



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

DECISION AND REASONS

NAME: Delgado, Daniel
DOC #: 711540
FACILITY: Washington Corrections Center
TYPE OF HEARING: LTJUVBRD Hearing
HEARING DATE: February 14, 2017
PANEL MEMBERS: LRG & TS
FINAL DECISION DATE: March 6, 2017

This matter came before Lori Ramsdell-Gilkey and Tom Sahlberg, who are members of the Indeterminate Sentence Review Board (ISRB or the Board) on the above date for a release hearing in accordance with the provisions of RCW 9.94A.730. Mr. Delgado appeared in person. Testimony was provided by Department of Corrections (DOC) Classification Counselor (CC) Gina Sibley, and Mr. Delgado.

BOARD DECISION:

Based on the burden of proof set out in RCW 9.94A.730(3) and the totality of evidence and information provided to the Board, the Board does find by a preponderance of the evidence that Mr. Delgado is more likely than not to commit any new criminal law violations if released on conditions. Consequently, the Board finds Mr. Delgado not releasable.

NEXT ACTION:

Mr. Delgado may re-petition the Board in February of 2020 for another hearing. If he continues to meet statutory requirements, the Board will schedule Mr. Delgado for another release hearing. An updated psychological evaluation is required.

JURISDICTION:

RCW 9.94A.730, enacted in 2014, allows offenders who were under the age of 18 when they committed their crime(s) and were sentenced as adults to petition the Board for consideration of early release after serving no less than 20 years of total confinement. Mr. Delgado has served 23 years and 9 months in prison and 378 days in jail to date.

Daniel Delgado is currently incarcerated on an August 2, 1993 conviction in Spokane County Cause # 92-1-01764-5 for Conspiracy to Commit Robbery in the First Degree, Count I, and Murder in the First Degree, Count III. The time start is August 5, 1993. The minimum term for Count I was set at 75 months from a Sentencing Reform Act (SRA) range of 61.25 to 75 months; the minimum term for Count III was set at 450 months from an SRA range of 281 to 374 months. The Judgment and Sentence noted that "substantial and compelling reasons exist which justify a sentence above the standard range for Count III". The Findings of Fact and Conclusions of Law are attached as Appendix D to the Judgment and Sentence. The statutory maximum term for Count I was 10 years, and for Count III it is life.

It should be noted Mr. Delgado was also sentenced in Spokane County Cause # 92-1-01894-3 on August 2, 1993 for First Degree Burglary. This sentence expired on October 20, 1996.

NATURE OF INDEX OFFENSE(S):

According to file material, in the evening hours of July 19, 1992, Mr. Delgado, at age 17, along with his co-defendants created a detailed plan that included disguises and weapons to commit an armed robbery of a Spokane pizza store. The group had two 12 gauge shotguns, one of which had been stolen two days previously by Mr. Delgado and a co-defendant. The group went to the pizza store at about 12:30 a.m., but retreated when they determined there was too much activity at the store in addition to nearby police presence. The group created a new plan which resulted in them ordering pizza to be delivered to a local address. The group agreed Mr. Delgado would shoot the delivery man after he exited his vehicle. The other co-defendants agreed to rob the victim and steal the pizzas. At approximately 12:55 a.m. on July 20, 1992, the victim arrived at

the address and was shot by Mr. Delgado with a sawed-off shotgun when he exited his vehicle. Mr. Delgado fled the scene and his co-defendants looked for cash or other valuables on the victim's person, then fled the scene. One of the co-defendants told a witness that a man had been shot and directed them to call police. Before police arrived, witnesses attempted resuscitation on the victim, however, the victim had died from the gunshot wounds. The day after the robbery and murder, the group met and initialed a newspaper article about the crime and placed it into a scrap book.

PRIOR CRIMINAL CONDUCT:

As briefly mentioned above, Mr. Delgado was convicted for First Degree Burglary committed by him and a co-defendant on July 16 or 17, 1992. The two broke into a residence and during the course of the robbery, shot the homeowner's dog multiple times with one of the two 12 gauge shotguns they were stealing. Subsequent to the burglary, Mr. Delgado sawed off the stolen shotgun, which was later used in the robbery and murder of the index crime victim. A 44 caliber Magnum revolver was also reported missing after the robbery.

A police report dated July 19, 1992 alleges that Mr. Delgado and a co-defendant each fired a 12 gauge shotgun at the rear of a victim's vehicle as part of an on-going dispute. The shot fired by Mr. Delgado struck a nearby house, breaking a window. The area in which the shots were fired was densely populated. Other file materials reflect that while in jail pending his trial Mr. Delgado, in April, 1993, tried to have drugs sent into the jail. He was also suspected of attempting to escape from the jail in June 1993.

HISTORY/COMMENTS:

Mr. Delgado's last hearing was held on May 13, 2015. At that time the Board found him not releasable and recommended he continue to demonstrate positive change that would include no serious infractions and no gang related behavior. It was also recommended he seek out any additional offender change programs that may help better prepare him for release in the future.

