February 2022

Art. 78 Discovery Motion/Opposition - FUSL000094 (2021-06-23)

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of the Application of	:	
[redacted]	:	
Petitioner,	:	
For a judgment pursuant to Article 78 of the Civil Practice Law and Rules,	:	Index No. [redacted]
-against-	:	
TINA M. STANFORD, Chairwoman of the New York State Board of Parole,	:	
Respondent.	:	

MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR DISCLOSURE

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Petitioner [redacted] respectfully submits this memorandum of law in support of his Motion for an Order granting disclosure pursuant to C.P.L.R. Section 408.

INTRODUCTION

As outlined in the Petition, [redacted] alleges that he is being perpetually denied parole by the Board of Parole (the "Board") based on improper and unlawful grounds. *See generally* Dkt. Nos. 1-28. New York law expressly provides for disclosure when, as here, discovery requests are necessary and material to the claims in the Petition.

Respondent is in the exclusive possession of information needed by Petitioner to affirmatively prove his claims. Respondent is also in exclusive possession of materials relevant to the motion to dismiss. Moreover, Respondent will not be, and cannot claim to be, prejudiced by the disclosure sought by Petitioner. Thus, although the Board is accustomed to withholding key information concerning its decision-making from not only parole applicants, but also from their counsel and the New York Supreme Court, it has no basis to do so here. Leave to seek the disclosure detailed in Exhibit 1 to the Affirmation should be granted.

ARGUMENT

Disclosure in Article 78 proceedings is permissible with leave of court under C.P.L.R. Section 408. This Court has discretion to grant disclosure under that provision "inasmuch as the data requested [is] material to the action and unavailable by other means." *Roth v. Pakstis*, 13 A.D.3d 194, 195 (1st Dep't 2004) (citing *Goldstein v. McGuire*, 84 A.D.2d 697, 698 (1st Dep't 1981)); *see also Matter of Niagara Mohawk Power Corp. v. City of Saratoga Springs*, 767 N.Y.S.2d 683, 684 (3d Dep't 2003) (affirming a trial court decision to grant discovery pursuant to C.P.L.R. Section 408 where the sought discovery "bears on a crucial fact" at issue in the special proceeding). New York courts consider the following criteria in assessing requests under

C.P.L.R. Section 408: "(1) whether the petitioner has asserted facts to establish a cause of action; (2) whether a need to determine information directly related to the cause of action has been demonstrated; (3) whether the requested disclosure is carefully tailored so as to clarify the disputed facts; (4) whether any prejudice will result; and (5) whether the court can fashion or condition its order to diminish or alleviate any resulting prejudice." *Lonray, Inc. v. Newhouse*, 229 A.D.2d 440, 440 (2d Dep't 1996) (citing *New York Univ. v. Farkas*, 121 Misc. 2d 643, 647 (Civ. Ct. New York City 1983)). Each of these factors weighs strongly in favor of issuing an order requiring disclosure, particularly in light of the procedural safeguards pursuant to which Petitioner is prepared to accept disclosure, which include: (1) the designation of all documents as "Attorneys' Eyes Only;" (2) redaction of victim-representative names from Victim Impact Hearing Transcripts; and (3) disclosure pursuant to a Court-issued Protective Order.

I. PETITIONER HAS SUFFICIENTLY STATED A CAUSE OF ACTION.

As set forth in the Petition, [redacted] has asserted that the Board of Parole's decision-making concerning his parole release applications is based upon unlawful and improper motivations. *Inter alia*, [redacted] has alleged that politics and Commissioner self-interest, not facts and law, dictate the Board's decision making in this case; that the Board has improperly and intentionally attempted to moot his Article 78 appeals; that the decisions concerning his parole release applications are predetermined; that Commissioners are unnecessarily hostile towards him and predisposed to deny release; that factual inaccuracies underly supposed rationales for denial; and that his continued incarceration is unlawful.[1] Petitioner has legally cognizable claims against the Board of Parole under Article 78.

