



Deval L. Patrick  
Governor

Andrea J. Cabral  
Secretary

The Commonwealth of Massachusetts  
Executive Office of Public Safety

Parole Board

12 Mercer Road  
Natick, Massachusetts 01760

Telephone # (508) 650-4500  
Facsimile # (508) 650-4599



Josh Wall  
Chairman

**DECISION**

**IN THE MATTER OF**

**JOHN MARINO**

**W60252**

**TYPE OF HEARING:** Review Hearing

**DATE OF HEARING:** December 4, 2012

**DATE OF DECISION:** July 2, 2013

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

**DECISION OF THE BOARD:** After careful consideration of all relevant facts, including the nature of the underlying offense, 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 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 from the date of the hearing.

**I. STATEMENT OF THE CASE**

On March 12, 1996, in Suffolk Superior Court, Mr. Marino pleaded guilty to second-degree murder and was sentenced to serve life in prison. John Marino appeared before the Parole Board for a review hearing on December 4, 2012. In 2010, at his initial hearing, the Board denied parole with a review in two years, deciding that Mr. Marino's release was not compatible with the welfare of society.

Marino murdered 25-year-old Anna Delgado in East Boston in the early morning hours of October 12, 1995. Mr. Marino met Ms. Delgado at the Victory Pub in East Boston. After having several drinks, they left to obtain cocaine, and went to Mr. Marino's apartment to use the cocaine and drink more beer. Later that night, Ms. Delgado told Mr. Marino that she wanted to leave. Mr. Marino told her that he could not give her a ride at that time. According to Mr. Marino, Ms. Delgado told him that she wanted to leave immediately, and became violent. Mr. Marino claimed to be frightened and, flailing, used a hammer to fend her off. He maintained to police that he struck her no more than four times. After she was unconscious, he wrapped up

her body and dragged it down the stairs. He put the body in his sister's car and discarded it in Stoneham. He told police that he threw out the hammer along the way.

Ms. Delgado's body was discovered behind a Kentucky Fried Chicken on Route 28 in Stoneham on October 12, 1995. Her t-shirt was up around her neck. She was wearing no other clothing, and no clothing was found in the area where her body was located. A subsequent autopsy revealed that Ms. Delgado had sustained at least 27 blunt force trauma injuries to her head, face, and back, as well as two stab wounds. The head trauma caused depressed skull fractures, bruising of the brain, and bleeding around the membranes of the brain. One of the stab wounds penetrated her abdominal cavity and stomach. The other was located on her back and was superficial. The Medical Examiner could not discern the order of the wounds, but determined that either the head trauma or the stab wound could have caused her death.

During the ensuing police investigation, Mr. Marino consented to a search of his home. Police observed blood, blood spatter on an end table, holes in the couch where fabric was removed, and a rug with a piece cut out. When questioned about these observations, Mr. Marino gave a number of contradictory and implausible explanations. He stated that his cats had caused the holes in the couch and that they had fought and bled. He told police that his friend, Tony, had cut himself and, later, told another officer that he had cut himself. He first said that one of his cats had soiled the rug and, later, said that he had burned the rug.

While he was being transported to the local police station, Mr. Marino made a number of statements indicating that Ms. Delgado had attacked him, that he had "panicked," was "afraid," and that he "didn't mean to do it." Notably, the autopsy revealed that Ms. Delgado had no defensive wounds on her hands or arms.

Mr. Marino had three prior arrests for operating under the influence. He was acquitted in 1989, received a continuance without a finding in 1991, and was convicted in 1994.

## **II. PAROLE HEARING ON DECEMBER 4, 2012**

John Marino appeared for his second parole hearing. Attorney Patricia Garin represented him. Mr. Marino explained that he grew up in East Boston on the first floor of the triple decker residence at 220 Lexington Street, and graduated from Emerson College where he developed a daily habit of drinking beer and smoking marijuana. He worked for several radio stations after college, but left the communications field to open a donut shop in East Boston. He operated the donut shop for nearly three years, but sold it because it was not a successful business. He drank and used drugs heavily (cocaine and marijuana) during that period. After the donut shop failed, he moved back into his family's triple decker where he lived with his niece on the third floor.

