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RECORD OF DECISION

IN THE MATTER OF

ROBERT FRANCIS
W60193

TYPE OF HEARING: **Initial Hearing**

DATE OF HEARING: **April 1, 2025**

DATE OF DECISION: **August 25, 2025**

PARTICIPATING BOARD MEMBERS: Edith J. Alexander, Dr. Charlene Bonner, Tonomey Coleman, Sarah B. Coughlin, James Kelcourse, Rafael Ortiz.[1]

VOTE: Parole is granted to a Long-Term Residential Program (preferably, Dismas House) after 90 days in lower security.[2]

PROCEDURAL HISTORY: On February 28, 1995, in Hampden Superior Court, a jury found Robert Francis guilty of accessory before the fact to first-degree murder, three counts of accessory before the fact to armed assault with intent to murder, and three counts of accessory before the fact to assault and battery by means of a dangerous weapon. Mr. Francis was sentenced to life without the possibility of parole upon his conviction of accessory before the fact to first-degree murder.[3]

In 2024, the Supreme Judicial Court held that sentencing individuals who were 18 through 20 years old on the date of the offense (emerging adults) to life without the possibility of parole

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[1]Board Member Coughlin was not present for the hearing, but reviewed the video recording of the hearing and the entirety of the file prior to vote. Former Chair Hurley participated in the hearing in this matter but departed the Board prior to the Board's decision.

[2] One Board Member voted to grant parole directly to a LTRP. One Board Member voted to grant parole after a 6-month period in lower custody.

[3] The penalties for the remaining convictions were ordered to run concurrently with his life sentence as follows: 12-15 years in state prison for each count of accessory before the fact to armed assault to murder and 9-10 years in state prison for each count of accessory before the fact to assault and battery with a dangerous weapon.

was unconstitutional. Commonwealth v. Mattis, 493 Mass. 216 (2024). Since Mr. Francis was 18 years old on the date of the offense, Mr. Francis' mittimus was corrected to reflect that his life sentence carried the possibility of parole after 15 years.

The Board held Mr. Francis' initial hearing on April 1, 2025. Mr. Francis appeared before the Board and was represented by Attorney Lisa Newman-Polk. The Board's decision fully incorporates by reference the entire video recording of Mr. Francis' April 1, 2025, hearing.

STATEMENT OF THE CASE:[4] On February 28, 1995, Carlos Falcon was murdered in a shooting orchestrated by Robert Francis in Springfield. Three other victims were shot, but they survived. The shooting stemmed from a dispute between rival gangs in Springfield. Mr. Francis was the "chief enforcer" of one of these gangs. At Mr. Francis' instruction, two men carried out the shooting. Mr. Francis remained at an apartment. The men reached the State Street KFC in Springfield and approached Mr. Falcon's car. Mr. Falcon was standing at the rear of the car; three others were seated inside the vehicle. Two men approached the car and opened fire. One of the assailants shot Mr. Falcon in the back of the head, killing him. Three passengers were shot, but they recovered from their injuries. Two months after the shooting, Mr. Francis was arrested after a witness provided a statement to police that implicated him.

APPLICABLE STANDARD: Parole "[p]ermits shall be granted only if the Board is of the opinion, after consideration of a risk and needs assessment, that there is a reasonable probability that, if the prisoner is released with appropriate conditions and community supervision, the prisoner will live and remain at liberty without violating the law and that release is not incompatible with the welfare of society." M.G.L. c. 127, § 130. In making this determination, the Board takes into consideration an inmate's institutional behavior, their participation in available work, educational, and treatment programs during the period of incarceration, and whether risk reduction programs could effectively minimize the inmate's risk of recidivism. M.G.L. c. 127, § 130. The Board also considers all relevant facts, including the nature of the underlying offense, the age of the inmate at the time of the offense, the criminal record, the institutional record, the inmate's testimony at the hearing, and the views of the public as expressed at the hearing and/or in written submissions to the Board.

Where a parole candidate was convicted of first-degree murder for a crime committed when he was ages 18 through 20 years old, the Board considers the "unique aspects" of emerging adulthood that distinguish emerging adult offenders from older offenders. Commonwealth v. Mattis, 493 Mass. 216, 238 (2024). Individuals who were emerging adults at the time of the offense must be afforded a "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation" and the Board evaluates "the circumstances surrounding the commission of the crime, including the age of the offender, together with all relevant information pertaining to the offender's character and actions during the intervening years since conviction." Id. (citing Diatchenko v. District Attorney for the Suffolk Dist., 466 Mass. 655, 674 (2013) (Diatchenko I); Miller v. Alabama, 567 U.S, 460, 471 (2012); Graham v. Florida, 560 U.S. 48, 75 (2010)). Since brain development in emerging adulthood is ongoing, the Board also considers the following factors when evaluating parole candidates who committed the underlying offenses as an emerging adult: 1) a lack of impulse control in emotionally arousing situations; 2) an increased likelihood to engage in risk taking behaviors in pursuit of reward; 3)

[4] The Statement of the Case is derived from Commonwealth v. Francis, 432 Mass. 353 (2000).

increased susceptibility to peer influence which makes emerging adults more likely to engage in risky behavior; and 4) an emerging adult's greater capacity for change. See Mattis, 493 Mass. at 225-229.

DECISION OF THE BOARD: Mr. Francis has been incarcerated for 29 years. He is now 48-years-old. The Board reviewed Dr. Kinscherff's report and Mr. Francis' risk assessment. Mr. Francis' disassociation with an STG (Security Threat Group) was accepted by the DOC (Department of Correction). He is employed as a unit runner and has been for several years. He recently completed Violence Reduction and Last Mile. He has maintained his sobriety. He has been disciplinary report free for approximately 5 years. The Board applied the Mattis factors. Mr. Francis exhibited remorse for his actions. The Board finds Mr. Francis' release is compatible with the welfare of society.

SPECIAL CONDITIONS: Waive work for 2 weeks; Must be home between 10 PM and 6 AM; Electronic monitoring for 6 months; Supervise for drugs with testing in accordance with Agency policy; Supervise for liquor abstinence with 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; Long-term residential program (preferably Dismas House).

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.

Tonomey A. Coleman, Acting Chair

Date 8/25/25