[1] As to Respondent's motion to dismiss, Petitioner has also asserted that this matter falls within the exception to the mootness doctrine. *See generally* Dkt. Nos. 1-28, 41.

II. THE REQUESTED DISCLOSURE IS MATERIAL, DIRECTLY RELATED TO PETITIONER'S CLAIMS, AND UNAVAILABLE BY ANY OTHER MEANS.

Petitioner contends that the Decision is arbitrary, capricious, and unlawful, and that it must be directly overturned by this Court. *All* of the evidence sought by Petitioner concerning his claims—including, but not limited to the Board's decision-making policies and processes, Commissioners' compliance with those policies and processes, the basis of subjective conclusions upon which it purports to rely, whether it conducts factual investigation concerning allegations not present in the record, the scope and content of supposed community opposition to Petitioner's release—is within the exclusive control of the Board. *See Stop BH●D v. City of New York*, 22 Misc. 3d 1136(A) (Sup. Ct. Kings Cnty. 2009) ("Discovery is available in a CPLR Article 78 proceeding where the information is within the exclusive possession and knowledge of the respondents.") (internal citation omitted). All of this evidence is also *directly related* to Petitioner's claims.

For instance, the written Decision purports to rely on "extensive community opposition" to [redacted] release. Meanwhile, only heavily redacted and inscrutable copies of that purported opposition have *ever* been disclosed to Petitioner's counsel. Thus, Petitioner is unable to verify whether meaningful, accurate, or recent community opposition to his release does, in fact, exist. In addition, the Decision purports to conclude that [redacted] lacks emotion, as "noted by [the] sentencing judge 30 years ago" and purportedly observed by the panel during the interview. This supposed factual conclusion—which is *not present* in the sentencing minutes, as explained in the Petition and accompanying memorandum of law—further illustrates why the disclosure sought by [redacted] is not just warranted, but essential. To prove that this

conclusion is arbitrary and capricious, Petitioner *must* be given access to materials and testimony explaining its origins.[2]

Likewise, Petitioner has asserted that judicial deference need not be given to unlawful and factually incorrect agency decision-making, and that this Court has authority to order release because Petitioner's continued incarceration is unconstitutional. In response, Respondent has argued that this Court lacks authority to order release. *See* Dkt. No. 38 at ¶ 11. Thus, how and why the Board decided to deny [redacted] parole for both the seventh and eighth times, and whether they deliberated or decided against release in an unlawful or improper way, bears directly upon the question of whether this Court can and should order release. Disclosure is also warranted on this basis.

Additionally, New York courts are empowered to grant disclosure against government agencies where the material information disclosed by a respondent in an Article 78 proceeding is lacking. *See Nespoli v. Doherty*, 17 Misc. 3d 1117(A) (Sup. Ct. NY Cnty. 2007) (granting disclosure to assess the factual bases for respondent's statistics); *Gerber Prod Co. v. New York State Dep't of Health*, 47 Misc. 3d 249, 254 (Sup. Ct. Albany Cnty. 2014) (granting disclosure as respondent's summary chart lacked information material to petitioner's claim). The materials disclosed to counsel for Petitioner by Respondent are entirely insufficient—for instance, to Petitioner's knowledge, Respondent has not disclosed decipherable versions of the supposed

[2] Moreover, it is not just the supposed conclusions and findings in the August 2020 decision denying parole (the "Seventh Denial") that are directly related to Petitioner's claims and unavailable by any other means. Respondent has placed the merits of the March 2021 decision denying parole (the "Eighth Denial") at issue in this action by arguing that this case should be dismissed because the Eighth Decision is "the basis for [P]etitioner's continued incarceration." Dkt. No. 38 at ¶ 10. Thus, disclosure concerning the Eighth Decision is also directly related to Petitioner's claims, and also appropriately within the purview of disclosure. *See infra* Section VII.

"extensive community opposition" upon which Commissioners have relief to either Petitioner or the Court—and Petitioner therefore urges the Court to grant this motion.

