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DECISION

In the Matter of

LIONEL RODRIGUEZ
W87065

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: February 2, 2016

DATE OF DECISION: June 20, 2016

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, 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 by unanimous vote 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.

I. STATEMENT OF THE CASE

On February 2, 2006, in Bristol Superior Court, Lionel Rodriguez was convicted at jury trial of murder in the first degree, on a theory of extreme atrocity and cruelty, in the death of George Carpenter. A sentence of life in prison without the possibility of parole was imposed on Mr. Rodriguez for the murder of Mr. Carpenter. Mr. Rodriguez appealed his conviction. On August 9, 2010, the Supreme Judicial Court concluded "that errors in the admission of autopsy photographs and testimony of the medical examiner created a substantial likelihood of a miscarriage of justice..." regarding the conviction of murder in the first degree. The conviction of Mr. Rodriguez was reduced to murder in the second degree. A sentence of life in prison with the possibility of parole was then imposed on Mr. Rodriguez for the murder of Mr. Carpenter.

In the early morning hours of February 16, 2001, George Carpenter was socializing and drinking at a friend's home. At some point, the friend's son, Ryan Marshall, arrived home with

his girlfriend and three additional friends, Robert Tirado, Jonathan Torres, and Heather Lawrence. An argument broke out between Mr. Carpenter, Mr. Marshall, and Mr. Tirado. Mr. Carpenter attempted to leave the gathering, but was prevented from doing so by Mr. Tirado, who slashed the tires of Mr. Carpenter's car. Lionel Rodriguez, Orlando Badillo, and Dennis Smith then arrived on the scene. Mr. Marshall, Mr. Tirado, Mr. Rodriguez, Mr. Badillo, and Mr. Smith attacked Mr. Carpenter. During the attack, Mr. Carpenter was struck with a tire iron, kicked multiple times, and beaten. Mr. Carpenter eventually lost consciousness, and died later that day as a result of internal bleeding caused by blunt force trauma.

II. PAROLE HEARING ON FEBRUARY 2, 2016

Lionel Rodriguez, now 39-years-old, appeared before the Parole Board on February 2, 2016 for an initial hearing. In Mr. Rodriguez's opening statement, he apologized for his actions and expressed his remorse. During the course of the hearing, he spoke about the evening of the murder. According to Mr. Rodriguez, he was socializing with (his nephew) Mr. Smith and Mr. Badillo, when Mr. Badillo received a telephone call alerting him to a fight in the housing complex where the men resided. Mr. Rodriguez did not know who called Mr. Badillo, but believed it to be Mr. Tirado. Mr. Rodriguez and Mr. Tirado were childhood friends. In response to the telephone call, Mr. Badillo, Mr. Rodriguez, and Mr. Smith drove to the housing complex. Mr. Smith rode with Mr. Rodriguez, while Mr. Badillo drove a separate car. Upon arrival, Mr. Rodriguez observed Mr. Tirado kicking Mr. Carpenter, who was on the ground. Mr. Rodriguez next observed Mr. Badillo kick Mr. Carpenter multiple times. Mr. Rodriguez then approached Mr. Carpenter and kicked him in the face approximately three to four times. When questioned by the Board regarding his role in the attack, Mr. Rodriguez admitted that he "kicked an innocent man while he was defenseless." Within moments of kicking the victim, Mr. Rodriguez observed Mr. Smith strike Mr. Carpenter with a tire iron. Mr. Rodriguez backed away and moved to the side as Mr. Smith then hit Mr. Carpenter with the tire iron multiple times. Mr. Rodriguez reported to the Board that he observed Mr. Carpenter to be conscious when the attack began. He described Mr. Carpenter as appearing scared and fearful as the attack unfolded.

