



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security

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RECORD OF DECISION

IN THE MATTER OF

NICHOLAS HARRELL
W92374

TYPE OF HEARING: Review Hearing

DATE OF HEARING: May 9, 2023

DATE OF DECISION: July 27, 2023

PARTICIPATING BOARD MEMBERS: Tina Hurley, Dr. Charlene Bonner, Tonomey Coleman, James Kelcourse, Colette Santa

STATEMENT OF THE CASE: On June 13, 2008, in Middlesex Superior Court, Nicholas Harrell pleaded guilty to murder in the second degree and was sentenced to life imprisonment with the possibility of parole. On January 28, 2005, Mr. Harrell, who was sixteen years old, and his co-defendant, participated in the beating of twenty-four-year-old John Doyle, which resulted in Mr. Doyle's death.

Mr. Harrell appeared before the Board for a review hearing on May 9, 2023. He was represented by Attorney Stephen Weymouth. Mr. Harrell was denied parole following his initial hearing in 2021. The entire video recording of Mr. Harrell's May 9, 2023 hearing is fully incorporated by reference into the Board's decision.

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 a suitable candidate for parole.

Parole reserve to CRJ or LTRP. Nicholas Harrell pled guilty to second-degree murder on June 13, 2008. On January 28, 2005, Mr. Harrell participated in the beating death of John Doyle. Mr.

Harrell was 16 [years old] at the time of the offense. This is his first incarceration of any kind and only entry on BOP [Board of Probation Record]. This was Mr. Harrell's second appearance before the Board. He was represented by Attorney Stephen Weymouth.

Mr. Harrell has been in minimum security since March 2021. He accepted the recommendations of the Board, continued with programming and his pursuit of a bachelor's degree from Boston University. He has continued to remain sober and presented a release plan to address his needs. Mr. Harrell has addressed the precipitants to this offense through his investment in rehabilitative programming and has worked toward establishing occupational skills to assist with a positive re-entry. He also presents as motivated to continue his education.

The Board considered the forensic evaluation from Dr. Frank DiCataldo in 11/27/2020. The Board also considered the Diatchenko and Miller factors that appeared related to the offense. There was no one present in support of his parole. The Board considered the testimony of the victim's girlfriend, aunt, and mother, who spoke in opposition of his parole. The Board also considered the testimony of the Assistant District Attorney from Middlesex County who spoke in opposition of parole.

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 standard to the circumstances of Mr. Harrell's case, the Board is of the unanimous opinion that Mr. Harrell is rehabilitated and, therefore, merits parole at this time.

Special Conditions: Reserve to CRJ or LTRP for minimum 90 days; Waive work, except for when program allows; Curfew 10PM-6AM; Electronic monitoring at Parole Officer's Discretion; Supervise for drugs, testing in accordance with agency policy; Supervise for liquor abstinence, testing in accordance with agency policy; Report to assigned MA parole office on day of release; No contact with victim's family; Must have mental health counseling for adjustment, anxiety; AA/NA at least 3 times/week; Sign releases of information for all providers.

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.



Tina M. Hurley, Chair

07/27/2023

Date