Classification Counselor Sibley testified that since his last hearing, Mr. Delgado has requested to participate in several programs as suggested by the Board; however, he was found not eligible to participate in some of those as he was too far from a release date. He did complete Conflict Resolution and Resolution Empowerment Skills. He works as a groundskeeper, receiving above average and superior ratings. He has a good deal of community support and regular visits from 25 approved visitors. He would like to reside with his mother in Colfax if this is approved by the Board. He has a friend willing to provide him employment. He is also interested in employment as a personal trainer. Mr. Delgado is currently engaged to a woman who lives in Tacoma.

Regarding the murder, Mr. Delgado explained what was going on in his life during that time period. He was living with his father and his new family but responsible for putting clothes on his own back and finding his own food. He was not aware of any resources that would assist him with this. He was not successful in school, mainly due to a lack of attendance. He admits he was basically running the streets.

Mr. Delgado admits he was the one who came up with the plan to rob a pizza delivery person. (Although he alluded to committing this offense due to hunger, at least one co-defendant stated they were after "beer" money, and it appears none of them ate the pizza.) He also admits he armed himself with a 12 gauge shotgun he had stolen during a previous burglary. Mr. Delgado stated his plan was to step out of the bushes and rob the man. Instead he "panicked" and immediately shot the man instead. He then checked the victim's pockets, found no money and ran back to the residence they had been hanging out at. On the way he stopped and hid the shotgun he used to murder the victim.

Mr. Delgado was asked about the scrapbooking of the newspaper report of the murder and his apparent callousness. He explained that he was trying to act with bravado and to build a reputation as he knew he was headed to prison for what he had done.

The Board asked Mr. Delgado his thoughts about the survivors of the man he murdered. He stated, "I have taken so much from them." He admitted he made a terrible comment about the shooting stating it was no different than shooting a deer. He appeared to express regret for this and again stated he was showing bravado. He said didn't know how to handle what he had done. He stated he was sorry for his actions and would like to express his regret.

Mr. Delgado stated he has continued to work on himself since his last hearing. He believes he has the tools he needs and the communication skills he needs. He hopes to be able to give back to the community, perhaps by meeting with juvenile delinquents to tell them where his mistakes led and encourage them to take a different path.

INFORMATION CONSIDERED:

In preparation for Mr. Delgado's hearing and its decision in this case, the Board completed a review of his ISRB file. The Board considered all information contained in that file, including but not limited to: information provided by the sentencing court/prosecutor; the most recent DOC facility plan; information regarding institutional behavior and programming; any letters of support and/or concerns sent to the Board; the Pre-Sentence Investigation report; and the Psychological Evaluation dated December 1, 2014 by Wendi Wachsmuth, Ph.D. The Board also considered the testimony of the witnesses.

REASONS:

This was a deferred decision following a full Board discussion using a structured decision-making framework that takes into consideration: the statistical estimate of risk, criminal history, parole/release history, ability to control behavior, responsivity to programming, demonstrated offender change, release planning, discordant information, and other case specific factors. Based on the requirements of RCW 9.94A.730 (3) the Board finds Mr. Delgado is not releasable at this time.

While incarcerated Mr. Delgado struggled initially and became associated with a security threat group, aka gang. He incurred infractions related to gang activity but began to withdraw from that gang several years ago. He has incurred no serious infractions since 2011. Staff report he is not a management problem and is an excellent worker. Mr. Delgado obtained his GED, took courses from a private institute to obtain certification as a nutritional specialist and personal trainer, and completed numerous offender change programs.

The psychological evaluation completed by Dr. Wachsmuth assessed him to present a medium level of risk and indicated Mr. Delgado would benefit from transition prior to full release. The psychologist stated "one of the only weaknesses in Mr. Delgado's personality makeup is his tendency toward rigidity of thought and action." This can be an asset in prison, however "inflexibility may lead to a higher stress and reliance on unhealthy coping mechanisms upon exposure to the more chaotic reality of the world outside of prison." Mr. Delgado himself voiced concern about his transition to the community, understanding much has changed and he has much to learn.

Mr. Delgado has made some improvements in his behavior. The Board is encouraged by his current infraction-free behavior and his avoidance of gang activity. For someone who has been incarcerated as long as Mr. Delgado, he struggles to explain his behavior that resulted in the death of a young father. We would like to see him complete Bridges to Life and any other offender change programs that address victim awareness and empathy issues.

LRG: ffo

February 26, 2017

March 6, 2017

cc: Institution
Daniel Delgado
File



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INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

DATE: March 6, 2017

TO: Full Board

FROM: LRG & TS (Fawn Opp)

RE: Delgado, Daniel/DOC# 711540

Panel recommends: No release. May re-petition in February of 2020.

Next action: Submit petition in February 2020.

Agree	Disagree
Lori Ramsdell-Gilkey 3-6-17 Tom Sahlberg 3-6-17 Jeff Patnode 3-6-17 Kecia Rongen 3-6-17	