

The Commonwealth of Massachusetts  
Executive Office of Public Safety and Security



PAROLE BOARD

12 Mercer Road  
Natick, Massachusetts 01760

Charles D. Baker  
Governor  
Karyn Polito  
Lieutenant Governor  
Daniel Bennett  
Secretary

Telephone # (508) 650-4500  
Facsimile # (508) 650-4599

Paul M. Treseler  
Chairman

**DECISION**

**IN THE MATTER OF**

**JUSTIN GAOUCETTE**

**W83131**

**TYPE OF HEARING:** Initial Hearing  
**DATE OF HEARING:** November 14, 2017  
**DATE OF DECISION:** September 13, 2018

**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 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. Parole is denied with a review scheduled in two years from the date of the hearing.<sup>1</sup>

**I. STATEMENT OF THE CASE**

On February 6, 2004, in Bristol Superior Court, Justin Gaouette was found guilty by a jury of second degree murder in the shooting death of 27-year-old David Silva. He received a life sentence with the possibility of parole. On that same date, he was sentenced to 8-12 years for armed assault with intent to murder, 4-5 years for assault and battery with a dangerous weapon, 4-5 years for unlawful possession of a firearm, and 4-5 years for receiving stolen property, all to run concurrently. In addition, a charge of unlawful possession of ammunition without an ID card was filed. Mr. Gaouette appealed his conviction, but judgments were affirmed.<sup>2</sup> In 2015, further appellate review was denied.

<sup>1</sup> Five Board Members voted to deny parole with a two year review, and one Board Member voted to deny parole with a three year review.  
<sup>2</sup> *Commonwealth v. Justin K. Gaouette*, 66 Mass.App.Ct. 633 (2006)

In the fall of 2002, 19-year-old Justin Gaouette and David Silva's brother (also a victim in this incident) often spent time together because their respective girlfriends were best friends. Sometime in November 2002, Mr. Gaouette gave David Silva's brother twenty dollars to install a stereo in his car. Soon afterward, Mr. Gaouette had a car accident. He no longer wanted the stereo and, instead, wanted his money back. Over the course of the next month, Mr. Gaouette saw less of David Silva's brother, but relayed messages to him through their respective girlfriends that he wanted his money returned. The hostilities between the two escalated on New Year's Eve 2002, when Mr. Gaouette was told he could not obtain the money until the following week. The hostility further intensified and, on January 1, 2003, at about 5:00 p.m., Mr. Gaouette retrieved his .38 caliber revolver (that he had recently purchased) and loaded it with six bullets. David Silva and David Silva's brother were at their other brother's house, when Mr. Gaouette arrived at their location in New Bedford to fight. David Silva's brother had a baseball bat and smashed Mr. Gaouette's driver's side car window. Mr. Gaouette then fired the gun, and David Silva's brother was struck in the elbow with the bullet. A second gunshot went off, which struck David Silva. David Silva collapsed on the sidewalk and was pronounced dead at the hospital. After firing the gun, Mr. Gaouette drove away. He was arrested that day.

## **II. PAROLE HEARING ON NOVEMBER 14, 2017**

Justin Gaouette, now 34-years-old, appeared before the Parole Board for an initial hearing on November 14, 2017. He was represented by Student Attorneys Alexandra Rawlings and Stephanie Hurwitz of the Harvard Prison Legal Assistance Project. In Mr. Gaouette's opening statement to the Board, he explained that he is deeply remorseful and terribly ashamed of murdering David Silva. He stated that the murder could have been prevented and understands that he took David Silva away from his mom, children, and two brothers. Mr. Gaouette stated that there is no one else to blame, but himself. He added, "I am the one who had the gun" and agreed that the incident was over twenty dollars. When Mr. Gaouette spoke about his rehabilitation, he indicated that the Project Youth program has been most rewarding, as it has forced him to look at his life. He has been involved with this program since 2008. Currently, he is involved with the Lifer's Group Therapy and Graduate Maintenance Program (GMP). He stated that he obtained his GED and attends Alcoholics Anonymous (AA)/Narcotics Anonymous (NA).

A Board Member questioned Mr. Gaouette as to whether there was anything significant about his upbringing that would have caused him to go down this path. Mr. Gaouette explained that his father was a drug addict, and he felt emotionally disconnected from him. He felt that anything he did was not good enough. He also indicated that he had a "horrible relationship" with his mother. Mr. Gaouette said he left school at 16-years-old and admitted to the Board that he was smoking weed and dealing drugs (marijuana and cocaine) prior to the murder. Mr. Gaouette explained that, at the time, he felt he didn't deserve anything good in life. He told the Board that he acquired a firearm approximately a month or two prior to the incident for his "drug dealing lifestyle," which made him feel like he had power.

Mr. Gaouette spoke about the events surrounding the murder, stating that he knew David Silva's brother less than a year prior to the incident. Mr. Gaouette requested that his twenty dollars be returned, but felt that, as time went on, David Silva's brother was evading him. On December 31, 2002, Mr. Gaouette had an encounter with David Silva's brother, but the money was not returned. The next day (January 1, 2003), after feeling threatened from the night before, Mr. Gaouette loaded his firearm. He stated that he brought the gun for "self-defense purposes,

if things got out of hand" to David Silva's brother's location. Mr. Gaouette added that he was a foolish kid who had no thought to consequences. When he saw David Silva's brother smash the driver's side window with a baseball bat, he pulled out his firearm and shot at him. He stated that when he fired the gun, two bullets went through the driver's side window. Although this is when "David must have been shot," Mr. Gaouette doesn't recall specifically pointing the gun at him or realizing that he had been shot. Mr. Gaouette told the Board that he took full responsibility for the crime in 2014.

A Board Member noted that Mr. Gaouette received a total of 11 disciplinary reports, including reports in 2014 for fighting, in 2013 for use of obscene language, in 2009 for refusing a direct order, in 2005 for fighting, and in 2004 for fighting. Mr. Gaouette told the Board that, if paroled, he would prefer to go to minimum security and then to pre-release. He added that he would like to attend a long term residential program and find employment.

The Board considered testimony in support of parole from Dr. JoAnn Giustina (Bridgewater State University Professor), as well as from Mr. Gaouette's father, sister, grandmother, and friend. The Board considered testimony in opposition to parole from David Silva's girlfriend, daughter, and sister. Also, a letter was read to the Board from David Silva's son. Bristol County Assistant District Attorney Dennis Collins spoke in opposition to parole.

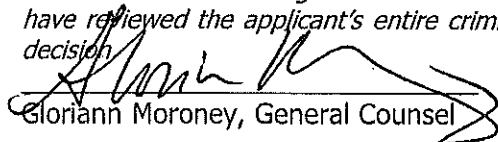
### III. DECISION

The Board is of the opinion that Justin Gaouette has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Gaouette should continue to engage in relevant programming and maintain a positive adjustment. The Board did take into consideration Mr. Gaouette's age and development at the time of the offense.

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

Mr. Gaouette'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. Gaouette 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

9/13/18  
Date