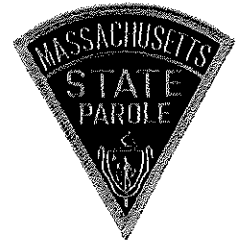




The Commonwealth of Massachusetts
Executive Office of Public Safety and Security

PAROLE BOARD

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RECORD OF DECISION

IN THE MATTER OF

KEVIN FRANCIS

W39186

TYPE OF HEARING: **Initial Hearing**

DATE OF HEARING: **October 1, 2024**

DATE OF DECISION: **December 19, 2024**

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

VOTE: Parole is granted on or after 120 days in minimum custody to CRJ.¹

PROCEDURAL HISTORY: On September 21, 1982, in Suffolk Superior Court, Kevin Francis was convicted of murder in the first degree. Mr. Francis became parole eligible following the Supreme Judicial Court's decision in Commonwealth v. Mattis, 493 Mass. 216 (2024), where the court held that sentencing individuals who were ages 18 through 20 at the time of the offense (emerging adults) to life without the possibility of parole is unconstitutional. As a result of the SJC's decision regarding his first-degree murder conviction, Mr. Francis was re-sentenced to life with the possibility of parole after 15 years. On June 4, 1985, Mr. Francis was convicted of assault and battery on a correctional officer and received a 5 year reformatory sentence, which was ordered to run consecutively to his life sentence.²

Mr. Francis appeared before the Parole Board for an initial hearing on October 1, 2024, and was represented by Attorney Amy Belger. The Board's decision fully incorporates, by reference, the entire video recording of Mr. Francis' October 1, 2024, hearing.

¹ Three Board Members voted to release Mr. Francis directly to CRJ.

² Pursuant to Dinkins v. Massachusetts Parole Board, 486 Mass. 605 (2021), the parole ineligibility terms on both sentences were aggregated.

STATEMENT OF THE CASE:³ Kevin Francis was convicted of murdering his ex-girlfriend, Vanessa Marson, who was stabbed to death on September 19, 1981. At the time of the offense, Mr. Francis was 19-years-old. Ms. Marson's body was found in Franklin Field around 7:15 PM with multiple stab wounds to the chest and skull. The case against Mr. Francis hinged on the testimony of a single eyewitness, who was driving on Blue Hill Avenue toward Mattapan Square, when he observed a woman running on the sidewalk in his direction at 7:00 PM. The eyewitness saw that the woman was carrying a stick and made observations of her clothing. According to the eyewitness, a male was chasing after the woman and was about 40-50 yards behind her. The male had a knife in his hand. The eyewitness identified Mr. Francis as the man with the knife from a photo array and at trial. The eyewitness identified Ms. Marson as the woman he saw running up Blue Hill Avenue. At trial, the eyewitness testified that he had a "very good side view" of the male, and that the male came within 15 feet of the eyewitness. He said he was able to observe the man for a total of eight to ten seconds. The eyewitness made conflicting statements about whether he stopped his car, or slowed down, to get a better view. At trial, the Commonwealth introduced evidence that Mr. Francis was previously in a relationship with Ms. Marson, and that Mr. Francis had threatened Ms. Marson approximately two months before the murder. Since Mr. Francis' arrest, he has steadfastly maintained his innocence.

APPLICABLE STANDARD: Parole 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." G. L. c. 127, § 130. The Board considers multiple factors in making its decision, including the incarcerated individual's institutional behavior; their participation in available work, education, and treatment programs during their incarceration; and whether the incarcerated individual's chances of recidivism could be reduced by participation in risk reduction programs. G. L. c. 127, § 130. The Board considers all relevant facts, including the nature of the underlying offense, the age of the incarcerated individual at the time of the offense, the entirety of the incarcerated individual's criminal record, the incarcerated individual's institutional record, the incarcerated individual's testimony at the hearing, and the views of the public expressed at the hearing and/or in written submission to the Board.

Where a parole candidate was convicted of first-degree murder for a crime committed when he was ages 18 through 20 years old, the Board considers the "unique aspects" of emerging adulthood that distinguish emerging adult offenders from older offenders. Commonwealth v. Mattis, 493 Mass. 216, 238 (2024). Individuals who were emerging adults at the time of the offense must be afforded a "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation" and the Board evaluates "the circumstances surrounding the commission of the crime, including the age of the offender, together with all relevant information pertaining to the offender's character and actions during the intervening years since conviction." Id. (citing Diatchenko v. District Attorney for the Suffolk Dist., 466 Mass. 655, 674 (2013) (Diatchenko I); Miller v. Alabama, 567 U.S. 460, 471 (2012); Graham v. Florida, 560 U.S. 48, 75 (2010)). Since brain development in emerging adulthood is ongoing, the Board also considers the following factors when evaluating parole candidates who committed the underlying offenses as an emerging adult: 1) a lack of impulse control in emotionally arousing situations; 2) an increased likelihood to engage in risk taking behaviors in pursuit of reward; 3) increased

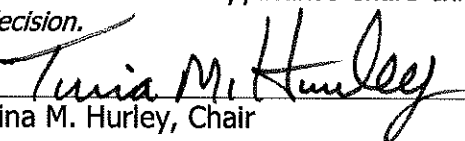
³ The Statement of Facts is derived from Commonwealth v. Francis, 391 Mass. 369, 369-373 (1984).

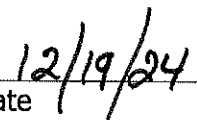
susceptibility to peer influence which makes emerging adults more likely to engage in risky behavior; and 4) an emerging adult's greater capacity for change. See Mattis, 493 Mass. at 225-229.

DECISION OF THE BOARD: Mr. Francis presented for his initial hearing. He has been incarcerated for 43 years. Mr. Francis was 19-years-old at the time of the offense and is now 63-years-old. Mr. Francis has always maintained his innocence. Mr. Francis identified a history of adverse childhood experiences that he has worked to address during his incarceration. He has invested in rehabilitative programs that have addressed Violence Reduction, Emotional Healing, Occupational Skill Building, and has pursued higher education through Boston University. The Board considered the expert forensic evaluation of Dr. DiCataldo in rendering this decision. Mr. Francis has a significant support system and has provided a re-entry plan to address his needs. The Board considered testimony in support of his parole from Dr. DiCataldo, as well as from Mr. Francis' friend, Mr. Francis' girlfriend, and his sister. The Board also considered testimony from Suffolk Assistant District Attorney Montez Hayward, who took no position on Mr. Francis' pursuit of parole.

SPECIAL CONDITIONS: CRJ for a minimum of 90 days; Report to assigned MA Parole Office on day of release; Waive work for two weeks; Curfew – must be at home between 10PM and 6AM for 90 days; Electronic monitoring for 90 days; No contact with victim(s); No contact with victim(s)' family; Must have substance use evaluation and follow recommended treatment plan; Must have mental health counseling for adjustment; Supervise for drugs with testing in accordance with Agency policy; Supervise for liquor abstinence with testing in accordance with Agency policy.

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