



The Commonwealth of Massachusetts
Executive Office of Public Safety



PAROLE BOARD

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DECISION

IN THE MATTER OF

HUMBERTO SIERRA

W50777

TYPE OF HEARING: Review Hearing after Revocation

DATE OF HEARING: May 8, 2012

DATE OF DECISION: June 20, 2012

PARTICIPATING BOARD MEMBERS: Cesar Archilla, Sheila Dupre, Dr. Charlene Bonner, Ina Howard-Hogan, Roger Michel, Lucy Soto-Abbe, Josh Wall

DECISION OF THE BOARD: After careful consideration of all relevant facts, including the nature of the underlying offense, prior criminal history, Mr. Sierra's institutional record, the views of the public as expressed at the hearing or in written submissions to the Board, we conclude by a unanimous vote that the inmate is not a suitable candidate for parole at this time. Parole is denied with a review in three years.

I. STATEMENT OF FACTS

A. Murder in the Second Degree

On January 17, 1991, Humberto Sierra shot and killed Nestor Reyes, age 34. The motive for the killing was related to territorial issues between the two men over drug dealing. Mr. Sierra and Mr. Reyes were known to each other and had been in numerous prior physical altercations regarding their drug dealing territories. Days prior to the murder, Mr. Sierra reports that they were involved in heated arguments over such issues, and Mr. Reyes "chased me and threatened to kill me with an axe." Mr. Sierra reports that he strategically placed a firearm in an alley from that day forward in anticipation of further confrontations. On January 17, 1991, Mr. Sierra states he spotted Mr. Reyes in what appeared to be an argument with one of his friends. Mr. Sierra reports "feeling disrespected and frustrated by the ongoing situation between the two of us, I proceeded to retrieve the firearm that I had previously hidden and headed back toward Main Street." He confronted Mr. Reyes who reportedly had a knife, but

began running when he saw the gun. Mr. Sierra shot him in the back as he tried to flee. Mr. Reyes was pronounced dead at a local hospital a short time later.

After learning that he had killed Mr. Reyes, Mr. Sierra fled to Florida where he was apprehended on January 31, 1991. Mr. Reyes was extradited to Massachusetts and pled guilty to the second-degree murder of Nestor Reyes. He received a life sentence with the possibility of parole.

B. Assault and Battery by means of Dangerous Weapon

On October 13, 1990, Duane Wright and Humberto Sierra's friend, Manuel Colon were involved in a fist fight. After going their separate ways, Mr. Wright and Mr. Colon met again a short time after the first incident. They again engaged in a fight. (Mr. Sierra was present during this altercation.) During the fight, Mr. Colon reportedly told Mr. Sierra several times to shoot Mr. Wright as he was losing the fight. When Mr. Wright learned that Mr. Sierra had a gun, he stopped fighting and began to run away. Mr. Sierra shot at him three times as Mr. Wright was fleeing, and hit his leg. As Mr. Wright's friends attempted to drive him to get medical care, Mr. Colon reportedly shot into the air attempting to prevent them from leaving. Mr. Sierra and Mr. Colon eventually left the scene and Mr. Wright was driven to the hospital to be treated for a gun shot wound to his calf.

As a result of this offense, Mr. Sierra received a concurrent sentence of three to five years for Carrying a Firearm Without a License. He also received a six to ten year concurrent sentence for Assault and Battery by Means of a Dangerous Weapon (Firearm). These sentences have been completed.

II. PAROLE HISTORY

Mr. Sierra's initial parole hearing was January 24, 2006. The Board voted to deny his parole with a review in three years. The Board noted concerns with his disciplinary record of 27 d-reports including a serious assault on an inmate and corrections officers who attempted to respond to the incident. The Board noted his most recent violent disciplinary report was in 2004 and recommended continued rehabilitation.

On January 13, 2009, the Board voted after the second hearing to parole Mr. Sierra to a long-term residential treatment program noting his significant improvement in institutional behavior and commitment to programming. The board also noted that Mr. Sierra presented as an individual who would benefit from continued treatment under supervision and a gradual re-entry into society where he had significant family and other support.

Mr. Sierra was released on March 26, 2009 to a long-term residential treatment program. On May 29, 2009 Mr. Sierra disclosed to parole that he had an angry confrontation with his counselor at the program, which included, according to his report to his parole office, "pounding the table with his fist and voices were loud." This issue was resolved and Mr. Sierra continued in the residential program. Mr. Sierra complied with the terms of his parole, including employment at Stop and Shop and participation in anger management. He completed the long-term treatment program on October 26, 2009, moved in with his mother and his daughter, and continued with his parole mandates, including outpatient counseling with a focus on anger management and substance abuse. Mr. Sierra changed employment numerous times, and settled with a company in May 2010. Shortly after moving in with his mother, Mr. Sierra requested permission to move in with his girlfriend whom he met while attending the long-term residential treatment program in 2009.

