

Fordham Law School

FLASH: The Fordham Law Archive of Scholarship and History

Decisions in Art. 78 Proceedings

Article 78 Litigation Documents

September 2021

Decision in Art. 78 proceeding - Esquilin, Adolfo (2018-01-02)

Follow this and additional works at: <https://ir.lawnet.fordham.edu/pdd>

Recommended Citation

"Decision in Art. 78 proceeding - Esquilin, Adolfo (2018-01-02)" (2021). Parole Information Project
<https://ir.lawnet.fordham.edu/pdd/209>

This Parole Document is brought to you for free and open access by the Article 78 Litigation Documents at FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in Decisions in Art. 78 Proceedings by an authorized administrator of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact tmelnick@law.fordham.edu.

Esquilin v New York State Bd. of Parole, 58 Misc.3d 1223(A) (2018)

94 N.Y.S.3d 538, 2018 N.Y. Slip Op. 50220(U)



Unreported Disposition

58 Misc.3d 1223(A), 94 N.Y.S.3d 538 (Table), 2018
WL 944888 (N.Y.Sup.), 2018 N.Y. Slip Op. 50220(U)

**This opinion is uncorrected and will not be
published in the printed Official Reports.**

*1 Adolfo Esquilin, Petitioner,
For a Judgment Pursuant to Civil
Procedure Law and Rules Article 78,
v.
New York State Board of Parole, Respondents.

Supreme Court, Orange County
6922/2017
Decided on January 2, 2018

CITE TITLE AS: Esquilin v
New York State Bd. of Parole

ABSTRACT

[Parole](#)

[Denial](#)

Panel improperly relied solely on seriousness of crime to deny parole

[Parole](#)

[Denial](#)

Determination Annulled—De Novo Hearing Ordered

Esquilin v New York State Bd. of Parole, 2018 NY Slip Op 50220(U). Parole—Denial—Panel improperly relied solely on seriousness of crime to deny parole. Parole—Denial—Determination Annulled—De Novo Hearing Ordered. (Sup Ct, Orange County, Jan. 2, 2018, Vazquez-Doles, J.)

APPEARANCES OF COUNSEL

Randolph Z. Volkell, Esq,

Attorney for Petitioner
14 Woodland Terrance
Merrick, New York 11566
ERIC T. SCHNEIDERMAN
New York State Attorney General
J. Gardner Ryan, AAG, Of Counsel
Attorney for Respondent
One Civic Center Plaza, Suite 401
Poughkeepsie, New York 12601-3157

OPINION OF THE COURT

Maria S. Vazquez-Doles, J.

The following sets of papers numbered 1 to 43 were considered on the petitioner's application to annul a January 3, 2017 determination by a panel of the Parole Board denying him parole:

Notice of Petition and Verified Petition; Exhibits A-W and 1-5 1-30

Answer/return and exhibits 1-12, 31-43


Upon review of the foregoing, it is ORDERED that the petition is granted and the determination is annulled. The Parole Board shall schedule a de novo hearing before a different panel.

In rendering its decision, the Board did commend petitioner for his personal growth and productive use of time while incarcerated noting no disciplinary incidents since 2009, favorable risk assessment and Case Plan and numerous letters of support. The Board also appropriately considered the seriousness of the petitioner's crime where he was hired to kidnap the victim and take him to another location. Petitioner and his accomplice, forcibly stole documents from the victim, attempted to abduct him and in the course of these crimes, the victim was shot in the head, three times, causing his death. The bases for the panel's other reasons for denial of parole (i.e., petitioner's lack of clarity about his participation in the crime and aggravating efforts to conceal the body) are not apparent to the Court on the record or in the panel's conclusory decision.

If the panel made any judgment with respect to the petitioner's credibility or his degree of remorse, it is not reflected in the

Esquilin v New York State Bd. of Parole, 58 Misc.3d 1223(A) (2018)

94 N.Y.S.3d 538, 2018 N.Y. Slip Op. 50220(U)

panel's decision. It appears, then, that the panel improperly relied solely on the seriousness of the crime to deny the petitioner parole. See  [Ramirez v Evans, 118 AD3d 707 \(2d Dept 2014\)](#).

This decision constitutes the order of the Court.

Dated: January 2, 2018

Goshen, New York

HON. MARIA S. VAZQUEZ-DOLES, J.S.C.

Copr. (C) 2021, Secretary of State, State of New York

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.