



Charles D. Baker
Governor

Karyn Polito
Lieutenant Governor

Daniel Bennett
Secretary

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security

PAROLE BOARD

12 Mercer Road
Natick, Massachusetts 01760

Telephone # (508) 650-4500

Facsimile # (508) 650-4599



Paul M. Treseler
Chairman

Michael J. Callahan
Executive Director

DECISION

IN THE MATTER OF

ROBERTO ACEVEDO
W51343

TYPE OF HEARING: Review Hearing

DATE OF HEARING: March 29, 2016

DATE OF DECISION: November 14, 2016

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Ina Howard-Hogan, 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 by unanimous vote that the inmate is not a suitable candidate for parole. Parole is denied with a review scheduled in five years from the date of the hearing.

I. STATEMENT OF THE CASE

On October 21, 1991, in Essex County Superior Court, Roberto Acevedo pled guilty to the second degree murder of Robert Lee Rogers and was sentenced to life in prison with the possibility of parole. On that same day, Mr. Acevedo received concurrent sentences of 15 to 20 years for armed assault with intent to murder; 15 to 20 years for kidnapping; 15 to 20 years for armed robbery; 7 to 10 years for assault by means of a dangerous weapon; 3 to 5 years for assault by means of a dangerous weapon; and two 3 to 5 year terms for two charges of possession of a firearm.

On July 17, 1990, a man and his wife were driving in Lynn. The man parked on Mason Street to get a sandwich and began to cross the street. He saw three to five males exit a nearby building as he crossed the street. One of the men stepped forward and sucker-punched him in the side of the head. When the victim started to back up, Mr. Acevedo stepped forward with a shiny object in his hand. The victim turned quickly and, as he tried to run back to his

car, Mr. Acevedo stabbed him in the back of his left shoulder. The victim drove himself to the hospital, where he received care for his near-fatal knife wound. He gave a description of his attacker to the police. Police returned to the scene and found Mr. Acevedo outside of his home, close to where the attack took place. The victim's wife, who was in the police cruiser, identified Mr. Acevedo as the attacker. Mr. Acevedo was arrested, but later released on bail.

A few months later, on November 4, 1990, Robert Lee Rogers and another man were waiting for a bus in front of a convenience store in Lynn, and talking with a third man. Mr. Acevedo (free on bail at the time) was also in the area, which was around the corner from his home. Mr. Rogers and his two companions were talking with women in a car, when Mr. Rogers and Mr. Acevedo began arguing. Mr. Acevedo left the area and walked home, retrieved a handgun, and returned to confront Mr. Rogers. The argument escalated and Mr. Acevedo took a small silver gun from his jacket pocket and shot Mr. Rogers in the chest. Mr. Acevedo then pointed the gun at one of Mr. Rogers' companions and attempted to fire, but the gun jammed. The companion tried to wrestle the gun from Mr. Acevedo, but Mr. Acevedo fled the scene, running toward his home. Mr. Rogers followed him down the street before collapsing. Mr. Rogers died that night from the gunshot wound to his chest. Witnesses identified Mr. Acevedo as the shooter, and a warrant was obtained for his arrest.

A month later, on December 18, 1990, Mr. Acevedo (still a fugitive) and his brother, Hector Acevedo, attacked a man outside of the gentleman's business in Lynn. Mr. Acevedo pointed a handgun at him, and his brother brandished a sawed-off shotgun. The men walked the victim back into his business, put him on the floor, and pressed the guns to his neck and head. Mr. Acevedo and his brother went through the victim's pockets and took his wallet. They then tied his arms and legs, blindfolded him, and stuffed his mouth with newspaper before dragging him across the floor and tying him to a workbench. After taking the victim's keys, Mr. Acevedo and his brother drove away in his brown Mercedes. The victim managed to free himself and call the police, delivering a description of the Acevedo brothers and the car. The car was spotted by police and pursued. The driver lost control of the car and slid onto the sidewalk. Mr. Acevedo exited the car with the sawed-off shotgun and pointed it at one of the police officers. After re-entering the car, Mr. Acevedo struggled with the officers as he attempted to reach for the silver handgun in his pocket. The officers placed Mr. Acevedo under arrest. His brother, who had fled the scene, was apprehended by two other officers and taken to the police station.

II. PAROLE HEARING ON MARCH 29, 2016

Mr. Acevedo, now 50-years-old, appeared before the Parole Board on March 29, 2016, for a review hearing and was represented by Attorney Lupita Colon. He communicated through an interpreter during his hearing. This was Mr. Acevedo's fourth appearance before the Board. Mr. Acevedo did not believe that the Spanish interpreter at his second hearing provided accurate translations. He requested, and was granted, another hearing. Each of Mr. Acevedo's prior hearings, in 2006 and 2011, resulted in a denial of parole with a review in 5 years.