At this point in his parole, Mr. Sierra had been involved in a minor motor vehicle accident, and required reminders to pay his supervision fee, which ultimately resulted in a graduated sanction in late 2009. On November 2, 2010 he was not home for a scheduled visit and when confronted by phone regarding his absence, Mr. Sierra reportedly became "very loud and began yelling" at his parole officer. He was subsequently instructed to report to the parole office. This issue was addressed and Mr. Sierra was not issued any additional formal citations from parole.

During his period of parole, what was not known is that he was having ongoing disputes with his daughter, Itimarie Sierra (age 20). On August 21, 2011, Mr. Sierra was served with a restraining order taken out by daughter after she reported she had been assaulted by Mr. Sierra and placed in fear secondary to his behavior and verbal threats. According to the affidavit for the restraining order, Mr. Sierra threatened his daughter and her boyfriend during a dispute. He reportedly also pulled Ms. Sierra's hair and slapped her more than once. After being interviewed by parole, Ms. Sierra reported that she had also been assaulted on two other occasions by Mr. Sierra. The first incident reportedly occurred in May 2009, and she did not notify police. The second incident reportedly occurred on December 24, 2009, where she did call the police reporting that she had been struck in the head by Mr. Sierra. The police responded to investigate but were apparently told during the investigation that the altercation was verbal and the police ultimately did not press charges. The details of this incident are unclear, but it appears that Ms. Sierra decided she did not want to pursue legal means at that time. Based on the above, Mr. Sierra's parole was violated and he was returned to custody on August 23, 2011.

III. INSTITUTIONAL ADJUSTMENT

During Mr. Sierra's initial period of incarceration he was returned to higher custody on two occasions and was sentenced to serve four years in the disciplinary detention unit as a result of a serious fight involving several inmates. When officers responded to the fight, they too were assaulted by Mr. Sierra and other inmates. As a result, several inmates and four staff members received injuries. Prior to this incident Mr. Sierra had assaulted other correction officers after refusing to be placed in restraints for behavioral reasons. Mr. Sierra has also incurred other disciplinary reports for infractions considered to be among the most serious, including, but not exclusive to, possession of a three-inch pick-type weapon, receiving controlled substance from a visitor via having the substance passed orally while kissing, testing positive for opiates and THS (active ingredient in marijuana), participating in a group demonstration during an assault on staff, attempting to assault a unit manager and making threatening comments considered to be racially motivated. In total he received 27 disciplinary reports. His most recent disciplinary report was a fight with another inmate in 2004. Thereafter, his behavior has significantly improved.

Mr. Sierra began to invest in most of his institutional programming in 2003. He also completed his G.E.D. and he completed the requirements to be licensed as an Apprentice Barber. In addition, Mr. Sierra has held several jobs within the institution.

Since his return to custody as a parole violator, Mr. Sierra participates in programs that are available to him, and completed the Father's Group. He is also acts as a facilitator for some groups and is employed in the barber shop. He has remained disciplinary report free.

IV. DECISION

Mr. Sierra's criminal record commenced in 1986. His juvenile record includes charges for numerous violent offenses. By his own admission Mr. Sierra led a life of intimidation, drug dealing and other delinquent behaviors. He had no regard for society's laws or his community. Mr. Sierra was 18 years old when he committed murder. His initial period of incarceration included disciplinary reports that are considered among the most serious. Due to his violent behavior, he was placed in a special management unit for 4 years.

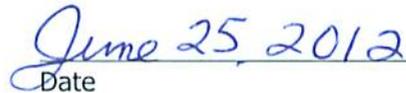
Mr. Sierra was sentenced in 1991, but did not begin his programmatic rehabilitation until 2003. Following his release on parole in 2009, Mr. Sierra has been served with one restraining order for a reported assault on and threats made to his daughter. There have also been at least two additional reported assaults by Mr. Sierra on his daughter during his period on parole. In addition to these reported assaults, the nature of his relationship with his daughter has been engrossed in conflict, which Mr. Sierra admittedly stated that he has not handled well. Mr. Sierra does not deny the justification for the issuance of a restraining order. After a lengthy hearing which included his acknowledgement of his behavior, Mr. Sierra continued to demonstrate a lack of insight into his inability to resolve conflict in a non-violent, constructive manner. While he does not deny the reasons for concern regarding his behavior, Mr. Sierra does not appear to demonstrate that he would be equipped to handle any future conflict either domestic or in general, differently.

Mr. Sierra did demonstrate an excellent work ethic and received numerous testimonials both in writing and during his parole hearing commending his job performance. He continues to have the support of his mother and employer. While the Board notes his accomplishments while on parole, the Board is first and foremost concerned with public safety. Given Mr. Sierra's prior history of violence both in the community, his history of violence within the institution, and the context of his parole violation, the Board unanimously agrees that Mr. Sierra would benefit from further rehabilitation. The focus of his rehabilitation should address domestic relations, parenting, violence reduction and conflict resolution. Mr. Sierra's release is not compatible with the welfare of society at this time.

I certify that this is the decision and reasons of the Massachusetts Parole Board regarding the above referenced hearing.



Timothy V. Dooling, General Counsel



Date