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Administrative Appeal Decision - Ortiz, Milton (2019-02-27)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Ortiz, Milton

Facility: Mohawk CF

NYSID: [REDACTED]

Appeal Control No.: 08-060-18 B

DIN: 10-R-4109

Appearances: James Godemann, Esq.
Oneida County Public Defender
250 Boehlert Center at Union Station
321 Main Street
Utica, New York 13501

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


Board Member(s) who participated: Crangle, Coppola

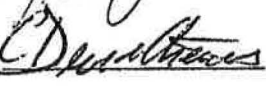
Papers considered: Appellant's Brief received December 14, 2018

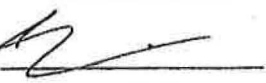
Appeals Unit Review: Statement of the Appeals Unit's Findings and Recommendation

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

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
LB

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Ortiz, Milton

DIN: 10-R-4109

Facility: Mohawk CF

AC No.: 08-060-18 B

Findings: (Page 1 of 1)

Appellant was sentenced to six to 12 years upon his conviction of Course of Sexual Conduct with a Child in the first degree. In the instant appeal, Appellant challenges the July 2018 determination of the Board denying release and imposing a 24-month hold. Among other things, he asserts the decision fails to provide adequate details.

While the Board need not enumerate or articulate the weight given each factor in the decision, Matter of Dolan v. New York State Bd. of Parole, 122 A.D.3d 1058, 1059, 995 N.Y.S.2d 850, 852 (3d Dept. 2014), lv. denied, 24 N.Y.3d 915, 4 N.Y.S.3d 601 (2015); Matter of Porter v. Alexander, 63 A.D.3d 945, 946, 881 N.Y.S.2d 157, 158 (2d Dept. 2009), a review by the Appeals Unit reveals the decision fails to adequately explain the reasons for the denial of parole release. As such, a *de novo* interview is appropriate.

Recommendation: Vacate and remand for de novo interview.