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March 2022

### Decision in Art. 78 proceeding - DiLeonardo, Paul (2021-12-23)

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To commence the 30-day 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.

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**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF DUTCHESS**

-----X  
In the Matter of the Application of  
PAUL DILEONARDO,

Petitioner,

**DECISION AND ORDER**

-against-

Index No.: 656/2021  
565

TINA M. STANFORD, Chairwoman of New York  
State Board of Parole,

Respondent.

-----X  
**ACKER, J.S.C.**

The following papers, numbered 1 to 10, were considered on Petitioner's application pursuant to CPLR Article 78 seeking to challenge the Parole Board's February 16, 2021 denial of release to parole supervision:

Order to Show Cause-Verified Petition-Exhibits 1-5.....	1-7
November 3, 2021 Letter from Assistant Attorney General Elizabeth A. Gavin.....	8
November 9, 2021 Letter from Petitioner.....	9
November 16, 2021 Letter from Petitioner.....	10

Petitioner has moved pursuant to CPLR Article 78 challenging Respondent's February 16, 2021 decision which denied Petitioner discretionary release to parole supervision. By letter dated November 3, 2021, Assistant Attorney General Elizabeth A. Gavin, advised that the Parole Board consented to the issuance of an order awarding Petitioner a *de novo* interview to determine Petitioner's eligibility for discretionary parole release. Respondent requests that the Court allow sixty (60) days for the Board to conduct a *de novo* consideration. Petitioner has objected to

Respondent's position by letters dated November 9, 2021 and November 16, 2021. Upon consideration of these submissions, it is hereby

ORDERED that the Petition is granted to the extent that the Parole Board's February 16, 2021 determination is annulled; and it is further

ORDERED that the matter is remitted to Respondent for a *de novo* parole release interview and review which complies with all applicable statutes and regulations, including, specifically, 9 N.Y.C.R.R. §8002.2(a); and it is further

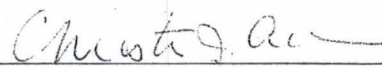
ORDERED that parole release shall not be denied based solely on the seriousness of the offense, *see Ferrante v. Stanford*, 172 AD3d 31, 37 [2d Dept. 2019]; and it is further

ORDERED that the parole release interview shall be held before a different panel than conducted the March 10, 2021 interview; and it further

ORDERED that the interview shall be conducted within sixty (60) days of the date of this Court's Decision and Order and a decision is to be issued within fifteen (15) days of the date of such interview.

The foregoing constitutes the Decision and Order of the Court.

Dated: Poughkeepsie, New York  
December 23, 2021

  
CHRISTI J. ACKER, J.S.C.

To: Paul DiLeonardo, DIN #04-A-3109  
Fishkill Correctional Facility  
P.O. Box 1245  
Beacon, New York 12508-0307

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