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Administrative Appeal Decision - Khan, Javed (2019-02-27)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Khan, Javed

Facility: Wyoming CF

NYSID: [REDACTED]

Appeal Control No.: 09-160-18 B

DIN: 91-A-2211

Appearances: Jocelyne Kristal, Esq.
19 Court Street
White Plains, New York 10601

Decision appealed: September 2018 decision denying discretionary release with a 24-month hold & CPDO granted.

Board Member(s) who participated: Davis, Coppola

Papers considered: Appellant's Brief received December 7, 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.

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 2/27/19.

UB

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Khan, Javed

DIN: 91-A-2211

Facility: Wyoming CF

AC No.: 09-160-18 B

Findings: (Page 1 of 1)

Appellant was sentenced to 27 years to life upon his conviction of Murder in the second degree (3 counts), Kidnapping in the second degree, Robbery in the first degree, and CPW in the second degree (2 counts). In the instant appeal, Appellant challenges the September 2018 determination of the Board denying release with a 24-month hold and granting conditional release for deportation only. Among other things, he contends the Board departed from the COMPAS instrument without providing any reasons as required by amended 9 NYCRR § 8002.2(a).

A review by the Appeals Unit reveals the decision fails to adequately explain the reasons for the denial of parole release, including by providing an explanation for the apparent departure from COMPAS scales. 9 NYCRR §§ 8002.2(a), 8002.3(b). As such, a *de novo* interview is appropriate.

Recommendation: Vacate and remand for de novo interview.