate for parole.¹ Parole is denied with a review scheduled in two years from the date of the hearing.

I. STATEMENT OF THE CASE

On July 24, 2007, after a jury trial in Middlesex County Superior Court, Juan Pagan was convicted of first-degree murder in the stabbing death of Alexander Castro Santos. He was sentenced to life in prison without the possibility of parole. On May 27, 2008, Superior Court allowed Mr. Pagan's motion to reduce his first-degree murder conviction to a second-degree murder conviction, resulting in a revised sentence of life with the possibility of parole.

On May 15, 2006, 16-year-old Juan Pagan was at a friend's apartment in Lowell, along with several other individuals, including Alexander Castro Santos. There was a verbal confrontation between Mr. Castro Santos and Mr. Pagan, after which Mr. Castro Santos apologized to Mr. Pagan. Witnesses to the attack stated that Mr. Castro Santos was standing and talking to others when, without provocation, Mr. Pagan suddenly stabbed him in the chest with a military style combat

¹ Two Board Members voted to grant parole.

knife. Those present separated them and began to medically assist Mr. Castro Santos. Mr. Castro Santos was transported by ambulance to Brigham and Women's Hospital in Boston, where he died several hours later. The autopsy revealed that Mr. Castro Santos' major stomach artery was cut when he was stabbed.

Mr. Pagan disarmed and then fled the apartment. He went to a friend's home, where he confessed to the crime. Mr. Pagan attempted to flee the apartment, but when police arrived, he admitted to the stabbing.

II. PAROLE HEARING ON MARCH 3, 2022²

Juan Pagan, now 32-years-old, appeared before the Parole Board for his initial hearing on March 3, 2022. He was represented by Attorney Lisa Newman-Polk. In Mr. Pagan's opening statement, he recognized the "enormity of the hurt" that he caused Mr. Castro Santos and his family. Mr. Pagan stated that he continues to atone for his sins through introspection, reading, and education. The Board noted that Mr. Pagan's criminal history began at age 14, when he was sentenced to probation for threatening a neighbor with a machete. By age 16, Mr. Pagan's mother was incarcerated. Mr. Pagan had a troubled relationship with his father, who physically abused him as a child. Mr. Pagan stated that he stole his father's car, ran away from home, dropped out of school, and lived with family members or friends. He admitted to smoking marijuana as a youth, as well as consuming alcohol, although he claimed that neither played a role in his decision-making on the day of the murder. Mr. Pagan stated that he joined a gang as a soldier and stayed with various gang-associated friends in Lowell, including one such friend on the day of the murder. This friend hosted gatherings of other gang members at his house, which was where Mr. Pagan met Mr. Castro Santos. Mr. Pagan stated that Mr. Castro Santos was a member of a different gang, who would socialize at these gatherings.

On the day of the murder, Mr. Castro Santos was upset because one of his family members had been assaulted by several members of another gang. During a gathering, Mr. Castro Santos insulted those who had assaulted his family member. Mr. Pagan took offense and, at a later point, armed himself with a large military knife and confronted Mr. Castro Santos in a bedroom. Mr. Pagan claimed that Mr. Castro Santos was still upset and started talking about using a handgun in his possession for revenge. Although he did not see the gun, Mr. Pagan claimed that he knew it existed. Believing that he was about to be shot, Mr. Pagan plunged the knife into Mr. Castro Santos' chest and then struck him with his fists about the face. Board Members noted the ferocity of this attack, particularly since the knife went through Mr. Castro Santos' torso and then lodged in his spine. Mr. Pagan explained that he was protecting the honor of his gang associates and used what he had been taught by his father to deal with conflict.

Mr. Pagan detailed his institutional adjustment, which included his transition from resistance and confrontation to acceptance and personal growth over his 16 years of incarceration. However, between 2006 and 2014, it was noted that Mr. Pagan received 49 disciplinary infractions, many of which were of a violent nature. In January 2009, Mr. Pagan received a 6 month suspended commitment for assaulting a corrections officer, followed by another 6 month commitment in February 2009 for an assault. After being released, Mr. Pagan stated that he picked up another 10 month commitment for another assault, followed by a 22

² The entire video recording of Mr. Pagan's March 3, 2022, hearing is fully incorporated by reference to the Board's decision.

month commitment in 2012 for a stabbing. Additionally, Mr. Pagan stated that, in 2010, he pleaded guilty to two counts of assault and battery on a corrections officer and received an additional concurrent sentence. His most recent disciplinary report for fighting was issued in 2019.

The Board noted that Mr. Pagan is in the process of renouncing his gang affiliation and has pursued both vocational training and educational opportunities. He completed his GED, earned his associates degree with distinction, and is currently taking college courses through Tufts University for his bachelor's degree, which he is expected to complete soon. Mr. Pagan obtained his barber's certificate and, in January 2022, completed a correspondence course in drug and alcohol counseling through the Stafford Career Institute.

Mr. Pagan's two nieces, a friend, and a community supporter testified in support of parole. The Board considered the testimony and evaluation of Dr. Katherine Herzog. Mr. Castro Santos' mother and stepfather testified in opposition to parole. The Board also considered testimony and a letter of opposition from Middlesex Assistant District Attorney Adrienne Lynch.

III. DECISION

The Board is of the opinion that Juan Pagan has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Pagan was 16-years-old when he stabbed Alexander Castro Santos. Initially, he had a concerning adjustment, which included an assault on correctional staff that resulted in a conviction and an additional one year sentence. The Board notes he is in the process of disassociating through the proper channels at the DOC (Department of Correction). The Board considered the *Diatchenko* factors in recognition of his young age, to include his social history as discussed in the hearing. Mr. Pagan had a troubled childhood and clearly indicated that he turned to his peers for support and affirmation. The Board considered the expert opinion of Dr. Herzog, which indicated that Mr. Pagan is on the right rehabilitative path. Per this expert opinion, the Board encourages Mr. Pagan to explore mental health counseling and treatment. He should maintain a positive adjustment and continue to pursue available educational and rehabilitative opportunities, to include CRA and RJ (Restorative Justice).

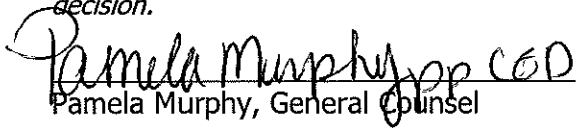
The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the 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).

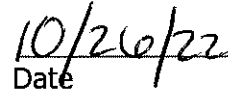
The factors considered by the Board in Mr. Pagan's case include the offender's "lack of maturity and an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking; vulnerability to negative influences and outside pressures, including from their family and peers; 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. Pagan'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. Pagan's risk of recidivism. After applying this standard to the circumstances of Mr. Pagan's case, the Board is of the opinion that Juan Pagan is not yet rehabilitated and, therefore, does not merit parole at this time.

Mr. Pagan'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. Pagan to continue working toward 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


Date