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Paul M. Treseler
Chairman

Michael J. Callahan
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DECISION

IN THE MATTER OF

MICHAEL HARDY

W54925

TYPE OF HEARING: Review Hearing

DATE OF HEARING: February 7, 2017

DATE OF DECISION: August 30, 2017

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, 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 four years from the date of the hearing.¹

I. STATEMENT OF THE CASE

On August 12, 1993, in Suffolk Superior Court, Michael Hardy pled guilty to second degree murder for the shooting death of Adriano Barros. Accordingly, Mr. Hardy was sentenced to life in prison with the possibility of parole.

On June 26, 1992, Adriano Barros (46-years-old), owner of Gigi's Liquors in Dorchester, requested that Michael Hardy (26-years-old) leave his store after a brief argument regarding Mr. Hardy's attire and his inappropriate contact with a female customer. Upon being asked to leave the store, Mr. Hardy replied, "I'll see you later" to Mr. Barros. Later that evening, after arming himself with a .45 caliber gun, Mr. Hardy returned to the store. He then waited outside for Mr. Barros to leave. At around 11 p.m., as Mr. Barros was outside locking his store for the night, Mr. Hardy fired two shots at Mr. Barros, hitting him once in the head. Mr. Barros died

¹ Five Board Members voted for a 4 year review and one Board Member voted for a 3 year review.

from the gunshot wounds two days later, and Mr. Hardy was arrested about one month after the shooting.

II. PAROLE HEARING ON FEBRUARY 7, 2017

Michael Hardy, now 51-years-old, appeared before the Parole Board for a review hearing on February 7, 2017. Mr. Hardy was represented by Harvard Law School Student Attorneys Katherine Robinson and KeKe Wu. His initial hearing in 2009,² as well as his review hearing in 2013, resulted in the denial of parole with a four year review. In his opening statement to the Board, Mr. Hardy apologized to the victim's family. He said that after the murder, he learned that the victim was a loving husband and father to four children and wished he could take back what he had done. Mr. Hardy told the Board that he has matured and is no longer the angry, impulsive person he was 25 years ago.

The Board asked Mr. Hardy to discuss his lifestyle at the time of the murder and the events leading up to Mr. Barros' death. Mr. Hardy stated that he was 26-years-old and living with his grandmother. His lifestyle was "out of control," as he was selling drugs and carrying guns, and he had little regard for anyone. Mr. Hardy was adamant, however, that while he was not a gang member, he associated with gang members who lived in his neighborhood. He detailed a lengthy criminal history, beginning with his first arrest at age 9. Before the murder, he had been incarcerated many times, including a 7-10 year sentence for armed robbery when he was 17-years-old, a parole violation in 1988, and an assault and battery on a corrections officer conviction (while incarcerated for the crime he committed on parole).

In describing the night of the murder, Mr. Hardy said that he became angry at Mr. Barros for disrespecting him and "in the street culture, respect was everything." He said that Mr. Barros had accused him on several prior occasions of stealing food from his store, which made him very angry. Mr. Hardy explained that since he was making \$1,000-\$2,000 a week dealing drugs, he did not need to steal food from a convenient store. Mr. Hardy readily admitted to the Board that he waited outside of the store (with a gun) for Mr. Barros and, when he saw him leave, he aimed and shot twice. He then ran off, tossing the gun as he ran. Mr. Hardy also admitted that, initially, he denied shooting Mr. Barros. He explained that he did not tell the truth until he decided to plead guilty to second-degree murder.

When asked about his institutional adjustment, Mr. Hardy acknowledged his 27 disciplinary reports. He said, however, that he began to change his behavior in 2001, as he wanted to "set his life on a different trajectory." He realized that he needed to love himself before he could learn to love and respect others. Mr. Hardy began getting involved with programs in the early 2000s, approximately a decade after his incarceration for murder. Since his last hearing in 2013, he has participated in Computer Skills, Alternatives to Violence, Cooking Foundations, and Reduction to Violence. He is currently enrolled in the CRA Graduate Maintenance Program and works as a runner in his unit. Mr. Hardy is listed by the Department of Correction as being STG (security threat group) affiliated. However, when repeatedly asked by the Board, he denied being a gang member, stating only that he associated with gang members. When Board Members asked Mr. Hardy about the possibility of parole after 25 years of imprisonment, he stated that he had no concerns about adjusting to life in the community.

² Mr. Hardy's initial parole eligibility date was in 2007, but he voluntarily postponed his initial hearing until 2009.

If granted parole, he wants to work towards his culinary degree and possibly open his own business. He also wants to obtain a license to drive 18-wheelers.

Mr. Hardy had several family members in attendance at the hearing, and two of his nephews spoke in support of parole. The victim's daughter, two of his sons, and one of his granddaughters spoke in opposition to parole. Suffolk County Assistant District Attorney Charles Bartoloni spoke in opposition to parole.

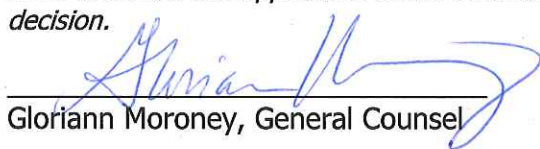
III. DECISION

The Board is of the opinion that Michael Hardy 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. Hardy's rehabilitation. Mr. Hardy has a concerning criminal history, replete with violence and firearm charges. In addition, he has a poor history while on community supervision. He has yet to renounce his STG affiliation.

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

Mr. Hardy's next appearance before the Board will take place in four years from the date of this hearing. During the interim, the Board encourages Mr. Hardy 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

8/30/17
Date