



The Commonwealth of Massachusetts  
Executive Office of Public Safety and Security



PAROLE BOARD

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**DECISION**

**IN THE MATTER OF**

**MICHAEL BORDEN**

**W62053**

**TYPE OF HEARING:** Review Hearing

**DATE OF HEARING:** June 9, 2015

**DATE OF DECISION:** August 5, 2015

**PARTICIPATING BOARD MEMBERS:** Charlene Bonner, Tonomey Coleman, Sheila Dupre, Lee Gartenberg, Ina Howard-Hogan, Tina Hurley, Lucy Soto-Abbe

**DECISION OF BOARD:** After careful consideration of all relevant facts, including the nature of the underlying offense, criminal record, institutional record, and the views of the public as expressed at the hearing or in written submissions to the Board, we conclude that the inmate is a suitable candidate for parole. Upon successful completion of 12 months in lower security, parole is granted to an approved home plan via Interstate Compact to New York, with special conditions.<sup>1</sup>

**I. STATEMENT OF THE CASE**

On February 3, 1997, in Hampden County Superior Court, Michael Borden pleaded guilty to second degree murder and received a life sentence. He also pleaded guilty to three counts of assault and battery with a dangerous weapon (for the three surviving victims) and received concurrent 9 to 10 year sentences on each count. Those sentences ran concurrently with the life sentence and have been served.<sup>2</sup>

<sup>1</sup> Six Board Members voted reserve to an approved home plan via Interstate Compact to New York, upon completion of 12 months in lower security. One Board Member voted reserve to an approved home plan via Interstate Compact with New York, upon completion of six months in lower security and earning a welding certificate.

<sup>2</sup> There are three co-defendants in Borden's case: Jason Jiles (convicted of first degree murder), Robert Francis (convicted of first degree murder), and Luis Berrios (convicted of second degree murder).

Michael Borden was a major marijuana dealer in Springfield. He was affiliated with a local gang and was a supplier of marijuana to the gang. On the evening of February 28, 1995, Borden (age 24) was with other gang members in an apartment at State and Terrace Streets in Springfield, when they learned that suspected members of a rival gang were across the street at a KFC restaurant. Borden and another gang member left the apartment armed with handguns.

A detailed sequence of events in the KFC parking lot is not entirely clear, in large part because Borden had lied to the police when he was arrested and made false statements about the crime in materials he had previously submitted to the Parole Board. It is undisputed, however, that Borden and his co-defendant, Jason Jiles, fired shots at men whom they considered to be rival gang members. Carlos Falcon was struck once in the head and killed, apparently standing near a brown Toyota when he was murdered. Borden says that Jiles was the one who shot and killed Falcon. Three other victims were shot inside the brown Toyota; they all survived their injuries. Borden admits that he fired shots into the vehicle where the three surviving victims were located. After the shooting, Borden fled to Brooklyn, New York and was arrested there on June 21, 1996, approximately 16 months after the murder.

## **II. CRIMINAL AND PAROLE HISTORY**

Borden is serving his first state incarceration. He has other offenses on his record (occurring prior to the murder) that were dismissed, including weapons and drug charges, and motor vehicle violations. In 1996, he was incarcerated in a county House of Correction facility for possession of marijuana with intent to distribute.

Borden appeared before the Board for his initial hearing on June 21, 2011, after which the Board denied parole with a review in four years. At that time, the Board felt that the sentencing goals of deterrence, punishment, and rehabilitation had not yet been accomplished.

## **III. PAROLE HEARING ON JUNE 9, 2015**

Borden began his hearing by apologizing to the murder victim's family and to anyone else he had harmed "directly, indirectly, emotionally, mentally, or physically." He stated that he "takes full responsibility for everything [he] has done" to Falcon and the other victims. He said he wakes up every morning with regret and remorse.

Borden described in detail how he was involved with the gang and had aspired to become a gang member in Springfield. He stated that his previous denials of his gang status occurred because he did not want his mother to know. He said he finally told her everything after his initial parole hearing in 2011.

He told the Board that his involvement in the murder was, in part, influenced by the prospect of earning membership into the gang. He gave detailed information regarding the events surrounding the murder and his proactive role in arming himself and going with Jiles to the KFC parking lot. He specifically admitted to shooting three people in the car, mistakenly believing they were rival gang members.

The hearing also focused on Borden's work and program involvement. He told the Board that his main activity was working in Prison Industries, where he works in shipping and has done work as a tailor. This is a full time job from 7:45 am to 3:00 pm daily, and Borden has been doing this work for 12 years. His work evaluations have been consistently positive over his tenure in Prison Industries. Borden told the Board that as soon as he was incarcerated on his life sentence, he immediately disassociated himself from gang activity and has remained uninvolved ever since. The Board asked him about his institutional adjustment, which has been positive, as evidenced by having only five disciplinary reports during almost 20 years of incarceration.

The Board discussed with Borden how throughout his incarceration he had focused more on working in Prison Industries, rather than in treatment and programming. Borden pointed out that since his last hearing in 2011 he has become involved in more programming, while maintaining his positive employment. He currently participates in the Lifers Group, Path to Freedom, and AA/NA. He is on the waitlist for the following programs: Reading Enrichment, Welding, Jericho Circle, Cognitive Skills-Active Listening, Path to Freedom, Emotional Awareness, Able Minds, and Countdown to Freedom.

Borden's proposed parole plan includes classification to lower security and then a parole to live with his family in Brooklyn, New York. He also stated that he has employment prospects by working in his cousin's tee-shirt business.

There were no supporters in attendance at the hearing.

In opposition to parole, a letter from the murder victim's mother was read to the Board. The letter detailed her personal grief and how the loss has affected her family. Also, Hampden County Assistant District Attorney Howard Safford testified in opposition to parole for Borden.

#### **IV. DECISION**

Borden has been incarcerated since 1996. In looking at the totality of the circumstances, the Board credits the longevity of Borden's work in Prison Industries, his positive work evaluations, his good institutional adjustment, and his disassociation from gang activity while incarcerated. The Board agrees that he has addressed his specific areas of need to the extent that he is now ready for the next step. Borden has invested in rehabilitation since his last appearance before the Board. The Board currently believes he has continued his rehabilitative progress over the past four years, to the point where he now meets the legal standard for parole.

The standard we apply in assessing candidates for parole is set out in 120 C.M.R. 300.04, which provides that "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." After careful consideration of all relevant facts, we unanimously conclude that Borden meets the legal standard for parole. Therefore, parole is granted to an approved home plan via Interstate Compact to New York, after successful completion of 12 months in lower security.

**SPECIAL CONDITIONS:** After successful completion of 12 months in lower security, release to Interstate Compact with New York to an approved home plan; Must have approved work plan; Waive work for two weeks after release; Curfew of 10 pm to 6 am or at the discretion of the parole officer; No drug or alcohol use, with testing in accordance with agency policy; Must have substance abuse evaluation; Must participate in counseling for adjustment/transition; No contact with the victims or their families; GPS at parole officers discretion; Report to assigned MA parole office on day of release.

*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.*

  
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Michael J. Callahan, General Counsel

August 5, 2015  
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Date