In Mr. Acevedo's short opening statement, he asked Mr. Rogers' family for forgiveness and apologized for taking the life of Mr. Rogers. Attorney Colon supplemented Mr. Acevedo's opening statement by expressing her client's remorse for all of his actions. Attorney Colon also stated that Mr. Acevedo has a cognitive disability and low intellectual functioning. Because of these limitations, Mr. Acevedo has a limited vocabulary and uses simple expressions, accounting

for the brevity of his responses and statements. Attorney Colon asked the Board to take this into consideration.

Attorney Colon informed the Board that Mr. Acevedo witnessed his father exhibit violent behavior as a child and was physically abused by his mother (along with his other siblings). When Mr. Acevedo was teased because of his cognitive limitations, he would often respond with violence as a defense. Attorney Colon stated that Mr. Acevedo has made efforts to participate in programming, including English as a Second Language (ESL), despite his cognitive disabilities and his recent diagnosis of Parkinson's disease. When the Board asked Mr. Acevedo about his daily life in prison, he had difficulty recalling some incidents that occurred during his incarceration. Attorney Colon informed the Board that Mr. Acevedo's working memory is in the extremely low range. Mr. Acevedo conveyed that he is currently participating in AA programming but, as a result of his Parkinson's disease and troubles with his vision, he has difficulty doing much else besides physical therapy.

During the course of the hearing, the Board questioned Mr. Acevedo about his crimes. When asked if he remembered the first incident in which he stabbed a gentleman in the back, Mr. Acevedo responded by saying, "Because he turned." Mr. Acevedo said that he worked in a place that sold drugs and his job was to kick out people who became violent. When Mr. Acevedo stated that he was alone in the area during the attack, the Board informed him that reports indicated there were four or five other people with Mr. Acevedo at that time. The Board questioned why Mr. Acevedo felt the need to stab the victim in the back when the victim had already turned. Mr. Acevedo stated that "there was no other way" because he had to get the man out.

Mr. Acevedo was then asked to discuss how he spent his time on bail, and the events that led up to the shooting and killing of Mr. Rogers. Mr. Acevedo indicated that did not work during that period and spent his time at home with his mother. He had never met Mr. Rogers prior to the day of the murder. He said that Mr. Rogers was standing on the corner with another man when he encountered him. An argument ensued after Mr. Rogers made comments about Mr. Acevedo not speaking English. Mr. Acevedo said he tried to walk by, but Mr. Rogers started poking him in the chest. When asked why he shot and killed Mr. Rogers, Mr. Acevedo stated that he fired his gun because Mr. Rogers was making fun of him and poking him in the chest. The Board asked Mr. Acevedo if he has thought about the fact that he was on bail at the time of the murder for almost killing someone else. Mr. Acevedo responded by saying that he repents, but there is nothing he can do about it now. The Board also questioned Mr. Acevedo about his arrest when he was a fugitive, and the events that transpired with his brother. Mr. Acevedo confirmed that he had been in hiding at the time, and that he stole his third victim's car by pointing a gun at him and tying him up.

When questioned about his rehabilitation, Mr. Acevedo said that he now avoids trouble. Prior to 2009, Mr. Acevedo had numerous disciplinary reports for fighting with other inmates. However, he said that the Alternatives to Violence Program (AVP) helped him learn how to avoid problems. Mr. Acevedo indicated that he likes to be alone and does not have any friends in the prison.

The Board considered oral testimony from Mr. Acevedo's sister, who expressed support for his parole. The Board also considered statements read on behalf of Mr. Rogers' mother and sister, in opposition to Mr. Acevedo being granted parole. Testimony in opposition to parole was also received from Essex County Assistant District Attorney Elin Graydon.

III. DECISION

The Board believes that Mr. Acevedo remains a dangerous person and has made no commitment to rehabilitation during his years of confinement. In addition, he has a history of violence in the community and within the institution. The Board is of the opinion that Mr. Acevedo has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board believes that a longer period of positive institutional adjustment, as well as additional programming, would be beneficial to Mr. Acevedo's 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. Acevedo'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. Acevedo's risk of recidivism. After applying this standard to the circumstances of Mr. Acevedo's case, the Board is of the unanimous opinion that Mr. Acevedo is not yet rehabilitated and, therefore, does not merit parole at this time.

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

11/14/16
Date