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January 2020

### Administrative Appeal Decision - Patterson, Andre

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Patterson, Andre Facility: Otisville CF  
NYSID: 07668766-J Appeal Control No.: 02-099-19 B  
DIN: 95-A-5506

Appearances: Andre Patterson 95A5506  
Otisville Correctional Facility  
P.O. Box 8  
Otisville, New York 10963

Decision appealed: January 2019 decision, denying discretionary release and imposing a hold of 18 months.

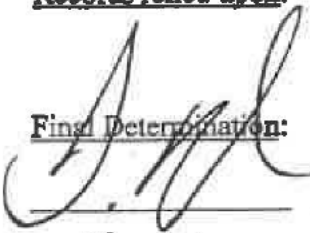
Board Member(s) who participated: Cruse, Davis

Papers considered: Appellant's Letter-brief received April 26, 2019

Appeals Unit Review: Statement of the Appeals Unit's Findings and Recommendation

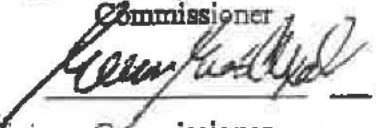
Records relied upon: Pre-Sentence Investigation Report, Parole Board Report, Interview Transcript, Parole Board Release Decision Notice (Form 9026), COMPAS instrument, Offender Case Plan.

Final Determination: The undersigned determine that the decision appealed is hereby:



\_\_\_ Affirmed \_\_\_  Vacated, remanded for de novo interview \_\_\_ Modified to \_\_\_

Commissioner



\_\_\_ Affirmed \_\_\_  Vacated, remanded for de novo interview \_\_\_ Modified to \_\_\_

Commissioner



\_\_\_ Affirmed \_\_\_  Vacated, remanded for de novo interview \_\_\_ Modified to \_\_\_

Commissioner

If the Final Determination is at variance with Findings and Recommendation of Appeals Unit, written reasons for the Parole Board's determination must be annexed hereto.

This Final Determination, the related Statement of the Appeals Unit's Findings and the separate findings of the Parole Board, if any, were mailed to the Inmate and the Inmate's Counsel, if any, on 7/26/2019.

LB

STATE OF NEW YORK – BOARD OF PAROLE

**APPEALS UNIT FINDINGS & RECOMMENDATION**

Name: Patterson, Andre

DIN: 95-A-5506

Facility: Otisville CF

AC No.: 02-099-19 B

**Findings:** (Page 1 of 1)

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Appellant challenges the January 2019 determination of the Board, denying release and imposing a 18-month hold. Appellant's instant offenses involved him committing armed robberies of three different stores, and in one of them shooting the store employee to death. Appellant raises the following issues: 1) the Board failed to consider and/or properly weigh the required statutory factors. 2) no aggravating factors exist. 3) the decision lacks substantial evidence. 4) the decision lacks future guidance. 5) the Board failed to cite facts in support of the statutory standard relied upon. 6) the decision was predetermined. 7) the Board illegally resentenced him. 8) community opposition is prohibited. 9) the decision lacks details. 10) the decision violates the due process clause of the constitution. 11) the decision violated the right to counsel provision of the constitution. 12) the Board failed to discuss youth and its attendant circumstances, and transient immaturity issues. 13) the Board failed to comply with the 2011 amendments to the Executive Law, and the 2017 regulations, in that the COMPAS and his constitutional liberty interest were ignored, and no reason for departing from the COMPAS was given.

Only one issue will be discussed. The Board decision is confusing and contradictory. As an example, in the same sentence the decision recites disregard for human life due to illegal gun use, but then says appellant has demonstrated maturity and growth. Separately, the decision again notes growth and maturation, but then says the institutional record features discipline due to drugs, alcohol use and gangs. Again, confusing. In this matter, appellant will be given the benefit of the doubt. As it is unclear exactly what the Board is holding, a de novo interview is warranted.

**Recommendation:** Vacate and remand for de novo interview.