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Paul M. Treseler
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DECISION

IN THE MATTER OF

VINNY NUNEZ
W65250

TYPE OF HEARING: **Review Hearing**

DATE OF HEARING: **July 19, 2016**

DATE OF DECISION: **November 14, 2016**

PARTICIPATING BOARD MEMBERS: Paul M. Treseler, Dr. Charlene Bonner, Tonomey Coleman, Sheila Dupre, Tina Hurley, 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 the 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 three years from the date of the hearing.

I. STATEMENT OF THE CASE

On September 14, 1998, in Essex Superior Court, Vinny Nunez pled guilty to unlawful possession of a firearm and the second degree murder of Jason Cox. A sentence of life in prison with the possibility of parole was imposed on Mr. Nunez for the murder of Mr. Cox. Mr. Nunez was also sentenced to a term of not more than 3 years and not less than 2 ½ years in prison for his conviction of unlawful possession of a firearm.

On the night of June 9, 1997, Vinny Nunez shot Jason Cox in the back during a group altercation on Springfield Street in Lawrence. Witnesses observed Mr. Nunez approaching the other group (who were armed with a heavy stick and pipe) from further up the street with a firearm. When he had reached a distance of approximately 6-10 feet away, Mr. Nunez pointed his gun in the direction of Mr. Cox and fired. Mr. Cox was struck once, in the back. The round severed Mr. Cox's aorta and lodged in his chest. Witnesses reported that at the time Mr. Cox was shot, he had put his hands up. Mr. Nunez then fled the scene. Mr. Cox was transported to

Lawrence General Hospital, where he was pronounced dead approximately 10 minutes after his arrival. Mr. Nunez was subsequently arrested at his girlfriend's home in New Hampshire, where he had been hiding. The firearm used to kill Mr. Cox was found in Mr. Nunez's possession at the time of his arrest. He later admitted to shooting Mr. Cox, but claimed that he had done so in self-defense.

II. PAROLE HEARING ON JULY 19, 2016

Mr. Nunez, now 39-years-old, appeared before the Parole Board on July 19, 2016, for a review hearing and was represented by Attorney John Rull. At his 2012 initial hearing, Mr. Nunez was denied parole with a review in four years. Mr. Nunez was scheduled to appear for this hearing in February 2016, but postponed the hearing at his own request. Mr. Nunez is currently incarcerated at MCI-Norfolk.

In his opening statement, Mr. Nunez apologized to the family and friends of Mr. Cox, as well as the community. Mr. Nunez recognized the senseless nature of Mr. Cox's death, stating "I murdered him for no apparent reason." He said that he now understands the gravity of harm his actions have brought to others. Mr. Cox further apologized to the Board, after admitting that he lied at his last parole hearing when he claimed shooting Mr. Cox was an act of self-defense. The Board questioned Mr. Nunez about his crime. Mr. Nunez said that he did not know Mr. Cox, but that his best friend, Richie Alvarez, and Mr. Cox were known to each other and had an issue between them. Mr. Nunez told the Board that he did not know what this issue was.

On the day of the murder (and subsequent to an earlier verbal exchange), Mr. Nunez and Mr. Alvarez picked up two friends and drove to Springfield Street in Lawrence to search for Mr. Cox. According to Mr. Nunez, it was Mr. Alvarez and his two other accomplices who found Mr. Cox in the company of another male, while he (Mr. Nunez) was parking the car further up the street. As he returned to the area where he had dropped Mr. Alvarez and his other two friends off, Mr. Nunez could see punches being thrown between a group of men. Mr. Nunez told the Board he did not see any weapons at this time. Standing at a distance of approximately 10-15 feet away, Mr. Nunez took his gun out. Mr. Nunez told the Board his intent was to stop the fight and protect Mr. Alvarez. After shooting Mr. Cox one time, Mr. Nunez fled the scene. Mr. Nunez could not recall where he had shot Mr. Cox, but admitted that Mr. Cox was defenseless at the time. After dropping off Mr. Alvarez, Mr. Nunez drove to his girlfriend's house in New Hampshire. Mr. Nunez gave his gun to his girlfriend, who hid it for him, and remained at her house until police arrived and found him hiding in a closet. During the subsequent investigation into Mr. Cox's murder, Mr. Nunez was interviewed by police and made statements indicating that he shot Mr. Cox in self-defense.

