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November 2021

### Decision in Art. 78 proceeding - Nelson, Tommy (2019-12-10)

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF DUTCHESS

In the Matter of the Application of

TOMMY NELSON,

Petitioner,

v.

THE NEW YORK STATE BOARD  
OF PAROLE,

Respondent,

For a Judgment Pursuant to Article 78  
of the Civil Practice Law and Rules.

**[PROPOSED] ORDER**

Index No: 2019-54609

Justice Edward McLaughlin

WHEREAS, Petitioner Tommy Nelson commenced this special proceeding to challenge The New York State Board of Parole's ("Board's") November 28, 2018, denial of his application for release to parole supervision and seeking a *de novo* parole interview before a new panel consisting of commissioners who did not participate in that denial or the administrative appeal therefrom; and

WHEREAS, the Board has reviewed the record associated with the November 28, 2018, parole denial; and

WHEREAS, the Board has concluded that there was erroneous information contained in the COMPAS risks and needs assessment report that the Board reviewed in connection with the November 28, 2018, parole denial;

NOW THEREFORE, the Board and Mr. Nelson, by their undersigned counsel, now stipulate and agree and jointly request that the Court order as follows:

1. That the Board's November 28, 2018, denial of Mr. Nelson's application for parole be vacated; and
2. That the Board schedule Mr. Nelson for a new *de novo* parole interview no later than 60 days from the entry of this Order; and
3. That no commissioner having participated in the November 28, 2018, denial of Mr. Nelson's application for parole or in the administrative appeal therefrom shall serve on the panel for Mr. Nelson's *de novo* interview.

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4. That the instant proceeding be terminated.

DEC 10 2019

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Poughkeepsie, NY

SO ORDERED:



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Justice Edward McLoughlin

HON. EDWARD T. MCLOUGHLIN  
ACTING SUPREME COURT JUSTICE