At his initial parole hearing interview, Mr. Marino said he did not recall the details of the murder. At this hearing, he provided those details. On the day of the murder, he drank steadily throughout the afternoon at the Victory Pub in East Boston. He estimated that he was drinking for six to seven hours when Anna Delgado arrived. He did not know her before speaking with her that evening. According to Mr. Marino, Ms. Delgado approached him "looking for cocaine; I called my dealer; we drove to the location; I met the dealer and bought two to three grams, about an eight ball, of cocaine; she offered me coke; I suggested doing it at my apartment; we stopped at the liquor store for a 12-pack that she bought; we did lines at my apartment; she kept laying out cocaine and we drank beer." Mr. Marino said that "at 1:00 or 2:00 a.m. we went to the Pub to buy more coke," but there was no one there to buy from. Mr. Marino "wanted the evening to end," but they returned to Mr. Marino's apartment because "she said

she left an article of clothing there and she wanted to get the remaining beers." The victim wanted a ride home, but Mr. Marino "did not want to drive in this condition; I needed time to decompress; I told her to walk or take a cab." Mr. Marino said that "she hit me from behind with something; I fell into the corner of the living room between a couch and a table; I tried to get back up; she was trying to kick me; I used a sweatshirt or jacket as a shield." Mr. Marino said it was dark in the room because the table lamp must have broken and he became "panicky and fearful; I reached for a tool; she was kicking me; it was very difficult to see; I don't remember how many times I swung the hammer; I found myself on the ground unable to get up; I had paranoia and fear." He further explained that it was "a struggle on the floor; I lashed out in an aggressive manner; it was so dark and I lost my glasses." He also said, "I got up swinging the hammer; I was trying to get to the door."

After the murder, Mr. Marino said that, "I cleaned up Thursday and Friday; I put everything in garbage bags and got them out of the apartment; I cleaned blood off areas; I cut some of the rug out and some of the couch out; it took a long time to get out of the apartment; the hammer stayed in the apartment; I drove around aimlessly for three or four hours with the body in the car," before hiding the body in Stoneham. He said he had no recollection of stabbing the victim, discarding a knife, or placing a plastic bag over her head after the attack.

Mr. Marino has a good institutional record. He has only two disciplinary reports and a third minor incident that resulted in an informal warning. He began program participation in 2008 and has completed the Correctional Recovery Academy, Alternatives to Violence (several phases), Jericho Circle, Active Listening, and Emotional Awareness. He regularly attends Big Book, 12 Step, and NA. He is employed as a unit worker. He said that programs did not become available to him until 2008 due to his status as a life sentence inmate.

Board Members questioned Mr. Marino's candor in describing the murder. He said that he swung the hammer blindly as he lay on the floor with Ms. Delgado hitting and kicking him from above. This assertion is disproven by the autopsy report. The autopsy report documents at least 27 separate blunt force trauma injuries and two stab wounds. If Mr. Marino were "flailing" with the hammer as he told police, the hammer would likely have struck the victim in different areas of the body as she moved, reacted, and recoiled in response to the forceful blows. That is not the case. In fact, the injuries from the hammer blows are clustered about the face and head. There are lacerations and contusions to the forehead (left, right, and center), right eye, right cheek, mouth, lip, left jaw, left side of the face, nose, right side of the head, left side of the head, top of the head, and the left ear. Other than four abrasions to the shoulder blades, the wounds are to the front and sides of the face and head. There are no hammer injuries to the hands, arms, neck, chest, torso, or legs. The injuries do not support Mr. Marino's claim that he swung wildly in self-protection as the victim relentlessly kicked and hit him when he was on his back on the floor. A Board Member also noted that investigative reports do not mention any marks or injuries to Mr. Marino. Mr. Marino responded that "I had some scrapes and abrasions." That seems unlikely given that he did not mention or show any scrape to police and police noticed no mark.