III. PETITIONER'S DISCLOSURE REQUEST IS CAREFULLY TAILORED TO CLARIFY DISPUTED FACTS.

Petitioner's requests are carefully tailored to clarify only disputed facts. Petitioner seeks only those materials and information that bear directly on the claims asserted in the Petition; nothing more, nothing less. In sum, he is seeking the full disclosure of the file about his case, and the opportunity to question those involved in parole application deliberation about the facts of this case.[3]

IV. RESPONDENT WILL NOT BE PREJUDICED BY DISCLOSURE.

There is no cognizable prejudice to Respondent that would result from this disclosure. *See Zada Assocs. v. Melucci*, 49 Misc. 3d 140(A) (1st Dep't App. Term 2015) (holding that "no prejudice will befall [respondents] since it is [petitioner's] own case which will be delayed, if at all, by the disclosure" requested by petitioner) (citing *Hartsdale Realty Co. v. Santos*, 170 A.D.2d 260 (1st Dep't 1991)). Indeed, Petitioner's willingness to accept these files with the "Attorneys' Eyes Only" designation, with victim-representative names fully redacted, and pursuant to a protective order ameliorates even the suggestion of prejudice to Respondent.

Yet, to whatever extent Respondent claims it will be prejudiced by disclosure, any harm to Respondent is the direct consequence of its continuing efforts to keep its decision-making—decision-making that bears directly on the freedom and liberty of Petitioner—locked away inside a black box of secrecy. If the Board wanted to avoid the burden and potential prejudice of

[3] Petitioner has been informed by a knowledgeable agency insider that SORCs and ORCs are routinely present, and occasionally even participate in parole release deliberations. This is why Petitioner is seeking to depose not just the Commissioners, but also the DOCCS officers named in the parole interview transcripts.

disclosure, it could and should have released the materials and reasoning upon which it purports to rely in evaluating Petitioner's parole applications over the course of the last twelve years.

In addition, any prejudice or burden claimed by Respondent in complying with disclosure pales in comparison to the prejudice that Petitioner has suffered as a result of the Board's secrecy and continued misapplication of facts in the record. Whatever the inconvenience to Respondent in complying with the sought disclosure—which is *essential* to Petitioner's claims—it ought not be placed above the harm Petitioner suffers every day his incarceration is prolonged because of the Board's unlawful conduct.

V. PETITIONER HAS ALREADY FASHIONED HIS REQUEST TO DIMINISH OR ALLEVIATE ANY POSSIBLE PREJUDICE.

As stated above, the scope of disclosure sought by Petitioner is extremely narrow: he seeks the materials used in evaluating his parole applications, and the opportunity to question those present during decision-making. He intends to depose Commissioners and Officers concerning the claims asserted in his Petition; nothing more. In addition, to ameliorate potential confidentiality concerns, Petitioner has volunteered to forego access to documents like community opposition and victim impact transcripts,[4] to accept disclosure of all written records with "Attorneys' Eyes Only" designation in order to mitigate prejudice to Respondent, and to be bound by an appropriate protective order from this Court.

VI. THE BOARD IS NOT IMMUNE FROM DISCLOSURE.

The Board and its staff do not enjoy immunity from the disclosure being sought here. The legislative immunity privilege—which one New York court deemed to bar depositions of

[4] Petitioner has been informed by a knowledgeable agency insider that the same Commissioners who attend a Victim Impact Hearing concerning a parole application may attend and even lead the parole applicant's release interview. Obviously, this conflict of interest could create significant bias and undermine impartiality, and is directly related to Petitioners claims that the Board's decision to deny parole is unlawful, arbitrary, and capricious.

agency officials and disclosure of particular agency documents in certain contexts—does not apply here, where Petitioner is not seeking to challenge "the adoption of a legislative-type rule." *See Humane Society of New York v. City of New York*, 729 N.Y.S.2d 360, 363 (N.Y. Cty. Sup. Ct. 2001). Similarly, the deliberative process privilege does not apply in this case because Petitioner is not seeking materials used in the course of deliberating over an agency policy, and is instead seeking information concerning alleged improper conduct with regard to him, in particular. *See generally Dipace v. Goord*, 218 F.R.D. 399, 403-04 (S.D.N.Y. 2003) (explaining that "[f]or a particular inter-agency or intra-agency document to be protected by the privilege, the agency must show that the document is both "predecisional" and 'deliberative[,]' . . . [and a] document is 'deliberative' if it is actually related to the process by which policies are formulated.") (internal quotation marks and citations omitted).

