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Paul M. Treseler
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DECISION

IN THE MATTER OF

ROBERTO GOMEZ
W54202

TYPE OF HEARING: Review Hearing

DATE OF HEARING: June 2, 2016

DATE OF DECISION: September 26, 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 a suitable candidate for parole. Parole is granted to an approved home plan via the Interstate Compact with New Hampshire and with special conditions.

I. STATEMENT OF THE CASE

On March 25, 1993, in Lawrence Superior Court, Roberto Gomez pled guilty to the second degree murder of Walter Lake. Mr. Gomez received a sentence of life in prison with the possibility of parole.

Roberto Gomez had known Walter Lake, as they had both been homeless and frequently slept under the same bridge alongside the Merrimac River in Lawrence. On April 13, 1992, Mr. Gomez was drinking with friends at an apartment in Lawrence. He was angry at Mr. Lake, who he said had thrown him in the river earlier that day. He stated that Mr. Lake and another man were prejudiced against him and had insulted him because he was Hispanic. Several people present in the apartment reported that Mr. Gomez grew more enraged during the evening until he was told he had to leave. Mr. Gomez took a knife from the kitchen and a 49" copper pipe, and said that he was going to "cut up a white boy." Witnesses discouraged Mr. Gomez from

leaving the apartment with the weapons, but he insisted that he was going to search for Mr. Lake. He then left the apartment.

After finding both Mr. Lake and the other man under the bridge, Mr. Gomez confronted them. The other man tried to calm Mr. Gomez, and thought he had done so, but Mr. Gomez resumed his angry behavior. Mr. Gomez attacked Mr. Lake by striking him on the head, arms, legs, and neck with the pipe, leaving him unconscious. Police responded quickly to the scene and Mr. Lake was transported to a hospital, but he died the following day from his injuries. At the scene, Mr. Gomez approached the police and admitted to beating Mr. Lake.

II. PAROLE HEARING JUNE 2, 2016

Roberto Gomez was released on parole supervision on August 8, 2007, to reside with his sister in Arizona. Based on reports through the Interstate Compact with Parole in Arizona, Mr. Gomez was compliant with all conditions of parole for over two years. He began to struggle financially when he moved into his own apartment in December 2010, but continued to comply with all conditions of parole until March 23, 2011, when he failed to report to his parole officer as instructed. Arizona Parole later discovered that Mr. Gomez had left his residence without permission approximately three weeks prior. Massachusetts Parole was notified, and Mr. Gomez was deemed to be in violation of his parole. Mr. Gomez was later located in Long Beach, California after his arrest for obstruction of a police officer. The case was dismissed, and Mr. Gomez was extradited to Massachusetts to answer for his parole violation.

Mr. Gomez reported that he had left Arizona without permission after losing jobs at Burger King and McDonald's. He said he was afraid that losing the jobs would lead to a parole violation, so he decided to leave the state with his girlfriend. She had lost custody of her children and was searching for them. When the relationship with his girlfriend ended, Mr. Gomez could not secure housing or employment in California, and he essentially resumed his life of homelessness. Mr. Gomez denied consuming any drugs or alcohol while released on parole.

Mr. Gomez, now 48-years-old, made his third appearance before the Parole Board on June 2, 2016, for a review hearing. He was not represented by counsel. In his opening statement to the Board, Mr. Gomez expressed regret and apologized for going whereabouts unknown by leaving Arizona to go to California. He stated that his parole was going well, but after three and a half years working maintenance for McDonald's, his manager "set him up" and fired him. Shortly after, fearing that he would be sent back to prison by parole, he made the decision to sell half of his belongings and abscond to California. He stated that he made the decision to leave out of fear and had intended to find a job in California. When asked about prior statements that the move was motivated by his girlfriend's desire to attempt to find her children, Mr. Gomez stated that it was part of the reason why he left, but also said that his girlfriend "went her own way" shortly after arriving in California. Mr. Gomez, however, was not able to account for all of his time and resources during his eight months in California. Mr. Gomez also addressed the October 16, 2011 arrest in California, which ultimately led to his extradition to Massachusetts. He denied any wrongdoing.

