



The Commonwealth of Massachusetts
Executive Office of Public Safety



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RECORD OF DECISION

IN THE MATTER OF

MIGUEL LOZADA

W64576

TYPE OF HEARING: Initial Parole Eligibility

DATE OF HEARING: April 26, 2011

DATE OF DECISION: June 6, 2011

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

DECISION OF THE BOARD: Miguel Lozada's request for parole is denied. The review of that decision will be in five years. The Board members agreed unanimously that Mr. Lozada remains dangerous, and that he has not been rehabilitated or sufficiently punished for a premeditated, joint-venture gang murder.

I. STATEMENT OF THE CASE

Juan Cruz Santiago was murdered on January 30, 1994. Miguel Lozada participated with fellow members of the Latin Kings in a planned and deliberate execution of Mr. Santiago. Mr. Lozada and two co-defendants secured pleas to second degree murder by testifying against Angel Rivera, the leader of the Latin Kings who ordered the murder. Rivera was convicted of first degree murder.

Mr. Lozada was age 17 and enrolled at the Westover Job Corps program in Chicopee, Massachusetts at the time of these events. Angel Rivera, the leader of the Latin Kings in Job Corps, orchestrated a sequence of evil and violent events in which Juan Santiago, the eventual murder victim, began as a possible perpetrator of murder. As the gang leader, Rivera ordered Juan Santiago to kill a female staff person at Jobs Corps who had angered the Latin Kings. As part of the plan, Mr. Lozada accompanied Juan Santiago on the mission; Mr. Lozada stood outside the building and waited while Juan Santiago entered the building to murder the staff member. Juan Santiago, overcome by conscience, did not carry out the mission; Mr. Lozada himself stated in his trial testimony that Juan Santiago "didn't have a violent bone in his body."

Gang leader Rivera, angered by the failure to kill, ordered Mr. Lozada and two other Latin Kings to murder Juan Santiago. The three gang members lured Juan Santiago to a remote location by stating the four of them would go together to kill the female Job Corps staff member. The three set upon Juan Santiago, kicked and punched him, held him down, wrapped a belt around his neck, and choked him until he appeared dead with blood coming from his mouth. Mr. Lozada described at trial that "me and Peachy were pulling on both ends of the belt [while] Jose was holding [the victim] down." Mr. Lozada further described that as the victim "started giving up his struggle, Jose started jumping up and down on his chest." Mr. Lozada spit in the victim's face and said to the victim that he was never meant to be a Latin King because he was a homosexual (the trial witnesses were not asked to provide the exact words Mr. Lozada used to insult the victim). As Mr. Lozada and his co-defendants hid the body, they noticed that the victim was still "gurgling and gasping for air," so they threw the unconscious Juan Santiago into the freezing waters of the Connecticut River.

Mr. Lozada fled from the Jobs Corps and moved around the country for two years, living in Florida, California, Oklahoma, Connecticut, and New Jersey. Juan Santiago's body was not found until April 5, 1994, over two months after the murder. The murder was not solved for two years; warrants issued for the defendants in March 1996 and Mr. Lozada was apprehended in New Jersey in April 1996.

II. OTHER CRIMINAL ACTIVITY

In the teenage years leading up to the murder, Mr. Lozada was leading an unproductive life with little in the way of accomplishment. At the hearing, Mr. Lozada stated that his poor behavior had exhausted his family and he "went to Jobs Corps because no family member would have me." He was living with a sister in Holyoke but "she wanted me out and she got me into Jobs Corps." He readily admitted at the hearing that he was a member of the Latin Kings; he said he "needed the camaraderie" of the gang. He had several criminal cases from Massachusetts, California, and Connecticut; no case involved use of a weapon or injury to another person.

Mr. Lozada sought commutation for this life sentence in 2008. The grounds for the commutation petition were Mr. Lozada's claims that he cooperated with the prosecution in reliance on his lawyer's assurance that he would not receive a life sentence, that he committed the murder under duress, and that he had no other criminal record. Given that Mr. Lozada does have a record for other crimes, that he did not commit the murder under duress, and that it is very unlikely that a defense lawyer would make such an assurance, the commutation petition was frivolous and based on false statements. It is hard to explain the thinking of an inmate who, in a crass attempt to mislead the Advisory Board of Pardons, made false statements to the Parole Board in 2008, but then claimed to the Parole Board in 2011 that he is remorseful and rehabilitated.

III. PAROLE HEARING ON APRIL 26, 2011

Mr. Lozada read an apology. His student attorney read an opening statement which acknowledged that Mr. Lozada knew he was "not yet ready for parole," and requested a two year setback. Board members asked the inmate about the extraordinary number of disciplinary reports: over 80 reports, including 36 since 2006. The inmate explained that "he acted out to get attention," and he "developed a negative attitude that led to destructive behavior." Board members noted the institutional record as "horrendous." The remarkably poor disciplinary record overshadowed discussion of institutional programming and its results.

The inmate's mental health was also at issue. Mental health evaluations in 2002 and 2003 resulted in findings of no major mental illness, but two social workers have suggested, without benefit of testing, that he is bipolar. Mr. Lozada admitted that he "made false suicide attempts to get to Bridgewater; it was a desperate cry for help."

Mr. Lozada had four family members speak in support: his son, who is a high school freshman in Florida; his aunt who resides in Florida; his aunt with whom he lived in Holyoke before joining the Job Corps; and his older brother from California. The brother stated that he himself "ran the streets and he (Mr. Lozada) followed me; I kind of feel responsible for what happened to him." The brother said he got help from a program that worked for him and sent him on to a better life. Leslie Walker, prisoners' advocate, also spoke for Mr. Lozada to explain prison conditions that affect mental health evaluations and disciplinary reports.

Assistant District Attorney Diane Dillon appeared for Hampden County and opposed parole.

IV. DECISION

Mr. Lozada stated in the hearing that he was not asking to be paroled at this time because he was "not ready," but he asked for a review in two years. The Parole Board does deny parole, and makes no exception to the five year review period. Mr. Lozada needs further incarceration to ensure public safety. His institutional record of repeated disciplinary reports, including assaults on corrections officers and inmates, shows a continued lack of self-control and inability to manage considerable anger. A person who committed a murder and who continues to use violence in resolving disagreements cannot be released to the community. In the community, he would almost certainly re-offend by assaulting a person with whom he disagrees.

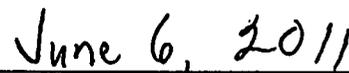
In addition to the need for further incapacitation to protect the public, the Parole Board recognizes that release of Mr. Lozada after just fifteen years is incompatible with the sentencing goals of punishment and deterrence. Mr. Lozada committed a deliberately premeditated murder, in furtherance of a gang motive, under circumstances that offer no mitigation for the execution. Parole at fifteen years would release Mr. Lozada before he had served a fair period of incarceration and would undermine the efforts of the criminal justice system to deter other youth from committing executions for gang-related motives.

In his prison record and his manipulation of the commutation process and the prison mental health system, Mr. Lozada currently gives little evidence of rehabilitation. He has much to accomplish in the next five years if he is serious about re-entering society.

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



Chairman



Date