Likewise, the Board may not evade disclosure in this case by invoking a public interest privilege. The public interest privilege "attaches to confidential communications between public officers, and to public officers, in the performance of their duties, where *the public interest requires* that such confidential communications or the sources thereof should not be divulged." *Martin A. v Gross*, 605 N.Y.S.2d 742, 744 (1st Dep't 1993) (emphasis added). However, the public interest privilege is by no means absolute: "Whether the privilege attaches in a particular setting is a fact-specific determination for a fact-discretion weighing court[.]" *In re World Trade Center Bombing Litigation*, 93 N.Y.2d 1, 8 (1999). According to the Court of Appeals, "[a]n agency claiming some special governmental-public interest 'cone of silence' [must] demonstrate the specific public interest that would be jeopardized by an otherwise customary exchange of information." *Id.* And that silence-based interest must always be weighed against the public's interest not just in transparency, but also in permitting courts to right wrongful conduct. Stated

differently, "the public interest correspondingly encompasses societal interests in redressing private wrongs" just like those alleged by Petitioner. *Id.*

Here, Petitioner has agreed to forego personal access to the sought materials and rely upon counsel to review and analyze their import, he has no objection to the redaction of the names of victim-representatives from hearing transcripts, and he is prepared to abide by a protective order from the Court. Thus, there is no articulable public interest in permitting a cone of silence to shield the Board from oversight and accountability. The most imperative public interest at stake here is ensuring that the Board's decision to deny Petitioner his liberty is not arbitrary, capricious, or unlawful.

Yet even if any of the privileges that weigh against disclosure were applicable here, when weighed against the harm to Petitioner in denying this motion, equity mandates disclosure. [redacted] contends that his continued incarceration is unlawful, and the evidence he seeks is crucial to proving his claims. Thus, his liberty and freedom are at stake, and those interests cannot be deemed subordinate to the Board's desire to maintain secrecy.

VII. RESPONDENT'S MOTION TO DISMISS THE PETITION HAS EXPANDED THE SCOPE OF APPROPRIATE DISCLOSURE IN THIS MATTER.

Respondent has moved to dismiss the Petition because "Petitioner's 2021 Parole Board Release Interview and decision render a challenge to the 2020 decision moot." *See* Dkt. No. 38 at ¶ 10. Respondent continues, "[t]he new decision supersedes the 2020 decision and now is the basis for petitioner's continued incarceration." *Id.* Respondent has thus conceded that this Court has authority to address the merits of not just the Seventh Denial, but also the Eighth Denial. Thus, Petitioner respectfully asserts that he is entitled to disclosure concerning both decisions.

Moreover, Respondent's motion to dismiss has placed mootness—and the applicability of the mootness exception—at the center of the dispute between the parties. Respondent argues

that that "[t]his proceeding also does not fall under the narrow mootness exception for cases that involve an issue that is likely to recur, typically evades review, and raises a substantial and novel question." Dkt. No. 38 at ¶ 13 (internal quotation marks omitted). Petitioner alleges, *inter alia*, that the Board's predisposition against him, the predetermination of denial, the Commissioners' sole focus on the seriousness of the underlying crime, the pressures of self-interest and politics on decision-making, and a variety of other factors place this matter *precisely within* the exception of mootness because they are ongoing and continually repeating. Thus, Respondent's motion merely serves to underline that the disclosure sought by Petitioner is not just appropriate, it is *essential* to his claims.

