



The Commonwealth of Massachusetts
Executive Office of Public Safety



PAROLE BOARD

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Chairman

DECISION

IN THE MATTER OF

STEPHEN FERNANDEZ

W51196

TYPE OF HEARING: Review Hearing

DATE OF HEARING: December 10, 2013

DATE OF DECISION: February 17, 2014

PARTICIPATING BOARD MEMBERS: Dr. Charlene Bonner, Tonomey Coleman, 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, criminal record, institutional record, the inmate's testimony at the hearing, and the views of the public as expressed at the hearing or in writing, we conclude by 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 September 23, 1991, Stephen Fernandez pleaded guilty to armed robbery and was sentenced to life in prison with the possibility of parole. He was also sentenced to a concurrent sentence of three to five years for carrying a dangerous weapon. Remaining charges of assault with a dangerous weapon, assault to kill, and kidnapping were all placed on file.

On January 30, 1991, Stephen Fernandez agreed to ride along with his friend Rohan Seivwright who wanted to confront Manuel Santiago regarding an issue with a female. After luring Santiago into the car, Seivwright drove the car and confronted Santiago about the female. Seivwright stopped the car near Route 1A in Attleboro. Santiago was ordered to remove his clothing and he did so. While pleading for his life, Santiago was ordered by Fernandez at gun point to step out of the vehicle. Santiago stepped into the breakdown lane wearing only his boxer shorts. While Manuel Santiago was walking away backwards, Stephen Fernandez shot him four times. After the shooting, Fernandez approached Santiago outside the

vehicle, but did not fire any more shots. The vehicle sped off towards Boston and Santiago managed to get to his feet and stop traffic for help.

Santiago survived the execution style shooting. During an interview at the hospital and after being shown a photo array, Santiago immediately identified Stephen Fernandez as the shooter. Seivwright was also charged but was found not guilty of all charges by a jury.

II. PAROLE HEARING ON DECEMBER 10, 2013

Stephen Fernandez has been denied parole twice by the Parole Board. Most recently, parole was denied in 2010 with a three-year review date. The Parole Board cited Fernandez's poor disciplinary history and lack of programming as primary reasons for denial.

The Parole Board questioned Fernandez extensively about trying to kill a person he did not know. Fernandez did not refute the fact that he shot him multiple times at point blank range, but resisted admitting that he intended to murder Manuel Santiago. He stated that he was a very angry young man and admitted having no appreciation or value for his life or anyone else's. Fernandez focused on the fact that he discovered that the victim had a knife in his possession after he made him undress. He continued to state that learning that Santiago was behind him with a knife infuriated him. Santiago at no time attempted to use the knife, but Fernandez continued to state that "he could have stabbed me in the neck. When I shot him all I could think about was that knife." Fernandez described feeling incensed that Santiago was carrying a knife the whole time, and could have used it. He stated that this fueled his anger as he repeatedly shot Mr. Santiago. After repeated questioning, Fernandez conceded that if a person shoots an unarmed person four times, the likelihood that the person would die is extremely high; however, he stated that he did not intend to kill Mr. Santiago.

Fernandez provided a history of his upbringing that included significant neglect by his primary care givers. Fernandez stated that he has reflected on how lost and angry he was as a young man and that his reckless conduct was a result of his upbringing. He said, "I had a lot of fights on the street; I don't know if I ever sent someone to the hospital because I didn't stick around to find out; maybe five of those fights the other guy went to the hospital; all I knew was violence; I didn't know right from wrong; I didn't know how to walk away."

Fernandez struggled academically and has continued to have difficulty passing the GED within the institution. Fernandez has no drug or alcohol abuse history. He agreed that he could have invested in violence reduction programs and additional methods of rehabilitation throughout his incarceration. Fernandez emphasized that his focus has been on employment and participating in the music program within the institution. Fernandez stated he did follow the Board's previous recommendations and completed programming related to violence. He maintains that "staying busy, working and staying out of trouble, and doing my music" have been the most significant aspects of his rehabilitation. Fernandez also described a sense of purpose and value in his current employment and affiliation with the music program. After being questioned by the Parole Board regarding participation in religious services, Fernandez stated that he became a Muslim in 1992 and he adheres to the teachings of his faith, praying five times a day, and attending services. He stated that his faith "keeps me calm and balanced. It is the spiritual part I'm interested in." Fernandez stated that he failed to mention this to the Parole Board because his Muslim faith is "automatic" and part of his daily living.

