



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



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RECORD OF DECISION

IN THE MATTER OF

KEVIN PIERCE

W47362

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: October 28, 2025

DATE OF DECISION: March 12, 2026

PARTICIPATING BOARD MEMBERS: Edith J. Alexander, Dr. Charlene Bonner, Sarah B. Coughlin, Angelo Gomez Jr., James Kelcourse, Rafael Ortiz

VOTE: Parole is denied with a review in two years from the date of the hearing.

PROCEDURAL HISTORY: On November 7, 1989, following a jury trial in Essex County Superior Court, Kevin Pierce was convicted of murder in the first-degree for the death of David McLane. He was sentenced to life in prison without the possibility of parole.

Mr. Pierce 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 Mr. Pierce's first-degree murder conviction, he was re-sentenced to life with the possibility of parole after 15 years.

On October 28, 2025, Mr. Pierce appeared before the Board for an initial hearing. He was represented by Attorney Kelly Cusack. The Board's decision fully incorporates by reference the entire video recording of Mr. Pierce's October 28, 2025 hearing.

STATEMENT OF THE CASE: On September 28, 1988, 18-year-old Kevin Pierce, along with his two co-defendants, participated in the beating and stabbing death of 38-year-old David McLane in Gloucester. Earlier that day, Mr. Pierce and co-defendant John Nichypor talked about "rolling a fag" that evening. Shortly after their telephone conversation, Mr. Nichypor and Mr. Pierce went

to a restaurant in Gloucester, accompanied by co-defendant Joshua Halbert. Mr. Pierce then telephoned David McLane. Mr. Pierce told Mr. Nichypor that Mr. McLane was homosexual. They all went to Mr. McLane's apartment in Gloucester and drank alcohol. At some point, Mr. Pierce approached Mr. McLane from behind and locked his arm around Mr. McLane's neck, choking him until his face turned purple. During this struggle, Mr. Nichypor "threw one punch" at Mr. McLane. Mr. Halbert pulled a razor blade from his back pocket and cut Mr. McLane's throat several times. Mr. Pierce went into the kitchen and grabbed a steak knife, which he thrust into Mr. McLane's left temple. Mr. Halbert picked up a second knife and thrust it through Mr. McLane's left temple. When Mr. McLane was "making strange noises," Mr. Pierce directed Mr. Nichypor to put a cushion over his face to keep him quiet and muffle his moans.

After the attack, the co-defendants took a framed, uncut sheet of dollar bills and a box of coins from the apartment. The three men also tried to remove any fingerprints in the apartment.

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 inmate'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 inmate'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 inmate at the time of the offense, the criminal record, the institutional record, the inmate's testimony at the hearing, and the views of the public as expressed at the hearing and/or in written submissions 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 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. Pierce appeared before the Board after the Supreme Judicial Court's Mattis decision made him eligible for a parole hearing. The Board noted Mr. Pierce's investment in rehabilitative programming coincided with the Mattis decision. Since 2024, Mr. Pierce has engaged in educational pursuits. Mr. Pierce has received approximately 40 disciplinary

reports throughout his incarceration, although the Board notes he has not received any recent disciplinary reports. The Board considered the evaluation of Dr. Long. The Board recommends Mr. Pierce engage in Victim Empathy centered programming, as well as address his trauma history. The Board considered the testimony of Mr. Pierce's family members and a clinician in support of parole. The Board considered the testimony of Mr. McLane's family members in opposition to parole. The Board also considered the testimony of Essex County ADA Catherine Semel in opposition to parole. The Board concludes by unanimous decision that Kevin Pierce has not demonstrated a level of rehabilitation that would make his release compatible with the welfare of society.

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.


Angelo Gomez Jr., Chair

March 12, 2026
Date