CONCLUSION

Respondent respectfully urges this Court to grant him disclosure pursuant to C.P.L.R. Section 408.

Dated: June 23, 2021

Respectfully submitted,

/s/Rochelle F. Swartz

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Attorneys for Petitioner

Exhibit 1

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of the Application of [redacted] Petitioner,	:	
For a judgment pursuant to Article 78 of the Civil Practice Law and Rules,	:	Index No. [redacted]
-against-	:	
TINA M. STANFORD, Chairwoman of the New York State Board of Parole, Respondent.	:	

PETITIONER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS

Petitioner [redacted] pursuant to New York Civil Practice Law and Rules (the "C.P.L.R.") Section 3120 et seq., and with leave pursuant to C.P.L.R. Section 408, by and through his undersigned counsel, hereby requests that Respondent produce the following documents within 20 days of service hereof in accordance with the definitions and instructions set forth herein.

DEFINITIONS

1. The terms "Respondent," "Board," "You," or "Your" shall mean the New York Board of Parole, its employees, managers, officers, agents, staff, and/or representatives, including without limitation Commissioners and employees, managers, officers, agents, staff, and/or representatives of the Board of Parole Appeals Unit.

2. The term "Petitioner" shall mean [redacted]

3. The term "Action" shall mean the above-captioned matter.

4. The term "Petition" shall mean those dockets filed in support of Petitioner in the Action, including but not limited to Docket Numbers 1-28 of the e-filed case number [redacted]

5. The term "Communication" shall mean shall mean any form of information exchange, or attempted exchange, including but not limited to: written, oral, or electronic exchanges; exchanges by letter, telephone, facsimile, e-mail, face-to-face conversation, meeting, or conference; any exchange whether or not written, taped, or recorded; any exchange without limit to the time, place, or circumstances of its occurrence; and/or any other transmittal of information by any media by any manner. Communications shall include both internal and external communications.

6. The term "Concerning" shall be construed in the broadest possible sense and shall include but not be limited to, directly or indirectly, in whole or in part, referring to, relating to, analyzing, concerning, consisting of, commenting on, comprising, connected with, constituting, substantiating, proving, disproving, containing, contradicting, describing, discussing, embodying, establishing, evidencing, identifying, including, memorializing, mentioning, naming, negating, pertaining to, recording, referencing, regarding, reflecting, responding to, setting forth, showing, summarizing, supporting, or having any logical or factual connection, directly or indirectly, in any way the subject matter of the paragraph containing the term.

7. The term "Document" shall be applied as broadly as permitted under CPLR § 3101 and includes, without limitation: the original or a copy as well as drafts and all versions of all writings and recordings; material that is stored, compiled, or organized by means of any electronic, magnetic, optical, or mechanical device, such as by handwriting, typewriting, printing, photostating, or filming; agreements, analytical data, art work, audio recordings, books, bulletins, calendars, computer tapes, computer storage media, contracts, correspondence,

diagrams, diaries, drawings, e-mails, facsimiles, forms, interoffice communications, keypunch cards, letters, memoranda, messages, notes, papers, photographs, pictures, pleadings, proposals, reports, studies, surveys, telegrams, telecopies, telegraphs, telex communications, text or SMS messages, video recordings, and worksheets; and any writing or recording prepared on or with any physical objects.

8. The terms "and" and "or" include each other within their meaning and shall be both conjunctive and disjunctive; the word "all" shall mean "any and all;" the word "any" shall mean "any and all;" and the term "including" means including without limitation.

9. The terms "Community Opposition," "Official Opposition," and "Letter(s) of Support" shall mean any Documents or Communications in which an individual, organization, company, elected official, non-elected official, member of the media, or group thereof expresses an opinion concerning the parole release of Petitioner, the Petition, or this Action.