Common sense also disproves Mr. Marino's description of events. According to Mr. Marino, he kept swinging the hammer because the attack continued. In other words, the hammer blows were not sufficient to stop the attack, and Ms. Delgado kept up the kicking even after being hit many times with the hammer. The seriousness of the injuries does not support that contention. It is unlikely that Ms. Delgado would persist in an attack after receiving even just one or two of the many blows that created lacerations and penetrated "to the bone," as documented in the autopsy report. Likewise, it is hard to conceive that Ms. Delgado would hold her position above Mr. Marino and keep attacking after a blow that fractured her jaw, or fractured her orbital bone, or the several blows that caused multiple skull fractures.

Recognizing how the injuries disprove Mr. Marino's story, a Board Member told Mr. Marino that there must have been a point when he was over the victim, she was restrained or immobilized, and he was delivering forceful and focused hammer blows to her face and head. Mr. Marino, faced with the reality of the evidence, did respond that there was such a time that he was hitting Ms. Delgado with the hammer after she was incapacitated.

The victim was found nearly naked without pants or undergarments. Mr. Marino offered this explanation: after the death he carried the body down the interior stairs of the triple decker; that was a difficult task to do by himself; the body slipped out of his hands repeatedly; he removed the pants so he could "get more leverage" to carry the body. He could not explain why the bra and underwear were missing. Board Members did not accept that explanation, as clothing would allow for a better grip and handling than bare skin. Board Members concluded that removal of the clothing was for another purpose connected to Mr. Marino's motive and conduct in committing the murder.

Anna Delgado's sister testified in opposition to parole. She said that "he beat my sister so she was unrecognizable; we had to have a closed casket; and then he threw her behind a dumpster like she was trash." Suffolk Assistant District Attorney Charles Bartoloni spoke in opposition to parole, and pointed out the facts that do not support Mr. Marino's story. ADA Bartoloni noted that "the defendant's version defies logic." Based on injuries from the hammer, ADA Bartoloni concluded that "he had to have seen what he was doing and he had to have been holding her down at the outset." Concerning the stabbing, ADA Bartoloni said, "he has no explanation for the knife because he cannot admit to a deliberate stabbing."

### **III. DECISION**

The murder conviction and the evidence establish that John Marino committed a violent and brutal murder. His version of events is inconsistent with the conviction and the evidence. He maintains that the victim attacked him and he acted in self-defense. He explains the victim's extensive injuries as resulting from his panic and fear caused by the victim's attack on him. Parole Board Members concluded unanimously that Mr. Marino is untruthful in his account of his motive and conduct in murdering Anna Delgado. He presents himself as (a) having no criminal motive; (b) striking Ms. Delgado initially due to necessity; (c) striking repeated blows because she continued her relentless attack; (d) acting to excess due to panic and fear rather than anger or violence; and (e) removing her clothing for a reason that had nothing to do with prurience. Parole Board Members unanimously concluded, based on the evidence, that Mr. Marino was deceptive on all these points. Rehabilitation depends on honesty and self-awareness in identifying and addressing antisocial conduct. John Marino has actively and deceptively obscured, rather than identified, his antisocial conduct. He has not identified, revealed, or addressed the causes of his violent and predatory criminal conduct. He is not rehabilitated and, therefore, remains a danger to the community.

The standard for parole is set out in 120 C.M.R. 300.04, which provides that "Parole Board Members shall only grant a parole permit if they are of the opinion that there is a reasonable probability that, if such an 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." Applying that appropriately high standard, the Parole Board concludes that Mr. Marino is not currently suitable for parole. The review will be in three years, during which time the Parole Board recommends that Mr. Marino approach his rehabilitation with honesty and candor so that he can identify and address factors related to his homicidal conduct.

*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 each member of the Board has reviewed the applicant's entire criminal record. This signature does not indicate authorship of the decision.*

  
Janis DiLoreto Noble, General Counsel

7/2/13  
Date