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Administrative Appeal Decision - Applegate, Bradford (2019-07-26)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Applegate, Bradford

Facility: Fishkill CF

NYSID: [REDACTED]

Appeal Control No.: 10-042-18 B

DIN: 89-T-2501

Appearances: Ashly Nikkole Davis Esq.
4 Times Square
24th Floor
New York, New York 10036

Decision appealed: September 2018 decision, denying discretionary release and imposing a hold of 24 months.

Board Member(s) who participated: Drake, Berliner, Coppola

Papers considered: Appellant's Brief received April 11, 2019

Appeals Unit Review: Statement of the Appeals Unit's Findings and Recommendation

Records relied upon: Pre-Sentence Investigation Report, Parole Board Report, Interview Transcript, Parole Board Release Decision Notice (Form 9026), COMPAS instrument, Offender Case Plan.

Final Determination: The undersigned determine that the decision appealed is hereby:

 Affirmed Vacated, remanded for de novo interview Modified to _____
Commissioner

 Affirmed Vacated, remanded for de novo interview Modified to _____
Commissioner

 Affirmed Vacated, remanded for de novo interview Modified to _____
Commissioner

If the Final Determination is at variance with Findings and Recommendation of Appeals Unit, written reasons for the Parole Board's determination must be annexed hereto.

This Final Determination, the related Statement of the Appeals Unit's Findings and the separate findings of the Parole Board, if any, were mailed to the Inmate and the Inmate's Counsel, if any, on 7/26/19.
LB

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Applegate, Bradford

DIN: 89-T-2501

Facility: Fishkill CF

AC No.: 10-042-18 B

Findings: (Page 1 of 1)

Appellant challenges the September 2018 determination of the Board, denying release and imposing a 24-month hold. The instant offense involved the appellant repeatedly hitting the female victim in the head, and causing her death. He then dumped the body in the Hudson River. Appellant also damaged a hotel room during the incident. Appellant raises the following issues: 1) the decision is arbitrary and capricious in that the Board failed to consider the required statutory factors. 2) the Board's claim that the appellant lacked remorse is belied by the record. 3) the Board failed to make proper findings of fact in support of the statutory standards cited. 4) the decision lacks details. 5) the DA letter is old and should not be relied upon. 6) the Board decision illegally resentenced him. 7) the decision was predetermined. 8) the Board was biased. 9) many requested documents were illegally withheld from appellant or his counsel. 10) the Board failed to comply with the 2011 amendments to the Executive Law and the amended 2017 regulations in that the COMPAS has errors, and no reason for departure from the COMPAS was given.

A review by the Appeals Unit indicates the Board decision lacks details about legally required criteria. As such, a de novo interview is required.

Recommendation: Vacate and remand for de novo interview.