10. The term "Media Inquiry" shall mean any Document or Communication from or concerning a member of the media.

11. The term "Victim Impact Statement" shall mean those statements described by the Department of Corrections and Community Supervision Office of Victim Assistance on its website, as follows:

> Landmark 1994 legislation allows victims of crime to submit Victim Impact Statements . . . . The Board recognizes that crime victims are an important part of the criminal justice process and have information that can assist the Board when it considers release. These rights can be exercised prior to each scheduled Board interview. Statements received during the same month the interview is scheduled are not guaranteed to be available to the Board. Personal victim impact meetings are generally scheduled one-to-two months before the incarcerated individual interviews with the Board. If you wish to have a personal meeting, you should submit a Victim Notification Form (English), Victim Notification Form (Spanish), or an Electronic Victim Notification Form as soon as possible.

12. The term "Victim Impact Hearing" refers to any phone call, meeting, interview, hearing, or other interaction between a victim representative and the Board of Parole, its employees, managers, officers, agents, staff, and/or representatives, including without limitation Commissioners and employees, managers, officers, agents, staff, and/or representatives of the Board of Parole Appeals Unit, as described by the Department of Corrections and Community Supervision Office of Victim Assistance on its website, as follows:

> Certain crime victims can meet face-to-face or by phone with a Board of Parole (Board) member. Transcripts are generated from these meetings and made available to the Parole Board panel that will interview the individual.

13. The term "Victim Representative" shall mean family members of Cynthia Curtis and Lewis Rizzo, but shall not include non-family advocates.

INSTRUCTIONS

1. Each request shall be construed independently and not with reference to any other request for the purpose of limitation or exclusion.

2. If You object to any part of the following requests (or definitions and instructions applicable thereto), You shall produce the documents responsive to that part of the request to which You do not object, identify the categories of documents that you are withholding based on Your objection and state specifically each ground upon which the objection is made.

3. If You believe any request, definition or instruction is ambiguous, in whole or in part, You nonetheless must respond and: (i) set forth the matter deemed ambiguous; and (ii) describe the manner in which You construed the request in order to frame Your response.

4. If You object to any request on the grounds of privilege or any other protection from discovery, state the nature and basis of the privilege claimed, and provide sufficient

information for Petitioner to assess the applicability of the stated basis, consistent with C.P.L.R. § 3122(b). In particular, provide: (a) the author of the document; (b) the name and title of each person who prepared, received, reviewed, or has or had custody, possession, or control of an original or copy of the document; (c) the date of the document; (d) the subject matter of the document; (e) the type of document; (f) the identity and length of any attachments; and (g) the basis for the claim of privilege or other ground for withholding the document. If You contend that a portion of a document is protected by privilege, produce the document with the allegedly privileged portion redacted and marked as such. The information above shall be provided for all redactions. Non-privileged attachments to privileged documents must be produced.

5. Each requested document shall be produced in its entirety, without abbreviation or redaction, and shall include all attachments, appendices, exhibits, lists, schedules or other documents at any time affixed thereto. Responsive documents shall be produced as kept in the usual course of business or in a manner organized and labeled to correspond with the categories in these discovery requests.

6. Documents from any single file shall be produced in the same order as they were found. If copies of Documents are produced in lieu of the originals, those copies must be legible and organized in the same manner, and the original labels or other file designations should be produced or copied.

7. Documents shall be produced in full. If any requested Documents or thing cannot be produced in full, produce it to the fullest extent possible, indicating which Document, or portion of that Document, is being withheld, and the reason for withholding.

8. Produce all responsive documents in Your possession, custody, or control, and/or that are in the possession of Your attorneys, agents, representatives, other outside service

providers and persons employed by You or Your attorneys, agents, representatives, other outside service providers.

9. These requests are continuing, so as to require Respondent to supplement its production if any additional documents are discovered after Respondent's initial responses and productions.

10. Unless otherwise indicated, these requests cover the time period from August 1, 1990 to the present.

DOCUMENT REQUESTS

1. All Documents and Communications concerning Petitioner that are accessible to the Board.

2. All Documents and Communications, in unredacted form, that concern Petitioner and constitute Community Opposition, Official Opposition, and Letters of Support.

