

*The Commonwealth of Massachusetts
Executive Office of Public Safety and Security*



PAROLE BOARD

*12 Mercer Road
Natick, Massachusetts 01760*

Charles D. Baker
Governor

Karyn Polito
Lieutenant Governor

Terrence Reidy
Secretary

Telephone # (508) 650-4500

Facsimile # (508) 650-4599

Gloriann Moroney
Chair

Kevin Keefe
Executive Director

DECISION

IN THE MATTER OF

NICHOLAS HARRELL

W92374

TYPE OF HEARING: Initial Hearing

DATE OF HEARING: May 25, 2021

DATE OF DECISION: January 19, 2022

PARTICIPATING BOARD MEMBERS: Gloriann Moroney, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Colette Santa

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

I. STATEMENT OF THE CASE

On June 13, 2008, in Middlesex County Superior Court, Nicholas Harrell pleaded guilty to second-degree murder in the death of 24-year-old John Doyle. He was sentenced to life in prison with the possibility of parole.

On the evening of January 28, 2005, 16-year-old Nicholas Harrell and his 17-year-old codefendant, Joshua Dudley, beat John Doyle to death with their fists, shod feet, and a bottle at the CBD Garage in Malden. During the course of the attack, the co-defendant removed Mr. Doyle's clothing and left him lying naked in an elevator lobby. The temperature outside was well below freezing. Mr. Doyle was covered in blood, as was the ground and walls around him.

¹ One Board Member voted to deny parole with a review scheduled in three years.

Earlier in the evening, Mr. Harrell was seen by a young female in Malden Square with two men who fit the description of Mr. Dudley and Mr. Doyle. While speaking with the female, Mr. Harrell pointed at one of the men, whom he identified as "John," and said he was sick of his "bullshit" and would kill the "mother f-----." Mr. Harrell then pulled out a bottle (which appeared to be that of hard liquor) from the sleeve of his jacket and stated that he planned to smash it over Mr. Doyle's head. Later, at some point after the attack, Mr. Dudley and Mr. Harrell went to a nearby Dunkin Donuts. A video from the store depicted the two men entering a single occupancy bathroom. Mr. Dudley was carrying a pair of pants and, after several minutes, the two men exited the bathroom. Mr. Harrell used the payphone before they departed. A chemist from the Massachusetts State Police Crime Laboratory examined the bathroom and found smears of blood in the following locations: the counter around the sink, the floor next to the sink, and the wall outside of the bathroom. Payphone records show that a call was placed to the home of Mr. Harrell.

II. PAROLE HEARING ON MAY 25, 2021

Nicholas Harrell, now 32-years-old, appeared before the Parole Board for an initial hearing on May 25, 2021, and was represented by Attorney Stephen Weymouth.² In his opening statement to the Board, Mr. Harrell apologized to Mr. Doyle's family for his senseless and brutal actions, characterizing his conduct as "savag[e]like" and "cruel." He further acknowledged the "emotional pain and trauma" he inflicted by stating, "I murdered an innocent man because I couldn't deal with my own issues." Mr. Harrell accepted full responsibility for his crime and asserted that he "deserved every minute" of his incarceration. He explained that the abuse he endured as a child was a contributing factor to his anger and rage as an adolescent. Mr. Harrell blamed himself for putting up with the abuse, stating that he often felt "worthless and alone."

Board Members discussed Mr. Harrell's social history, noting his traumatic childhood. Mr. Harrell shared that his biological mother gave him up for adoption when he was an infant. He grew up resenting her for "not wanting him," but has since spoken to her, resulting in forgiveness. Upon Board Member questioning, Mr. Harrell explained that he was abused by his adoptive parents. He did not feel accepted and, as such, struggled behaviorally and emotionally. Moreover, Mr. Harrell described his problematic friendships as a child, where he was subjected to bullying that included an instance when a "friend" lit his hair on fire. Board Members noted his anti-social behavior at a young age, which included vandalism and the abuse of drugs and alcohol. Mr. Harrell admitted to having a serious substance abuse problem, stating that he began using "pills and weed" (at age 12) as a coping mechanism. He "fell in love with getting high," as it allowed him to escape reality.

