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DECISION

IN THE MATTER OF

MIGUEL LOZADA

W64576

TYPE OF HEARING: Review Hearing

DATE OF HEARING: April 23, 2017

DATE OF DECISION: March 6, 2018

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley

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.¹ Parole is denied with a review scheduled in four years from the date of the hearing.

I. STATEMENT OF THE CASE

On May 4, 1998, In Hampden Superior Court, Miguel Lozada pleaded guilty to the second degree murder of Juan Cruz Santiago and was sentenced to life in prison with the possibility of parole. Mr. Lozada and his two co-defendants, Heriberto Hernandez and Jose Robles, secured plea agreements to second degree murder by testifying against Angel Rivera, the leader of a gang who ordered the murder. Mr. Rivera was convicted of first degree murder.

Mr. Santiago was murdered on January 30, 1994, after Mr. Lozada participated with fellow gang members in a planned and deliberate execution. Mr. Lozada was 17-years-old at the time of the murder and had been enrolled at the Westover Job Corps program in Chicopee. Initially, Mr. Rivera had ordered Mr. Santiago to kill a female staff person (who had angered the

¹ One Board Member abstained from voting.

gang) at Job Corps. However, at the time of the planned murder, Mr. Santiago was overcome by conscience and did not carry out the mission. Mr. Rivera (angered by Mr. Santiago's failure to kill the staff person) then ordered Mr. Lozada, Mr. Hernandez, and Mr. Robles to murder Mr. Santiago. The three gang members lured Mr. Santiago to a remote location by stating that the four of them would kill the female Job Corps staff member. However, the three gang members set upon Mr. Santiago. They kicked and punched him, held him down, wrapped a belt around his neck, and choked him until he appeared dead with blood coming from his mouth. Mr. Lozada described at trial that "me and [Mr. Hernandez] were pulling on both ends of the belt [while] Jose was holding [the victim] down." Mr. Lozada further described that as the victim "started giving up his struggle, Jose started jumping up and down on his chest." As Mr. Lozada and his co-defendants hid the body, they noticed that the victim was still "gurgling and gasping for air," so they threw Mr. Santiago (who was unconscious) into the freezing waters of the Connecticut River.

Mr. Santiago's body was found in April 1994. Because police initially considered the death an accidental drowning, they did not begin an investigation until October 1994. Mr. Lozada and his co-defendants were arrested in the spring of 1996. Mr. Lozada cooperated with the investigation, eventually testifying against Mr. Rivera in exchange for a plea agreement convicting him of second degree murder.

II. PAROLE HEARING ON APRIL 23, 2017

Miguel Lozada, now 41-years-old, appeared for his second parole hearing on April 23, 2017, after being denied parole in 2011. Mr. Lozada has served approximately 20 years of his life sentence and was represented by Attorney Jeffrey Harris.

In his opening statement, Mr. Lozada apologized to the family of the victim and thanked the Board for considering his petition for parole. Mr. Lozada said that approximately 24 years ago, he found himself in circumstances that "ultimately culminated in his incarceration." During the events leading up to the murder, Mr. Lozada was enrolled in the Westover Job Corps, a program in Chicopee where the individuals he met were like family. He began spending time with the group and, at some point, accepted an invitation to become a part of a gang. In describing the crime, Mr. Lozada acknowledged that he betrayed the trust of a friend and murdered him, something for which there is "no making amends." He indicated that his motive for the murder was fear of retaliation from the gang leader, who had ordered him and his co-defendants to commit the murder.

Mr. Lozada explained that he served half of his sentence with "a very large chip on his shoulder" and did not take responsibility for his actions. Mr. Lozada acknowledged that this was a careless, bitter, and misguided attitude. He wanted attention, so he acted out. He felt depressed, hopeless, angry, and bitter. He acknowledged a disregard for authority and rules and admitted that he did not address his psychological problems. In addition, having been part of a gang, he was labeled by others in prison as a "traitor" or "rat." As a result, he was targeted by other inmates. Eventually, Mr. Lozada described having a "downward psychological spiral," which resulted in two suicide attempts. As a consequence, Mr. Lozada was committed to Bridgewater State Hospital, where he received treatment for his mental health issues. Mr. Lozada then began to participate in educational programs. He indicated that his dream was to become a teacher, and so, he engaged in a program that allowed him to teach other inmates in

prison. Mr. Lozada noted that the passing of his father (in 2013) was a particularly traumatic event in his life, one in which he has struggled to cope.

The Board noted that although Mr. Lozada has engaged in positive work since 2011 (eventually moving to a lower security facility), he has incurred over 30 disciplinary reports and, consequently, is currently housed at Souza-Baranowski Correctional Center. Mr. Lozada indicated that he and his doctor have altered his medications and found a combination last year that seems to be working well. Mr. Lozada reported that he suffers from anxiety, depression, PTSD, and mood disorders. Mr. Lozada indicated that his first attempt to renounce his gang membership was not successful, but that he started the process again, approximately two weeks prior to this hearing. Mr. Lozada has participated in at least nine programs, including Alternatives to Violence, Training in Non-Violence Workshop, and Criminal Addictive Thinking. He also participates in mental health counseling and correspondence educational programming. Currently, he is employed as a unit custodian.

The Board considered the testimony of forensic psychologist, Dr. Michelle Lockwood, as well as Mr. Lozada's aunt, son, and friend, all of whom expressed support for parole. The Board also considered an opposition letter submitted by the father of the victim, as well as the testimony of Hampden County District Attorney Howard Safford.

III. DECISION

The Board is of the opinion that Miguel Lozada has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Lozada needs to refrain from incurring disciplinary infractions. In addition, he should continue to engage in relevant programming and continue to try to renounce his STG (security threat group) affiliation.

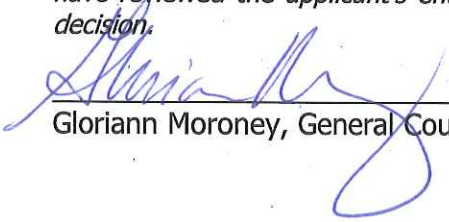
The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." 120 C.M.R. 300.04. In the context of an offender convicted of first or second degree murder, who was a juvenile at the time the offense was committed, the Board takes into consideration the attributes of youth that distinguish juvenile homicide offenders from similarly situated adult offenders. Consideration of these factors ensures that the parole candidate, who was a juvenile at the time they committed murder, has "a real chance to demonstrate maturity and rehabilitation." *Diatchenko v. District Attorney for the Suffolk District*, 471 Mass. 12, 30 (2015); See also *Commonwealth v. Okoro*, 471 Mass. 51 (2015).

The factors considered by the Board include the offender's "lack of maturity and an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking; vulnerability to negative influences and outside pressures, including from their family and peers; limited control over their own environment; lack of the ability to extricate themselves from horrific, crime-producing settings; and unique capacity to change as they grow older." *Id.* The Board has also considered whether risk reduction programs could effectively minimize Mr. Lozada's risk of recidivism. After applying this standard to the circumstances of Mr. Lozada's case, the Board is of the unanimous opinion that Mr. Lozada is not yet

rehabilitated, and his release is not compatible with the welfare of society. Mr. Lozada, therefore, does not merit parole at this time.

Mr. Lozada'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. Lozada 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

3/6/18
Date