After several minutes, Mr. Rodriguez and Mr. Smith left the scene in Mr. Rodriguez's car. Mr. Rodriguez dropped Mr. Smith off at the home of Mr. Smith's girlfriend, where he was residing at the time of Mr. Carpenter's murder. Mr. Rodriguez and Mr. Tirado then made telephone contact with each other. Mr. Rodriguez drove to a nearby grocery store and picked up Mr. Tirado, Mr. Torres, and Mr. Marshall before driving to an apartment that belonged to a friend of Mr. Rodriguez. Within approximately 10 minutes of arriving at the apartment, Mr. Marshall received a telephone call from his mother informing him that the police were present at her home and that she needed him to come over. Mr. Tirado, Mr. Torres, and Mr. Marshall then left the apartment. Mr. Rodriguez remained in the apartment for the rest of the evening. Mr. Rodriguez learned of Mr. Carpenter's death the following morning. At that time, Mr. Rodriguez also learned that Mr. Torres and Mr. Marshall were in custody and that Mr. Tirado was wanted by the police. Over the course of the next week, Mr. Rodriguez found out that he, too, was wanted for questioning by the police. Shortly thereafter, Mr. Rodriguez learned there was a warrant out for his arrest. After making contact with an attorney, Mr. Rodriguez prepared to turn himself in. While traveling to his attorney's office for that purpose, Mr. Rodriguez was taken into custody for the murder of Mr. Carpenter.

In response to questioning by the Board, Mr. Rodriguez addressed his behavior prior to his incarceration. He described himself as having had a "tough guy ego" as a young man. When asked to summarize his lifestyle at that time, Mr. Rodriguez described it as "reckless, selfish, ungrateful, unappreciative." Mr. Rodriguez told the Board that he often engaged in minimization as a way to avoid taking responsibility for his actions. Mr. Rodriguez explained that prior to being incarcerated, his sense of pride led him to shy away from challenges he faced in pursuing educational and employment opportunities. According to Mr. Rodriguez, however, he has been fully committed to bettering himself during his time in custody. Mr. Rodriguez told the Board that he has addressed the issues that led him to lead a reckless lifestyle that, ultimately, ended with his incarceration.

The Board asked Mr. Rodriguez why he participated in the fatal beating of a man without much prior knowledge of what precipitated the attack. Mr. Rodriguez admitted that he had sought the approval of his friends while he was growing up. He said that, out of a sense of loyalty, he often refrained from asking questions when his friends encouraged him to do something. Mr. Rodriguez believes that part of the reason he participated in the beating of Mr. Carpenter was to prove to his friends that he was "with them." Mr. Rodriguez had assumed that the victim must have done something to "disrespect" his friend. According to Mr. Rodriguez, he never imagined that their actions would result in the victim's death. Mr. Rodriguez said that the attack was happening so fast that all he had thought about at the time was kicking the victim and leaving the scene.

Mr. Rodriguez acknowledged that he initially justified and minimized his role in Mr. Carpenter's death. He did not believe that he was responsible for the murder. Mr. Rodriguez described his acceptance of responsibility for Mr. Carpenter's death as a process that unfolded over time, rather than as a particular moment or epiphany that occurred during the course of his incarceration. He admits that it is "beyond tragic" and "senseless," since Mr. Carpenter did nothing to provoke the attack that killed him. Mr. Rodriguez said the process that led to him taking responsibility for the murder was aided by his engagement in rehabilitative programming. Prior to the Supreme Judicial Court's review of his appeal in 2010, Mr. Rodriguez had been sentenced to life imprisonment without the possibility of parole. Of particular significance to the Board is that Mr. Rodriguez engaged in programming, and began the rehabilitative process, before ever having an expectation of parole eligibility. Mr. Rodriguez participated in numerous programs while in prison, including the Fatherhood Program and multiple programs that address cognitive functioning. He previously worked as a tutor for patients at Bridgewater State Hospital. Presently, Mr. Rodriguez is working in the Companion Program by assisting Bridgewater State Hospital patients who have mental disabilities. Mr. Rodriguez attributes his participation in the Companion Program with helping him develop a better understanding of how to interact with people who have a propensity for violence. It has also helped him learn how to diffuse volatile situations. He now tries to figure out the reason why someone is angry or upset. In addition, Mr. Rodriguez has not received any disciplinary reports.

The Board considered testimony from members of Mr. Rodriguez's family, all of whom expressed support for his release. The Board also noted the presence of friends and/or family who appeared in support of Mr. Rodriguez, but did not testify. The Board received and considered testimony from Bristol County First Assistant District Attorney Karen O'Sullivan, who expressed opposition to Mr. Rodriguez's parole. The Board noted the presence of Mr.

Carpenter's family members who appeared in opposition to Mr. Rodriguez's petition for parole, but did not testify.

III. DECISION

The Board is of the opinion that Mr. Rodriguez has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board believes that a longer period of positive institutional adjustment and programming would be beneficial to Mr. Rodriguez's rehabilitation.

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

Mr. Rodriguez'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. Rodriguez 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

6/20/16
Date