

**Martin Vargas, 133525**  
**Parole eligible since 1982**

*Despite positive recommendations after six parole interviews and a unanimous vote to proceed by the full board in 1993, Vargas is the only first-time offender in Michigan who has served 32 years for a single count of rape.*

Martin Vargas is the second oldest of 13 children in a close-knit Mexican-American family. He had no juvenile court contacts but was arrested for an adult felony when he was 17.

On an evening in October 1971, Vargas, another 17-year-old named Eduardo Guerrero, and a 15-year-old forced their way into the car of a 17-year-old girl at a Saginaw shopping mall. They drove the victim to a park, where they raped her and forced her to perform fellatio, releasing her after 4½ hours.

When he sentenced Vargas to a life term, Judge Hazen Armstrong said:

*So far as what that means, your attorney will explain it to you.*

In 2001, after Judge Armstrong had died, Vargas' trial attorney explained in an affidavit the understanding of a parolable life term shared by the Saginaw bench and bar in 1972. He concluded:

*I firmly believe Judge Armstrong anticipated that Mr. Vargas would be released when he was still a relatively young man.*

Under current sentencing guidelines, Vargas would receive a minimum sentence between 9 and 15 years.

The younger co-defendant was processed as a juvenile. Guerrero was convicted of additional rapes involving two other victims and is serving three concurrent life terms. Guerrero's sentencing judge is on record saying that he intended parole consid-

eration after 10 years and that he did not intend a 17-year-old to spend the rest of his life in prison.

During his first few years in prison, Vargas was angry and rebellious. He accumulated 11 misconduct citations for such behavior as fighting, possessing contraband and disobeying direct orders. During the same period, however, he earned his GED and an associate's degree. He also worked as an assistant in the college program and tutored students in Spanish.

As he got older, Vargas built a solid record of accomplishments. In the 1980s he completed several vocational courses. In 1988, he received a commendation for preventing "life threatening injury" when another prisoner attacked a physician's assistant. In 1990, he was awarded his bachelor's degree with honors. Staff evaluations of his work as an aide on a geriatric unit were excellent. More

recently, he co-facilitated substance abuse prevention groups with staff.

In the early 1990s Vargas began to develop his considerable talent as an artist. Since 1994, he has been a tutor in a prison art program.



Martin Vargas

He has won awards every year at the University of Michigan Prisoner Art Exhibit. The faculty members who curate the show praise his "technical virtuosity" and "his unique personal vision." Paintings Vargas donated to a 1998 Lansing fundraiser raised over \$1,200 for Honduran victims of Hurricane Mitch.

Vargas participated in group sex offender counseling for nearly four years. In a 1989 termination report, the therapist wrote:

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*Despite the number of years he has been in the system, he shows evidence of psychosexual maturity that is virtually exemplary in this setting.*

Two independent psychological evaluations completed in 2001 conclude that his offense reflected adolescent conflicts and that Vargas presents minimal risk for any sort of antisocial behavior. Vargas retains the support of his extended family, a broad network of friends, and his wife, Barbara Levine, whom he married in 1994.

Various parole board members who met Vargas in person have been favorably impressed. Interview notes from his first interview in 1979 say: "looks like good 10 yr case." In July 1982, his grid score was calculated as 14 years. The next month, board member Tripp said after interviewing him that she could proceed at 12 years.

After a December 1989 interview, board member Walbrecq noted Vargas' grid score, achievements and family support and concluded:

*– done all he can, would start process.*

However, nothing happened until early 1992, when board member Makel interviewed Vargas, then wrote:

*I support starting the process. Over the years there has been support. 20 yrs in now – Grid was 14 – not much more he could do – has support systems...*

In March 1992, the board voted 5-0 to proceed to public hearing, but again nothing happened.

After the board was reconstituted, a roller coaster ride began. In January 1993, the new board considered Vargas and voted 7-1 that it had no interest. Then it decided to see him. Board member Gach conducted the interview and he, too, made a positive recommendation. The full board considered Vargas again. This time the vote was 5-5, one shy of the simple majority needed to proceed.

Citizens Alliance on Prisons and Public Spending

In August 1993, board member Rivers, who had voted against Vargas, met him when he was interpreting for a Spanish-speaking prisoner. Impressed by his demeanor, she spoke to institutional staff, then decided to change her vote. In September the full board voted 10-0 in favor of proceeding to public hearing.

As required, the board notified Judge Armstrong's successor in office of its intent. The successor, a former prosecutor, objected to parole based solely on the offense. The public hearing process stopped and Vargas spent the next five years trying to appeal the judge's objection. Eventually, the judge stated that he had been disqualified from the case and that the appropriate successor was actually Judge Leopold Borrello.

By 1998, it was time for another routine interview. Board member Slaughter made a positive recommendation, but the board did not try to proceed again. A few months later, the Michigan Supreme Court sent the case to Judge Borrello who concluded:

*Although Mr. Vargas has been incarcerated his entire adult life, facts indicate that it is likely he could successfully enter into the community and remain a productive citizen.*

The Supreme Court sent the case back to the parole board for yet another interview, which was conducted by then-chairperson Marschke on February 25, 1999. Eight days later the board issued a no interest notice.

Vargas was next seen in April 2003 by board member McNutt who also supported his release. In October 2003, the full board considered him once again. Once again, the vote was 5-5.

Vargas turned 50 in January 2004. He has been in prison longer than any other first offender convicted of a single sex offense. His next review is scheduled for March 2008, when he will have served 36 years.

A public hearing was scheduled by the board for May of 2009 but there was a judicial objection and the hearing was cancelled.