3. All Documents and Communications concerning Media Requests

4. All Documents and Communications, including transcripts, concerning Victim Impact Statements and Victim Impact Hearings that relate to Petitioner, his applications for parole release, or this Action. The names of Victim Representatives may be redacted from these Documents and Communications. However, the following information should be disclosed: the names of all non-Victim Representative persons, including the Board, present at Victim Impact Hearings; the dates and times of the Victim Impact Hearings; the entire content of the correspondence with the Victim Representative.

5. All Documents and Communications regarding any Media Inquiry concerning Petitioner, his parole release, or this Action.

Dated: June 23, 2021

Respectfully submitted,

/s/ Rochelle F. Swartz

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Attorneys for Petitioner

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

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Petitioner,	:	
For a judgment pursuant to Article 78 of the Civil Practice Law and Rules,	:	Index No. [redacted]
-against-	:	
TINA M. STANFORD, Chairwoman of the New York State Board of Parole,	:	**SUBPOENA AD TESTIFICANDUM & DUCES TEUM**
Respondent.	:	

TO: Commissioner Tana Agostini
New York Board of Parole
97 Central Avenue
Albany, New York 12206

GREETINGS:

YOU ARE HEREBY COMMANDED, that all business and excuses being laid aside, you appear and attend before a Notary Public, or another person authorized to administer oaths, at the offices of Orrick, Herrington & Sutcliffe LLP, 51 West 52nd Street, New York, New York, 10019, on the ___ day of _____ 2021, at 10:00 o'clock in the forenoon, or at such other time as may be agreed upon by the parties. This deposition will be recorded by stenographic and/or videographic means. You are also hereby commanded to produce documents now in your custody, control, or possession that are responsive with respect to the subjects and documents enumerated in Exhibit A at the deposition.

Your testimony is material and necessary to the resolution of the issues in this action and is not reasonably available from any other person.

Failure to comply with this subpoena is punishable as contempt of Court and shall make you liable to the person(s) on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

Dated: June 23, 2021
New York, New York

Respectfully submitted,

/s/Rochelle F. Swartz

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-against-	:	
TINA M. STANFORD, Chairwoman of the New York State Board of Parole,	:	**SUBPOENA AD TESTIFICANDUM & DUCES TEUM**
Respondent.	:	

TO: Officer N. Burrell
Woodbourne Correctional Facility
99 Prison Road
Woodbourne, New York 12788

New York Department of Corrections and Community Supervision
1220 Washington Avenue
Albany, New York 12226

GREETINGS:

YOU ARE HEREBY COMMANDED, that all business and excuses being laid aside, you appear and attend before a Notary Public, or another person authorized to administer oaths, at the offices of Orrick, Herrington & Sutcliffe LLP, 51 West 52nd Street, New York, New York, 10019, on the ___ day of _____ 2021, at 10:00 o'clock in the forenoon, or at such other time as may be agreed upon by the parties. This deposition will be recorded by stenographic and/or videographic means. You are also hereby commanded to produce documents now in your custody, control, or possession that are responsive with respect to the subjects and documents enumerated in Exhibit A at the deposition.

Your testimony is material and necessary to the resolution of the issues in this action and is not reasonably available from any other person.

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Dated: June 23, 2021
New York, New York

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Criminal Appeals Bureau
199 Water Street, 5th Floor
New York, New York 10038
Tel: (646) 689-5537

Attorneys for Petitioner

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of the Application of [redacted]	:	
Petitioner,	:	
For a judgment pursuant to Article 78 of the Civil Practice Law and Rules,	:	Index No. [redacted]
-against-	:	
TINA M. STANFORD, Chairwoman of the New York State Board of Parole,	:	**SUBPOENA AD TESTIFICANDUM & DUCES TEUM**
Respondent.	:	

TO: Officer A. Hosking
Woodbourne Correctional Facility
99 Prison Road
Woodbourne, New York 12788