Mr. Nunez admitted that at the time of Mr. Cox's murder, he was involved in selling marijuana, earning approximately \$200 to \$400 a week. According to Mr. Nunez, he acquired the gun he used to kill Mr. Cox from a friend and carried the gun for protection for a few months prior to the murder. Mr. Nunez claimed, however, to have never fired the gun until using it to shoot Mr. Cox. Upon questioning from the Board about his prior testimony that the shooting of Mr. Cox was in self-defense, Mr. Nunez stated that he had portrayed himself as a victim in order to minimize his role in Mr. Cox's death and garner sympathy. Mr. Nunez stated that he was responsible for everything that happened to Mr. Cox that day. He also said that incarceration has taught him the meaning of responsibility. According to Mr. Nunez, he has

learned that it is not enough to just admit to the crime, but that he needs to work and address his underlying issues as well.

The Board questioned Mr. Nunez about the denial of parole after his last hearing. Mr. Nunez stated that the Board's decision had taken him by surprise because he felt he had done enough to warrant parole. He said that after being questioned at his 2012 hearing, he considered what the Board had said to him. Mr. Nunez cited his experiences in a restorative justice program with his realization that he would gain more from telling the truth. Upon questioning from the Board about why he lied about everything at his first hearing, Mr. Nunez said he was scared to admit his crime to his family and to Mr. Cox's family and referred to himself as a coward. The Board questioned Mr. Nunez as to how meaningful his (previous) programming had been, if he had not been completely honest about his crime at his last parole hearing. Mr. Nunez responded that he has taken steps to speak the truth, and he continues to do so everywhere he goes.

During the hearing, Mr. Nunez discussed his institutional adjustment with the Board. Mr. Nunez said that the Alternatives to Violence program was the most helpful program he has participated in. Mr. Nunez explained that as an assistant liaison to the program, he has had the opportunity to communicate with the administration, community members, and volunteers. He has a job as a food server and received his GED in 2000. He also completed numerous correspondence courses and currently attends classes through the Boston University Prison Education Program, where he is starting his junior year. After receiving his Bachelor's degree through this program, Mr. Nunez told the Board he intends to seek his Master's degree as well. Mr. Nunez discussed his parole plan with the Board and requested a step-down to a minimum security institution, where he could participate in re-entry programs. If paroled, Mr. Nunez wants to live in the Boston area, go to school full-time, work part-time, and do volunteer work around Lawrence.

The Board considered testimony from Mr. Nunez's brother, sister and niece, as well as two volunteers from MCI-Norfolk, all of whom expressed support for Mr. Nunez's parole. The Board also considered testimony from Mr. Cox's father, mother, sister and aunt, as well as Essex County Assistant District Attorney Emily Mello, all of whom expressed opposition to Mr. Nunez being granted parole.

III. DECISION

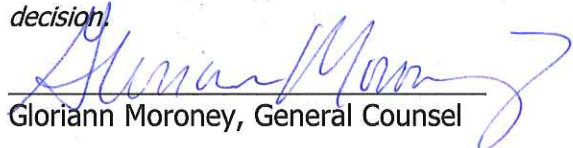
The Board is of the opinion that Mr. Nunez has not demonstrated a level of rehabilitative progress that would make his release compatible with the welfare of society. The Board believes that a longer period of positive institutional adjustment would be beneficial to Mr. Nunez's rehabilitation. In reaching this decision, the Board recognizes that Mr. Nunez has been very program involved and has complied with a positive institutional adjustment. However, the Board notes that Mr. Nunez's appearance at this parole hearing was the only time he has ever acknowledged his culpability in Mr. Cox's death, admitting for the first time that his act of killing Mr. Cox was an act of murder, and not an act of self-defense.

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

Mr. Nunez's next appearance before the Board will take place in three years from the date of the review hearing related to this decision. During the interim, the Board encourages Mr. Nunez 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