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October 2020

### Decision in Art. 78 proceeding - Mitchiner, Nathaniel (2019-09-16)

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SUPREME COURT-STATE OF NEW YORK  
IAS PART-ORANGE COUNTY

Present: CATHERINE M. BARTLETT, A.J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ORANGE

-----X  
NATHANIEL MITCHINER,

Petitioner,

-against-

TINA M. STANFORD,

Respondent.

To commence the statutory time period for appeals as of right (CPLR 5513 [a]), you are advised to serve a copy of this order, with notice of entry, upon all parties.

Index No. 4213 / 2019

-----X **ORDER**

Petitioner challenges the Parole Board's November 27, 2018 determination denying him discretionary release on parole. In its decision, the Panel wrote: "The decision is based on the following factors, the instant offense involves the brutal stabbing of your high school friend. Of concern to the panel is the versions of events you presented during the interview differs significantly from the materials, sentencing minutes and the tone of information offered in your letter of apology to Mrs. Antrobus....your attitude and limited insight into your behavior raised significant concerns about your rehabilitation progress."

Petitioner objects that Respondent's Answer and Return does not include his "Parole Packet." The Court notes, in addition, that the Answer and Return does not include the referenced "letter of apology to Mrs. Antrobus," and further, that it is unclear what other "materials" (besides the sentencing minutes and letter of apology) the Panel relied on in reaching its determination.

Without the foregoing materials, the Court cannot properly perform its duties under Article 78 of the Civil Practice Law and Rules.

It is therefore

ORDERED, that the return date of the Petition is adjourned to October 10, 2019, and it is further

ORDERED, that on or before October 10, 2019, Respondent shall supplement its Answer and Return by furnishing the Court with copies of (1) Petitioner's "Parole Packet", (2) the referenced letter of apology, and (3) the other "materials" referenced in the Panel's November 27, 2018 determination.

Dated: September 16, 2019  
Goshen, New York

ENTER

A handwritten signature in black ink, appearing to read "Catherine M. Bartlett", written over a horizontal line.

HON. CATHERINE M. BARTLETT, A.J.S.C.

HON. C. M. BARTLETT  
JUDGE NY STATE COURT OF CLAIMS  
ACTING SUPREME COURT JUSTICE