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Administrative Appeal Decision - Doblewski, Darrell (2019-06-06)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Domblewski, Darrell Facility: Orleans CF
NYSID: [REDACTED] Appeal Control No.: 10-017-18 B
DIN: 94-B-2929

Appearances: Darrell Domblewski 94B2929
Orleans Correctional Facility
3531 Gaines Basin Road
Albion, New York 14411

Decision appealed: September 4, 2018 decision, denying discretionary release and imposing a hold 24 months.

Board Member(s) who participated: Coppola, Alexander

Papers considered: Appellant's letter received on April 8, 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:

W. Walter Affirmed ___ Vacated, remanded for de novo interview ___ Modified to ___
Commissioner
[Signature] Affirmed ___ Vacated, remanded for de novo interview ___ Modified to ___
Commissioner
[Signature] 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 6/6/19.

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Domblewski, Darrell

DIN: 94-B-2929

Facility: Orleans CF

AC No.: 10-017-18 B

Findings: (Page 1 of 2)

Appellant challenges the September 4, 2018 determination of the Board, denying release and imposing a hold of 24 months. Appellant's instant offense is the horrific stabbing death of his estranged wife. Appellant raises only one issue. Appellant claims that per DOCCS Directive 9401 DOCCS staff was supposed to do a domestic violence review with him, but never did. As such, the Board did not have an adequate summary of appellant's rehabilitation in this area.

A review by the Appeals Unit indicates DOCCS and parole staff did fully comply with the Directive in issue.

There is no requirement in the law that the board place equal or greater emphasis on petitioner's present commendable conduct than on the gravity of his offense. People ex rel. Herbert v. New York State Bd. of Parole, 97 A.D.2d 128, 133, 468 N.Y.S.2d 881, 884 (1st Dept. 1983).

The decision to deny parole may be based upon the seriousness of the crime and its violent nature." Matter of Putland v. Herbert, 231 A.D.2d 893, 648 N.Y.S.2d 401 (4th 1996), lv. denied, 89 N.Y.2d 806, 654 N.Y.S.2d 716 (1997).

The Board may acknowledge the senseless and violent nature of the crime. Sanchez v Dennison, 21 A.D.3d 1249, 801 N.Y.S.2d 423 (3d Dept. 2005); Dorman v New York State Board of Parole, 30 A.D.3d 880, 816 N.Y.S.2d 765 (3d Dept. 2006).

The Board may take note of the inmate's disregard for the life of another human being. Hakim v Travis, 302 A.D.2d 821, 754 N.Y.S.2d 600 (3d Dept 2003); Angel v Travis, 1 A.D.3d 589, 767 N.Y.S.2d 290 (3d Dept 2003).

[T]here is a strong rehabilitative component in the statute that may be given effect by considering insight. Matter of Silmon v. Travis, 95 N.Y.2d 470, 478, 718 N.Y.S.2d 704 (2000); Matter of Almeyda v. New York State Div. of Parole, 290 A.D.2d 505, 736 N.Y.S.2d 275 (2d Dept. 2002) (limited insight into why crime committed).

Denial of parole is neither arbitrary nor capricious when the Parole Board relied on the factors defined by the New York statute. Hodge v Griffin, 2014 WL 2453333(S.D.N.Y. 2014) citing Romer v Travis, 2003 WL 21744079. An arbitrary action is one without sound basis in reason and without regard to the facts. Rationality is what is reviewed under an arbitrary and capricious standard. Hamilton v New York State Division of Parole, 119 A.D.3d 1268, 990 N.Y.S.2d 714 (3d Dept. 2014). An action is arbitrary and capricious when it is taken without sound basis in reason or regard to the facts. Ward v City of Long Beach, 20 N.Y.3d 1042 (2013). Denial is neither arbitrary nor capricious when the Board relies on factors defined by New York statute. Siao-Paul v. Connolly, 564 F. Supp. 2d 232, 242 (S.D.N.Y. 2008); Hanna v New York State Board of Parole, 169 A.D.3d 503, 92 N.Y.S.3d 621 (1st Dept. 2019).

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Doblewski, Darrell

DIN: 94-B-2929

Facility: Orleans CF

AC No.: 10-017-18 B

Findings: (Page 2 of 2)

Recommendation: Affirm.