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Administrative Appeal Decision - Leath, Louis (2019-10-11)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Leath, Louis

Facility: Fishkill CF

NYSID: [REDACTED]

Appeal Control No.: 02-038-19 B

DIN: 97-A-5249

Appearances: Glenn Bruno Esq.
11 Market Street
Suite 221
Poughkeepsie, New York 12601

Decision appealed: January 2019 decision, denying discretionary release and imposing a hold of 24 months.

Board Member(s) who participated: Demosthenes, Smith, Cruse

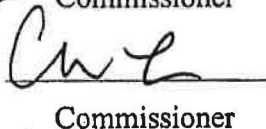
Papers considered: Appellant's Brief received June 5, 2019

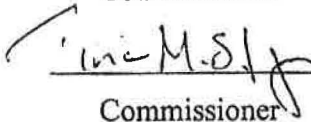
Appeals Unit Review: Statement of the Appeals Unit's Findings and Recommendation

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 10/11/19.

LB

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Leath, Louis

DIN: 97-A-5249

Facility: Fishkill CF

AC No.: 02-038-19 B

Findings: (Page 1 of 1)

Appellant challenges the January 2019 determination of the Board, denying release and imposing a 24-month hold. Appellant's instant offense involved him dousing a woman with charcoal lighter fluid all over her body, and then lighting a match on her, causing her to catch fire and die. Appellant raises the following issues: 1) the decision is arbitrary and capricious in that the Board failed to consider and/or properly weigh the required statutory factors. 2) the Board illegally resentenced him. 3) no aggravating factors exist. 4) the decision lacks detail. 5) the decision was predetermined. 6) the decision lacks future guidance. 7) the decision was rendered in violation of the due process clause of the constitution. 8) the Board failed to list any facts in support of the statutory standard cited. 9) the Board of Parole file was not turned over to counsel on appeal. 10) the panel was biased as several had set on a prior panel, and have law enforcement backgrounds. 11) the Parole Board Report is defective when compared to the Inmate Status Report. 12) the decision was due to a policy of Governor Pataki to deny parole release to all violent felons. 13) the decision is based upon erroneous information in that appellant has no history of larceny crimes. 14) the Board failed to comply with the 2011 amendments to the Executive Law and the 2014 regulations in that the COMPAS was ignored, and the laws are now present/future based. 15) the 24 month hold is excessive.

The Board decision says "Your criminal history reflects larcenous behavior." While appellant does have a violent criminal history, he does not have any larceny based arrests. As such, the decision is based upon erroneous information. A de novo interview is warranted.

Recommendation: Vacate and remand for de novo interview.