Mr. Gomez discussed the murder of Mr. Lake in 1992. He stated that he and Mr. Lake had been close friends, but two weeks prior to the murder, Mr. Lake and two other men threw him into the Merrimack River. Mr. Gomez claimed that shortly before the murder, Mr. Lake had sexually assaulted him. On the night of the murder, Mr. Gomez was drinking at a friend's apartment. He took a copper pipe and a knife from the apartment and went to confront Mr. Lake. Mr. Gomez insisted that he went to reason with Mr. Lake, but he brought a pipe and knife because he was afraid that Mr. Lake and the other men would beat him up. Mr. Gomez said that he found Mr. Lake, put down the weapons, and asked him why he had sexually assaulted him. Mr. Gomez stated that Mr. Lake got angry and hit him. Mr. Gomez hit him back, and the fight began. Mr. Gomez then picked up the pipe and hit Mr. Lake in the legs and the back. He claimed that Mr. Lake slipped on the sandy road and hit his head on the pavement. Mr. Gomez also insisted that he only hit Mr. Lake two to three times in the legs and back.

Mr. Gomez has participated in, and completed, rehabilitative programming during his most recent incarceration. Such programs include Correctional Recovery Academy (CRA), the Alternative to Violence program, Smart Recovery, and several skills workshops. He regularly attends Alcoholics Anonymous (AA)/Narcotics Anonymous (NA), and religious services.

The Board considered oral testimony from Mr. Gomez's brother, who expressed support for Mr. Gomez being granted parole. Mr. Gomez's brother told the Board that Mr. Gomez could live with him and his wife indefinitely. He also said that he could offer clothing and transportation and that the rest of the family supports Mr. Gomez's parole as well. The Board also considered testimony from Essex County Assistant District Attorney Elin Graydon, who spoke in opposition to Mr. Gomez's parole.

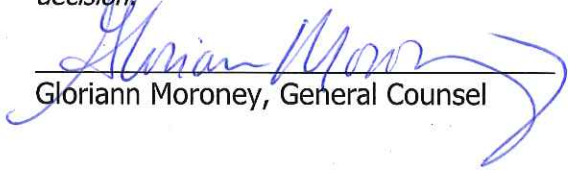
III. DECISION

Since his return to custody, Mr. Gomez has maintained a generally positive record within the correctional institution. Mr. Gomez now appears empathetic and is insightful of his actions, as well as the decisions that led to his parole revocation. The Board notes that under his current parole plan, Mr. Gomez will have greater family support. The Board is of the opinion that Mr. Gomez has demonstrated rehabilitative progress and, consequently, has acquired the tools and skills that will assist him in a successful transition from incarceration. In forming this opinion, the Board has taken into consideration Mr. Gomez's institutional behavior, as well as his participation in available work, educational, and treatment programs during the period of his incarceration. The Board also considered a risk and needs assessment and whether risk reduction programs could effectively minimize Mr. Gomez's risk of recidivism.

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. After applying this appropriately high standard to the circumstances of Mr. Gomez's case, the Board is of the unanimous opinion that Mr. Gomez merits parole at this time, subject to special conditions, and after acceptance of an appropriate home plan through the Interstate Compact with New Hampshire.

SPECIAL CONDITIONS: Approve home plan before release; Release to Interstate Compact; Waive work requirement for two weeks; Must be at home between 10:00 pm and 6:00 am; Electronic monitoring – GPS for six months, then at parole officer's discretion; Must take prescribed medication; No drug or alcohol use, testing in accordance with agency policy; Report to assigned Massachusetts Parole Office on day of release; AA/NA at least three times per week; Mandatory screen for Vivitrol – adhere to plan.

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

9/26/16
Date