When the Board questioned him as to the governing offense, Mr. Harrell explained that he and his codefendant, his brother, and Mr. Doyle were all under the influence of drugs and alcohol at the time. He became increasingly angry with Mr. Doyle, for no apparent reason, as the night went on. When the Board questioned him as to his relationship with Mr. Doyle prior to the governing offense, Mr. Harrell indicated that they were not friends, but rather, hung around one another because they both used drugs. Upon further questioning, Mr. Harrell admitted to hitting Mr. Doyle with his fists and the liquor bottle and then "stomping" on his body. He also admitted that Mr. Doyle pleaded with them to stop, as he was struggling to

² Mr. Harrell postponed his hearing in 2020.

breathe. When Board Members noted that Mr. Doyle was found naked on the garage floor, Mr. Harrell stated that both he and his codefendant had stripped Mr. Doyle to search for drugs after the attack. When Mr. Harrell was questioned as to his intent, he admitted that, while he and Mr. Doyle had gotten into "minor disagreements" in the past, he had not planned to kill him. Board Members inquired as to whether Mr. Harrell has since gained insight into why his anger escalated so quickly and so violently. Mr. Harrell claims he took the "coward's way out" because beating Mr. Doyle was "easier" than dealing with his own rage.

While discussing his rehabilitative efforts during his incarceration, Mr. Harrell explained that, initially, he did very little to better himself. Moreover, he continued to use substances until 2013. However, when he transferred to MCI Norfolk, Mr. Harrell availed himself of meaningful programs to address his causative factors. Through participation in programs, such as Emotional Awareness and Jericho Circle, Mr. Harrell described "opening up" and, subsequently, feeling "accepted and safe." He was given the opportunity to disclose his trauma to other group members, which led to conversations with his family about his childhood. Mr. Harrell described the Restorative Justice program as "eye opening," admitting that he previously minimized his culpability. Mr. Harrell stated that he now processes his emotions by reaching out to his support system and by writing in his journal. Board Members commended Mr. Harrell on obtaining his GED, as well as pursuing his bachelor's degree, while incarcerated.

The Board noted Mr. Harrell's overall positive institutional adjustment and recent transfer to minimum security, along with maintaining his sobriety. Mr. Harrell admitted that he has more work to do, stating, "There is always room for improvement." Upon questioning, Mr. Harrell expressed concern about his socialization skills due to his incarceration as a juvenile. Board Members encouraged Mr. Harrell to explore mental health treatment. Mr. Harrell attributed his sobriety to AA meetings and his participation in the Correctional Recovery Academy. Further, maintaining sobriety has been his greatest accomplishment during his incarceration.

Mr. Harrell's brother, sister, and friend provided testimony in support of parole. Dr. DiCataldo provided a report and testimony in support of parole. The Board considered testimony in opposition to parole from Mr. Doyle's aunt and his son's mother. The Board also considered testimony in opposition from Middlesex Assistant District Attorney Graham Van Epps, as well as a letter in opposition from Assistant District Attorney Adrienne Lynch.

III. DECISION

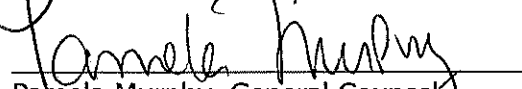
The Board is of the opinion that Nicholas Harrell has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Harrell presented before the Board for his initial hearing. He has served 16 years for his involvement in the murder of John Doyle. Mr. Harrell was 16-years-old at the time of the governing offense. During his incarceration, although he has completed programs to include Restorative Justice, Correctional Recovery Academy, Alternatives to Violence, and Jericho Circle, he needs a longer period of positive adjustment. Mr. Harrell only recently transferred to minimum security and would benefit from a longer period in a less restrictive environment. The Board considered the expert testimony of Dr. DiCataldo, which included how he could address his mental health issues and factors associated with *Miller* and *Diatchenko* cases.

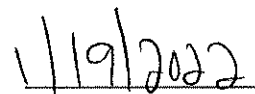
The applicable standard used by the Board to assess a candidate for parole is: "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such offender is released, the offender will live and remain at liberty without violating the 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 in Mr. Harrell's case 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 also recognizes the petitioner's right to be represented by counsel during his appearance before the Board. *Id.* at 20-24. In forming this opinion, the Board has taken into consideration Mr. Harrell'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. Harrell's risk of recidivism. After applying this appropriately high standard to the circumstances of Mr. Harrell's case, the Board is of the opinion that Nicholas Harrell is a not suitable candidate for parole at this time.

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


Pamela Murphy, General Counsel


Date