

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security



PAROLE BOARD

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DECISION

IN THE MATTER OF

VICTOR DAVILA

W39567

TYPE OF HEARING: Review Hearing

DATE OF HEARING: January 23, 2018

DATE OF DECISION: October 23, 2018

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, Colette Santa, and 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 that the inmate is a suitable candidate for parole. Parole is granted to the inmate's consecutive sentence with special conditions.

I. STATEMENT OF THE CASE

On March 2, 1983, in Middlesex Superior Court, Victor Davila pleaded guilty to second degree murder in the death of 39-year-old Carmen Ortiz Rodriguez and received a life sentence with the possibility of parole. On that same date, he received two 10-20 year sentences for armed assault with intent to commit murder, two 4-5 year sentences for assault and battery by means of a dangerous weapon, a 4-5 year sentence for assault with a dangerous weapon and a 4-5 year sentence for unlawfully carrying a firearm. All of these sentences run concurrently with each other, but are all consecutive to the life sentence. On October 8, 2008, Mr. Davila filed a motion to withdraw his guilty pleas, but it was denied. He filed an appeal, but the denial was affirmed.¹ Further appellate review was denied.² On February 20, 1990, Mr. Davila received consecutive sentences of 2½-4 years for assault and battery on a correctional officer and assault and battery with a dangerous weapon.

¹ Commonwealth v. Victor Davila, 75 Mass. App. Ct. 1112 (2009).

² Commonwealth v. Victor Davila, 455 Mass. 1109 (2010).

On September 11, 1982, 19-year-old Victor Davila shot Carmen Ortiz Rodriguez once in the head, and also shot two other men, in Cambridge. The circumstances began with a fight between Ms. Rodriguez and another woman in a parking lot at 362 Rindge Avenue. There were several men nearby, including Mr. Davila, as the fight began. Mr. Davila pulled out a handgun. When a man tried to grab the gun, Mr. Davila shot him in the wrist and lower back. Mr. Davila then walked over to the women, who were on the ground fighting. Mr. Davila stood over Ms. Rodriguez and shot her in the head. Lastly, he shot another man in the torso. Mr. Davila fled to New Jersey, where he was arrested on September 17, 1982.

II. PAROLE HEARING ON JANUARY 23, 2018

Mr. Davila, now 54-years-old, appeared before the Parole Board on January 23, 2018, for a review hearing. He was represented by Student Attorneys Emma Winkler and Megan Hiserodt from Northeastern Law School. Mr. Davila had been denied parole after his initial parole hearing in 2003, as well as after review hearings in 2008 and 2013. In Mr. Davila's opening statement to the Board, he apologized to the victims and their families and took responsibility for his actions. He told the Board that he has been incarcerated for 35 years. Mr. Davila spoke about his childhood, stating that he was born in New Jersey. He was one of 10 children, but explained that his mother was murdered when he was 13-years-old. He went to live with his aunt in New York and dropped out of school at age 14. He started smoking marijuana at age 12 or 13 and had been drinking since he was 7-years-old. Mr. Davila denied having any children and stated that he was never married. He informed the Board, however, that he has a large family support network.

The Board questioned Mr. Davila as to the facts surrounding the murder. Mr. Davila stated that he had a firearm on the day of the murder. He had been drinking during the day and had smoked marijuana, as well. He had observed two women (whom he knew) fighting, and then he saw a male intervene. When the male pulled out a butcher knife, Mr. Davila explained that he reacted. He stated that when one of the male victims grabbed his gun, the gun went off. When the male victim made a statement, Mr. Davila shot him a second time. Then, he shot Ms. Rodriguez, who was struck in the head. Lastly, he shot the second male victim. Mr. Davila told the Board that he then took off to New Jersey.

Mr. Davila spoke about his program involvement while incarcerated. He acknowledged that prior to his 2013 hearing, he had completed approximately 38 programs. He told the Board that the Jericho Circle program was very meaningful to him. Since his last hearing, he said that he completed additional programs, including Jericho Circle, Restorative Justice, End of Violence Project, and Catholic Cursillo Group. Additionally, he obtained his GED in 2006 and has been employed as a maintenance welder for the last three years. Mr. Davila denied any gang involvement, but acknowledged his last disciplinary report in 2013. He denies being an open mental health case at this time. Mr. Davila said that the only medication he takes is Tylenol for knee pain. If paroled, Mr. Davila requests a residential program in New York, after serving his consecutive sentence. Due to his criminal history, Mr. Davila is concerned about obtaining a job in the community.

The Board considered testimony in support of parole from Mr. Davila's four sisters and his brother-in-law. Middlesex County Assistant District Attorney Radu Brestyan provided testimony in opposition to parole.

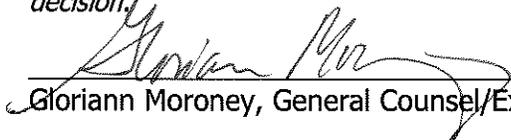
III. DECISION

The Board is of the opinion that Victor Davila has demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. Mr. Davila has served approximately 36 years of his life sentence. Mr. Davila must remain disciplinary report free. He has availed himself of rehabilitation and maintained a positive adjustment. The Board wants to see Mr. Davila at his parole eligibility on the consecutive sentence.

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. Davila'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. Davila's risk of recidivism. After applying this appropriately high standard to the circumstances of Mr. Davila's case, the Board is of the opinion that Victor Davila merits parole at this time. Parole is granted to his consecutive sentence with special conditions.

SPECIAL CONDITIONS: Supervise for drugs, testing in accordance with agency policy; Supervise for liquor abstinence, testing in accordance with agency policy; Mandatory - remain disciplinary report free and program involved.

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/Executive Director

10/23/18
Date