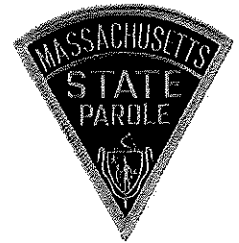


The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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RECORD OF DECISION

IN THE MATTER OF

TOMAS RIVERA
W39976

TYPE OF HEARING: **Review Hearing**

DATE OF HEARING: **April 1, 2021**

DATE OF DECISION: **October 7, 2021**

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 by unanimous vote that the inmate is not a suitable candidate for parole. Parole is denied with a review in five years from the date of the hearing.

I. STATEMENT OF THE CASE

On September 28, 1983, after a jury trial in Hampden Superior Court, Tomas Rivera was convicted of rape of a child, 15-year-old Jane Doe,¹ by force. He was sentenced to life in prison with the possibility of parole. That same day, Mr. Rivera received a concurrent life sentence for one count of armed robbery, an 8 to 10 year sentence for assault and battery by means of a dangerous weapon, an 8 to 10 year sentence for kidnapping, and a 3 to 5 year sentence for indecent assault and battery on a person over the age of 14. These crimes were committed during the attack on Jane Doe.

On April 18, 1983, at approximately 9:00 p.m., Tomas Rivera, 21-years-old, attacked Jane Doe while she was walking home. He put a knife to her throat, robbed her of ten cents, dragged her across the street, and pushed her to the ground behind some bushes. He held the

¹ A pseudonym. G.L. c. 265, § 24C.

knife to her throat and threatened to kill her if she screamed. Mr. Rivera then raped her twice, and attempted to sodomize her, before she was released.

A short time after the attack, the Springfield Police Department apprehended Mr. Rivera as he hid on the roof of a garage. Ms. Doe positively identified him as the man who had raped her. Mr. Rivera, however, denied attacking her.

II. PAROLE HEARING ON APRIL 1, 2021

Tomas Rivera, now 59-years-old, appeared before the Parole Board on April 1, 2021, for a review hearing. He was not represented by counsel. Mr. Rivera was denied parole after his initial hearing in 1998, and then waived his review hearings in 2002 and 2007. He was denied parole after his review hearing in 2012, and then postponed his 2017 review hearing. In his opening statement to the Board, Mr. Rivera relayed "condolences" to the victim, as well as to himself and to his family.

During the hearing, Mr. Rivera refused to accept responsibility for the governing offense. Mr. Rivera initially claimed to have no memory of the governing offense, despite later providing the Board with details concerning the events that immediately preceded and followed the crime. Although he acknowledged that the victim may have been scared and upset, Mr. Rivera responded, "To my best recollection, I say no" when directly asked by a Board Member if he raped Jane Doe. When a Board Member inquired as to whether he had any contact with the victim, or whether he followed her, Mr. Rivera said, "No, I really don't know this person at all." The Board expressed concerns about Mr. Rivera's ability to rehabilitate from a crime in which he refuses to acknowledge. Despite a lengthy history of incarceration, Mr. Rivera has refused to participate in Sex Offender Treatment. He reaffirmed his refusal to participate in such programming at the hearing.

The Board considered a letter in opposition to parole submitted by Assistant District Attorney Howard Safford on behalf of the Hampden County District Attorney's Office.

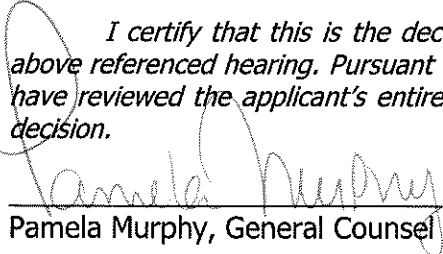
III. DECISION

Tomas Rivera was not engaged in the hearing, was evasive regarding the governing offense, and refuses to participate in SOTP (Sex Offender Treatment Program). He has had a very poor institutional adjustment as evidenced by over 180 d[isciplinary reports], including sexually assaulting a female correctional officer in 1991, and other d[isciplinary] reports reflecting sexual deviance. He also has numerous returns to higher security. His institutional adjustment, coupled with his inadequate sex offender treatment and program participation, is highly concerning to this Board. Release is not compatible with public safety.

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. Rivera'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. Rivera's risk of recidivism. After applying this standard to the circumstances of Mr. Rivera's case, the Board is of the opinion that Tomas Rivera is not rehabilitated and, therefore, does not merit parole at this time.

Mr. Rivera'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. Rivera to continue working toward 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