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Administrative Appeal Decision - Wesley, Jaclyn (2019-05-10)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Wesley, Jaclyn Facility: Taconic CF
NYSID: [REDACTED] Appeal Control No.: 09-102-18 B
DIN: 14-G-0153

Appearances: Jeffrey Scaggs Esq.
301 Old Tarrytown Road
White Plains, New York 10603

Decision appealed: September 2018 decision, denying discretionary release and imposing a hold of 18 months.

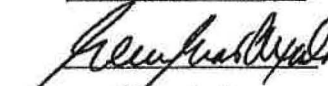
Board Member(s) who participated: Berliner, Shapiro


Papers considered: Appellant's Brief received December 12, 2018

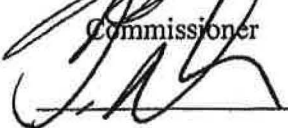
Appeals Unit Review: Statement of the Appeals Unit's Findings and Recommendation

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 5/10/19.
LB

Distribution: Appeals Unit – Appellant - Appellant's Counsel - Inst. Parole File - Central File
P-2002(B) (11/2018)

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Wesley, Jaclyn

DIN: 14-G-0153

Facility: Taconic CF

AC No.: 09-102-18 B

Findings: (Page 1 of 1)

Appellant challenges the September 2018 determination of the Board, denying release and imposing a 18-month hold. Appellant's instant offense is Vehicular Manslaughter 1st Degree, in which she was driving a car while intoxicated, causing a car accident that killed three people. Appellant raises the following issues: 1) the decision is arbitrary and capricious, and irrational bordering on impropriety, in that she has an excellent institutional record and release plan. 2) the decision was predetermined. 3) the decision illegally resentenced her. 4) the Board ignored her low COMPAS scores, and gave an invalid reason for departing from the COMPAS. 5) no aggravating factors exist.

Only one issue will be responded to. All of appellant's COMPAS scores are in the low categories. And the appellant has an EEC. The Board decision states the Board is departing from the COMPAS because three people died unnecessarily as a result of your actions. Given the issuance of an EEC, that reason alone is legally insufficient for a departure. Thus, a de novo interview is warranted.

Recommendation: Vacate and remand for de novo interview.