

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security

PAROLE BOARD

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RECORD OF DECISION

IN THE MATTER OF

MESAIL HERNANDEZ¹
W52939

TYPE OF HEARING: **Review Hearing**

DATE OF HEARING: **January 18, 2024**

DATE OF DECISION: **April 29, 2024**

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

VOTE: Parole is granted upon completion of Domestic Violence program and 6 months in lower security to LTRP or CRJ.²

PROCEDURAL HISTORY: On July 16, 1992, in Middlesex Superior Court, Mr. Hernandez pleaded guilty to the second-degree murder of his 21-month-old son, Misael Hernandez, Jr., and was sentenced to life in prison with the possibility of parole. On that same date, Mr. Hernandez pleaded guilty to arson of a dwelling and two counts of assault and battery with a dangerous weapon; he was sentenced to a concurrent term of 6 to 10 years for the arson and concurrent 3 to 5 year terms for each count of assault and battery with a dangerous weapon. A charge of armed assault with intent to murder was placed on file without a change of plea. In addition, following a January 2000 incident at MCI-Cedar Junction, Mr. Hernandez was found guilty of two counts of assault and battery on February 9, 2001. He was sentenced to 2 and a half years each at the Dedham House of Correction to be served consecutive to one another and consecutive to his life sentence.

Parole was denied after an initial hearing in 2007, and after a review hearing in 2022.³ On January 18, 2024, Mr. Hernandez appeared before the Board for a review hearing. He was

¹ The spelling of Mesail on this record of decision is consistent with the recorded commitment name and is used here for consistency purposes. Counsel for Mr. Hernandez notes correct spelling is Misael.

² One Board Member voted to deny parole with a review in 2 years from the date of the hearing.

³ Pursuant to Dinkins & another v. Massachusetts Parole Board, 486 Mass. 605 (2021), the Parole Board must aggregate parole eligible life sentences with non-life sentences for purposes of determining a parole eligibility date.

represented by Attorney Christine Sunnerberg. The Board's decision fully incorporates by reference the entire video recording of Mr. Hernandez's January 18, 2024 hearing.

STATEMENT OF THE CASE: On January 25, 1992, in Waltham, 22-year-old Mesail Hernandez set fire to the home of the mother of his two children, causing the death of their 21-month-old son, Misael Hernandez, Jr. On the night of the incident, Waltham police responded to a report of a domestic dispute at the victims' home. Upon arrival, officers observed the second floor of the home engulfed in flames. The mother of Misael Hernandez, Jr. approached the officers yelling that her son was trapped in the upstairs bedroom. Mr. Hernandez had already fled the apartment. Despite three successful attempts to enter the home, officers were repelled by the heavy smoke and flames. The autopsy report identified the cause of death of the victim as smoke inhalation. Police also discovered that Mr. Hernandez had stabbed his friend during an altercation at the home. An investigation revealed that a few days prior to the fire, Mr. Hernandez punched and kicked his girlfriend in the head during an argument.

In January 2000, while serving his sentence for the above offenses, Mr. Hernandez was involved in a group assault on a fellow inmate during which Mr. Hernandez repeatedly kicked and punched the victim inmate.

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.

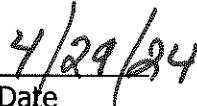
DECISION OF THE BOARD: Mr. Hernandez has served 32 years of a life sentence. He was 21 years old at the time of the offense. Mr. Hernandez has participated in extensive programming, including CRA, Violence Reduction, and Alternatives to Violence. Since his last hearing, he has enrolled in a domestic violence correspondence program. He has also served as a caretaker to an elderly inmate and participates in Islamic studies. Mr. Hernandez has maintained his sobriety since 1995 and attends AA weekly. He has been disciplinary report free since 2019. He has been consistently employed throughout his incarceration. The Board considered the support testimony of two of Mr. Hernandez's family members. The Middlesex District Attorney's Office opposed parole. The Board also considered the opposition testimony from the murder victim's mother.

After re-calculating Mr. Hernandez's parole eligibility, it was determined Mr. Hernandez's parole eligibility date was July 25, 2009.

SPECIAL CONDITIONS: Waive work for 2 weeks or when program allows; Must be at home between 10PM & 6AM; Electronic Monitoring; 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 with victim(s)' family; Must have mental health evaluation or preferably a neuro-psych evaluation to assess for expressive language disorder; Must have mental health counseling for domestic/interpersonal relationship and adjustment; Long Term Residential Treatment or CRJ for 90 days; AA/NA at least 3 times per week.

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