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Decision in CPLR Article 78 proceedings - Hoyer, Thomas G. (2016-09-14)

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STATE OF NEW YORK
COUNTY OF SENECA SUPREME COURT

THOMAS G. HOYER
DIN 85-B-1909

Petitioner

-against-

TINA M. STANFORD, CHAIRPERSON OF
THE NEW YORK BOARD OF PAROLE,

Respondent

26/6
DECISION AND JUDGMENT
Index No. 50348

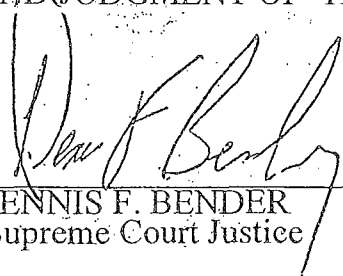
The Petitioner herein, filed this Article 78 petition challenging a denial of parole by the Board of Parole on January 26, 2016. The Petitioner alleges the determination was an arbitrary abuse of discretion and requests release from custody, or in the alternative, an Order for a new parole hearing de novo.

The Respondent, through her attorney, Ted O'Brien, Assistant Attorney General, acknowledges a recent Third Department decision that requires extra considerations to be given when the parole board is reviewing convicted murderers who were under the age of 18 when they committed their crime. Matter of Hawkins v New York State Dept. Of Corrections of Community Supervision, 140 AD 3rd 34 (3rd Dept, 2016). The Respondent acknowledges the Petitioner fits in that category and is not contesting the Petitioner's request for a hearing de novo.

In light of the foregoing, the petition is granted to the extent that the Petitioner is granted a parole review hearing de novo

THIS CONSTITUTES THE DECISION AND JUDGMENT OF THE COURT.

DATED: September 14, 2016


HON. DENNIS F. BENDER
Acting Supreme Court Justice