



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

IN THE MATTER OF

NELSON RODRIGUEZ

W65587

TYPE OF HEARING: Review Hearing

DATE OF HEARING: May 9, 2017

DATE OF DECISION: June 6, 2018

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 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 November 18, 1998, in Bristol Superior Court, a jury convicted Nelson Rodriguez of first degree murder in the death of Felipe Barros. He was sentenced to life in prison without the possibility of parole. Mr. Rodriguez was also found guilty of possession of a firearm and sentenced to a concurrent sentence of 2½-4 years. In 2010, Mr. Rodriguez filed a Rule 30 motion for a new trial on the grounds that it was a violation of his constitutional rights to have the courtroom closed during jury selection. He was granted a new trial and, on February 11, 2014, pleaded guilty in Bristol Superior Court to second degree murder, which resulted in a life sentence with parole eligibility at 15 years. Because he had already served over 16 years, Mr. Rodriguez became eligible for parole after sentencing.

¹ Four Board Members voted to deny parole with a review in 4 years. One Board Member voted to deny parole with a review in 3 years. One Board Member voted to deny parole with a review in 2 years.

On August 9, 1997, witnesses saw Nelson Rodriguez leave his car with (what appeared to be) a black revolver and approach Felipe Barros and 2 other men, who were standing on the sidewalk. He pointed the weapon and shot Mr. Barros in the head. Mr. Barros went to the ground and was then shot in the chest by Mr. Rodriguez. One of the men was not shot, but also went to the ground. The other man fled the scene, but had heard Mr. Rodriguez say, "Do you remember the time you jumped me?" Mr. Rodriguez walked away and got into his vehicle, but then, returned to Mr. Barros on the sidewalk. He shot him two more times, killing him. Mr. Rodriguez then left the scene. About an hour later, police received information that Mr. Rodriguez was seen running toward the area of a sewer. A black .38 caliber Rossi revolver was subsequently retrieved from the sewer. Ballistics testing showed that the gun from the sewer was the same gun used in the shooting of Mr. Barros. In addition, a witness (who had not seen the shooting, but ran towards the shots after hearing them) saw Mr. Rodriguez get into his car and drive away.

II. PAROLE HEARING ON MAY 9, 2017

Nelson Rodriguez, now 53-years-old, appeared before the Parole Board for his review hearing on May 9, 2017. He was not represented by counsel. He had been denied parole after his initial hearing in 2014. Mr. Rodriguez provided an opening statement, expressing his remorse to Mr. Barros' mother. Mr. Rodriguez discussed his social history and the events leading up the murder. He explained that his father was incarcerated for trafficking when he was 5-years-old; he perceives this be a contributing factor in his path to incarceration. He began experimenting with drugs at age 8 and, by the time he was 14, he was deep in the throes of addiction and fully entrenched in a criminal lifestyle. At age 16, he entered a 21-day methadone detox program to treat his addiction. He would spend the next decade caught in a vicious cycle of addiction, criminal behavior, and incarceration.

In 1989, at age 26 (and through the support of his brother), Mr. Rodriguez re-engaged in a methadone treatment program and was hired to work at the Boys and Girls Club. He lived, predominately, as a pro-social member of the community until 1997, when he relapsed. He was severely beaten after a confrontation with a drug dealer, resulting in a period of hospitalization and continued use of methadone and opioids. Approximately four months later, while in possession of a firearm, Mr. Rodriguez returned to the same area to purchase drugs with the hope of retaliation. In describing the situation, Mr. Rodriguez expressed his hatred toward the victim for the horrible and despicable things that had been done to him, stating, "I had to pay for mine; he had to pay for his."

The Board discussed Mr. Rodriguez's institutional adjustment since his last hearing. He is currently incarcerated at MCI-Norfolk, where he works in the gym. Since his hearing in 2014, Mr. Rodriguez completed numerous programs, including: Correctional Recovery Academy (CRA), Alternatives to Violence (two phases), Jericho Circle, and the Restorative Justice Retreat. He also served as a Graduate Support Peer to participants of the CRA. Although Mr. Rodriguez has engaged in programming to address his causative factors, it was apparent to the Board that his statements throughout the hearing appeared to be fueled by anger and, often, lacked empathy.

Mr. Rodriguez had several supporters at his hearing, and multiple letters of support were submitted on his behalf. The Board considered oral testimony from his brothers and mother, all of whom expressed strong support for parole. Mr. Barros' sister and niece provided testimony in opposition to parole.

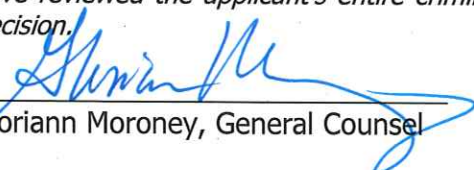
III. DECISION

The Board is of the opinion that Nelson Rodriguez has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Rodriguez has served 20 years for the murder of Kevin Barros, yet his presentment was concerning, as it was devoid of empathy and not indicative of 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 opinion that Nelson 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 four 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

6/6/18
Date