New York Department of Corrections and Community Supervision
1220 Washington Avenue
Albany, New York 12226

GREETINGS:

YOU ARE HEREBY COMMANDED, that all business and excuses being laid aside, you appear and attend before a Notary Public, or another person authorized to administer oaths, at the offices of Orrick, Herrington & Sutcliffe LLP, 51 West 52nd Street, New York, New York, 10019, on the ___ day of _____ 2021, at 10:00 o'clock in the forenoon, or at such other time as may be agreed upon by the parties. This deposition will be recorded by stenographic and/or videographic means. You are also hereby commanded to produce documents now in your custody, control, or possession that are responsive with respect to the subjects and documents enumerated in Exhibit A at the deposition.

Your testimony is material and necessary to the resolution of the issues in this action and is not reasonably available from any other person.

Failure to comply with this subpoena is punishable as contempt of Court and shall make you liable to the person(s) on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

Dated: June 23, 2021
New York, New York

Respectfully submitted,

/s/Rochelle F. Swartz

Elyse D. Echtman
Rochelle F. Swartz
Kristin Schwam
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Attorneys for Petitioner

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

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Petitioner,	:	
For a judgment pursuant to Article 78 of the Civil Practice Law and Rules,	:	Index No. [redacted]
-against-	:	
TINA M. STANFORD, Chairwoman of the New York State Board of Parole,	:	**SUBPOENA AD TESTIFICANDUM & DUCES TEUM**
Respondent.	:	

TO: Commissioner Chanwoo Lee
New York Board of Parole
97 Central Avenue
Albany, New York 12206

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Attorneys for Petitioner

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of the Application of [redacted]	:	
Petitioner,	:	
For a judgment pursuant to Article 78 of the Civil Practice Law and Rules,	:	Index No. [redacted]
-against-	:	
TINA M. STANFORD, Chairwoman of the New York State Board of Parole,	:	**SUBPOENA AD TESTIFICANDUM & DUCES TEUM**
Respondent.	:	

TO: Officer Erin Murtha
Woodbourne Correctional Facility
99 Prison Road
Woodbourne, New York 12788

New York Department of Corrections and Community Supervision
1220 Washington Avenue
Albany, New York 12226

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Attorneys for Petitioner

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of the Application of [redacted] Petitioner,	:	
For a judgment pursuant to Article 78 of the Civil Practice Law and Rules,	:	Index No. [redacted]
-against-	:	
TINA M. STANFORD, Chairwoman of the New York State Board of Parole, Respondent.	:	**SUBPOENA AD TESTIFICANDUM & DUCES TEUM**

TO: Commissioner Sheila Samuels
New York Board of Parole
97 Central Avenue
Albany, New York 12206

GREETINGS:

YOU ARE HEREBY COMMANDED, that all business and excuses being laid aside, you appear and attend before a Notary Public, or another person authorized to administer oaths, at the offices of Orrick, Herrington & Sutcliffe LLP, 51 West 52nd Street, New York, New York, 10019, on the ___ day of _____ 2021, at 10:00 o'clock in the forenoon, or at such other time as may be agreed upon by the parties. This deposition will be recorded by stenographic and/or videographic means. You are also hereby commanded to produce documents now in your custody, control, or possession that are responsive with respect to the subjects and documents enumerated in Exhibit A at the deposition.

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Dated: June 23, 2021
New York, New York

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Tel: (646) 689-5537

Attorneys for Petitioner

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of the Application of [redacted] Petitioner,	:	
For a judgment pursuant to Article 78 of the Civil Practice Law and Rules,	:	Index No. [redacted]
-against-	:	
TINA M. STANFORD, Chairwoman of the New York State Board of Parole, Respondent.	:	**SUBPOENA AD TESTIFICANDUM & DUCES TEUM**

TO: Commissioner Elsie Segarra
New York Board of Parole
97 Central Avenue
Albany, New York 12206

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COUNTY OF SULLIVAN

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TO: Officer C. Smith
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