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October 2020

### Administrative Appeal Decision - Rule, Michael

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ADMINISTRATIVE APPEAL DECISION NOTICE

**Name:** Rule, Michael    **Facility:** Groveland CF

**NYSID:** 13521063-P    **Appeal Control No.:** 06-121-19 B

**DIN:** 17-A-2211

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Appearances: Kathy Manley Esq.  
26 Dinmore Road  
Selkirk, New York 12158

Decision appealed: May 2019 decision, denying discretionary release and imposing a hold of 24 months.

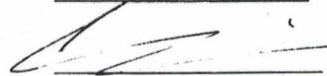
Board Member(s) who participated: Demosthenes, Alexander, Davis


Papers considered: Appellant's Brief received August 19, 2019

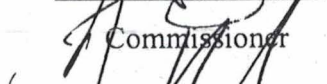
Appeals Unit Review: Statement of the Appeals Unit's Findings and Recommendation

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 1/16/2020.   
*LB*

**APPEALS UNIT FINDINGS & RECOMMENDATION**

**Name:** Rule, Michael

**DIN:** 17-A-2211

**Facility:** Groveland CF

**AC No.:** 06-121-19 B

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

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Appellant challenges the May 2019 determination of the Board, denying release and imposing a 24-month hold. Appellant's instant offense involved him driving a car while intoxicated, and getting into an accident which killed a person, and then driving off. Appellant raises the following issues: 1) the decision is arbitrary and capricious, and irrational bordering on impropriety, in that the Board failed to consider and/or properly weigh the required statutory factors. 2) the EEC presumption of release was not rebutted. 3) the decision lacks detail. 4) the one negative COMPAS score was erroneous. 5) the interviewing Commissioner misread the length of the sentence during the interview. 6) the EEC creates a liberty interest. 7) the Board failed to comply with the 2011 amendments to the Executive Law in that the mostly positive COMPAS was ignored, and the statutes are now forward based.

The Board decision lists several negative facts in appellant's application, but never provides any details as to which if any the Board found persuasive. The decision lacks any articulation that ties the facts together or provides details. As such, a de novo interview is warranted.

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