Fernandez has significantly improved his conduct and has not received a disciplinary report since 2009. Again, he attributes his improvement in his conduct to his investment in work and music. He is not currently participating in any rehabilitative programming. In terms of his academic struggles, Fernandez presented with what appeared to be pronounced cognitive deficits, as evidenced by his difficulty answering more abstract and in depth questions. Fernandez stated that passing the GED is important to him but he fears that he may not be able to achieve this goal.

Fernandez also appeared to have a lack of supports and did not have anyone to testify on his behalf at the hearing. He stated that he married and divorced a woman that he met during his incarceration. Fernandez stated that since his divorce, however, he has developed a more serious friendship with her. He speaks to her by phone but had no set plans to resume a relationship with her if he were to be released. Fernandez stated he has two daughters, one who used to visit him and call him often. He also has several cousins and friends who used to visit him. Fernandez stated that he recently "shut down visits and calls" from his daughter and other family and friends because he was becoming frustrated "not being able to help them go through things." Fernandez described his feelings of powerlessness and becoming increasingly depressed with the news he was hearing from those he has relationships with, thus he has decided to "stop all communication for awhile." The Parole Board expressed concern regarding his lack of positive supports both while he is incarcerated and if he received parole. Fernandez stated that he does have family who would help him with housing and his initial adjustment. He stated that he plans to work in the music industry and does not feel that he would have difficulty succeeding in the community.

There was no one present to speak in opposition to parole.

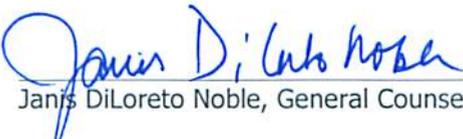
III. DECISION

Stephen Fernandez presented with some difficulty communicating what he has gained in terms of his rehabilitation. It became evident that Fernandez does have cognitive deficits that affect his ability to communicate. This presented some difficulty in assessing his level of insight and his ability to succeed in specific areas pertinent to positively reintegrating into society. That said, Fernandez did do a good job explaining the value of his work, investment in music, and how he has been able to improve his conduct in prison. What is more difficult to evaluate is Fernandez's ability to establish and maintain interpersonal relationships. He described himself as keeping mainly to himself and stated that he has temporarily cut off all contact with his family. Fernandez appears to underestimate the obstacles that he will be presented with should he be paroled into the community without the necessary stabilizing supports, a period of transition, and financial and occupational stability. The obstacles are increased for Fernandez because of his lack of education and vocational skills.

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 Stephen Fernandez is not currently suitable for parole. While the Parole Board acknowledges the

positive strides Mr. Fernandez has made in his conduct and his investment in his employment, he has only demonstrated that given a regimented schedule in an institutional setting, he can comply. Mr. Fernandez does not have a realistic release plan or support system that will help him re-integrate successfully into society, especially given the limitations he has. Mr. Fernandez had very limited periods of positive citizenship prior to his incarceration, and his lifestyle and coping skills encompassed significant violence and maladaptive behaviors. Mr. Fernandez has chosen to invest in limited programming due to the risk of losing his employment, music program, or being transferred to another prison that would be a worse environment. The Parole Board encourages Mr. Fernandez to focus on a more realistic re-entry plan that will include his awareness of the obstacles he will face, and a support system that will assist him with such a transition. Mr. Fernandez is encouraged to continue to pursue his GED, continue to invest in vocational training opportunities, and other rehabilitative opportunities that will enhance his ability to succeed in the community. It is the unanimous decision of the parole board to deny Mr. Fernandez's parole with a review in three years.

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.


Janis DiLoreto Noble, General Counsel

2/17/14
Date