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STATE OF NEW YORK
COUNTY OF DUTCHESS

SUPREME COURT

In the Matter of

██████████,

Petitioner.

-against-

REPLY AFFIRMATION

CPLR ARTICLE 78

**Tina M. Stanford, Chair of the
New York State Parole Board,**

██████████

Respondent.

Kathy Manley, duly authorized to practice law in the State of New York, hereby affirms the following under the penalties of perjury:

1. Respondent claims that the Parole Board didn't rely solely on the instant offense in denying release, stating, at Page 6 of the Answer, "...the Board permissibly relied upon the instant offense, the fact that the instant offense was committed while on probation supervision for a prior conviction, Petitioner's criminal history, and Petitioner's continued inconsistent account of the instant offense."

2. Respondent must have mixed this case up with another petition, because ██████████ *has absolutely no criminal history, and was not on probation at any point.* (As shown below, the Decision herein noted the lack of criminal history – see also Exhibit "B" at 5) *Nor was it alleged that Mr. ██████████ gave an inconsistent account of the offense.*

3. As discussed in the Petition, what the Decision actually said was:

"...The Panel remains concerned about your shallow remorse and self-absorption. The instant offense represents your entire criminal history. The Panel notes you successfully completed required programs.

Also considered is your disciplinary record, which has improved, your parole packet... and the results of your risk and needs assessment which indicates a low score. We are not departing from your COMPAS.

More compelling however is the violent and senseless act in which your actions rendered a victim a lifetime of being in a wheelchair.” (Exhibit “A” at 30)

4. As discussed in the Petition, the claims regarding “shallow remorse and self-absorption” were not in any way supported by the record. In fact, as set forth therein, Mr. [REDACTED] expressed a great deal of strong remorse and was not at all self-absorbed. Not only that, when Mr. [REDACTED] discussed how much his therapeutic programs had helped him, Commissioner Demosthenes responded:

“I’m glad you’re definitely getting it, you’re getting the message, you’re not just sitting around going through the motion[s] so I’m glad to hear that.” (Exhibit “A” at 23)

5. And soon after that, Commissioner Cruse thanked Mr. [REDACTED] for having been so candid and open in the interview. (Exhibit “A” at 24)

6. Therefore, it is clear that, other than those spurious claims regarding remorse and self-absorption, the denial of release *was* based solely on the instant offense, and, as set forth in the Petition, that is simply not permissible.

CONCLUSION

7. Based on the foregoing, the Court should grant a *de novo* hearing.

AFFIRMED: July 19, 2022.

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FUSL000143

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