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Art. 78 Motion to Dismiss/Opposition - FUSL000095 (2020-07-27)

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July 27, 2020

Honorable Peter M. Forman
Dutchess County Supreme Court
10 Market Street
Poughkeepsie, New York 12601

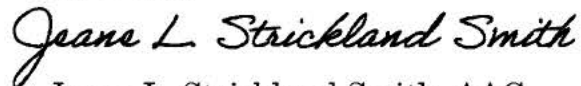
**RE: [REDACTED] v BOARD OF PAROLE
INDEX NO. [REDACTED]
OPPOSITION TO MOTION TO UNSEAL**

Dear Judge Forman:

Please excuse my delay in filing opposition papers. The respondent is opposed to counsel's request for the unsealing of the Presentence Investigation Report (State's Exhibit 1) and Part II of the Parole Report (State's Exhibit 3). Nothing in counsel's July 10, 2020 letter authorizes the release of these confidential documents that are protected by statute. CPL § 390.50 provides for the confidentiality of the PSI and permits disclosure only by specific authorization of the sentencing court. The criminal action that produced the PSI terminated with the imposition of sentence. *People v Young*, 163 AD3d (3d Dept. 2018). Petitioner cannot collaterally challenge the accuracy of the presentence investigation report decades later. *Matter of James v New York State Bd. of Parole*, 2011 NY Misc. LEXIS 6033.

Part II of the Parole Report is an intra-agency document that is exempt from disclosure under Public Officers Law § 87(g). These materials are pre-decisional intra-agency memoranda that are not reflective of the final agency policy or determination, and as such are exempt from disclosure. *Sinicropi v County of Nassau*, 428 NYS2d 312 (2d Dept. 1980); *Matter of Mc Aulay v Board of Edu.*, 61 AD2d 1048, *affd*, 48 NY2d 659. Based on the foregoing, the respondent respectfully request that the Court deny petitioner's motion to unseal the records.

Sincerely,



Jeane L. Strickland Smith, AAG

cc: Law Office of Ronald L. Kuby

