

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security

PAROLE BOARD

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RECORD OF DECISION

IN THE MATTER OF

KELVIN GUTIERREZ
W68353

TYPE OF HEARING: **Review Hearing**

DATE OF HEARING: **April 23, 2024**

DATE OF DECISION: **August 27, 2024**

PARTICIPATING BOARD MEMBERS: Edith J. Alexander, Dr. Charlene Bonner, Tonomey Coleman, Sarah B. Coughlin, Tina M. Hurley, James Kelcourse

VOTE: Parole is granted on/after six months in lower security to Dismas House.¹

PROCEDURAL HISTORY: On July 13, 2000, in Hampden Superior Court, Kelvin Gutierrez pleaded guilty to murder in the second degree for the death of Alexander Rosa. He was sentenced to life in prison with the possibility of parole. On that same date, he also pleaded guilty to two related forearm charges and received concurrent sentences of 1 year and 3 to 5 years, which have since expired. Parole was denied following an initial hearing in 2014, and after a review hearing in 2021. Mr. Gutierrez postponed his 2019 review hearing. On April 23, 2024, Mr. Gutierrez appeared before the Board for a review hearing. He was represented by Attorney Kelly Cusack. The Board's decision fully incorporates by reference the entire video recording of Mr. Gutierrez's April 23, 2024 hearing.

STATEMENT OF THE CASE: On October 26, 1999, Alexander Rosa (age 21) and an associate were attempting to break into a vehicle when they were approached by Kelvin Gutierrez (age 18) and Jean Almodovar. Mr. Gutierrez said, "That's the guy that ratted on my brother." As Mr. Rosa began to flee, Mr. Gutierrez pulled out a .38 caliber handgun and shot him. Mr. Almodovar then shot Mr. Rosa with a sawed-off shotgun. Later that evening, Holyoke police officers found Mr. Rosa on the sidewalk, suffering from multiple gunshot wounds. Mr. Rosa was transported to the

¹ One Board Member voted to parole to Long-Term Residential Program and not exclusively Dismas House.

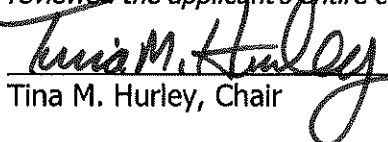
hospital, but succumbed to his injuries shortly thereafter. The autopsy revealed that Mr. Rosa had been shot multiple times by two different weapons.

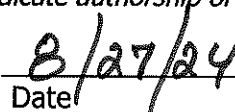
APPLICABLE STANDARD: Parole "[p]ermits shall be granted only if the Board is of the opinion, after consideration of a risk and needs assessment, that there is a reasonable probability that, if the prisoner is released with appropriate conditions and community supervision, the prisoner will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." M.G.L. c. 127, § 130. In making this determination, the Board takes into consideration an incarcerated individual's institutional behavior, their participation in available work, educational, and treatment programs during the period of incarceration, and whether risk reduction programs could effectively minimize the incarcerated individual's risk of recidivism. M.G.L. c. 127, § 130. The Board also considers all relevant facts, including the nature of the underlying offense, the age of the incarcerated individual at the time of the offense, the criminal record, the institutional record, the incarcerated individual's testimony at the hearing, and the views of the public as expressed at the hearing and/or in written submissions to the Board (if applicable).

DECISION OF THE BOARD: This was Mr. Gutierrez's third appearance before the Board. Mr. Gutierrez was 18 years old at the time of the offense and a high-ranking member of the [STG name]. He was forthcoming about his gang affiliation. Mr. Gutierrez was indoctrinated into the gang at a young age. He was insightful about the factors that led him to join the gang, including environmental stressors, trauma history, dysfunctional relationships, and a yearning to belong to a group. Mr. Gutierrez began to dissociate himself from the gang early on into his incarceration and will complete the formal renunciation process in September. He has completed and benefitted from rehabilitative programming that addressed his history of trauma, substance abuse, violence, and need for pro-social relationships. Since the last hearing, Mr. Gutierrez has engaged in Restorative Justice, continued with the American Vets Dog Program, and continues to pursue his HiSet. Mr. Gutierrez established a release plan to address his needs. The Board considered the expert evaluation of Dr. Tabashneck in rendering its decision, as well as Mr. Gutierrez's age at the time of the offense. The Board considered the testimony of a support witness and the testimony of Assistant District Attorney Michael Julian in opposition to parole. The Board concludes by unanimous decision that Mr. Gutierrez has demonstrated a level of rehabilitation that would make his release compatible with the welfare of society.

SPECIAL CONDITIONS: Restrict work for Long-Term Residential Program; Curfew: Must be at home between 10PM and 6PM at Parole Officer's discretion; Electronic monitoring at Parole Officer's discretion; Must take prescribed medication; 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 or association with gangs/gang activities; No contact with victim(s)' family; Must have substance abuse evaluation and must comply with recommended treatment plan; Counseling for transition and adjustment, PTSD; Long-Term Residential Program.

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.


Tina M. Hurley, Chair


Date