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Administrative Appeal Decision - Pinkney, Raheen (2019-01-11)

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Administrative Appeal Decision Notice

Inmate Name: PINKNEY, RAHEEN

Facility: Groveland Correctional Facility

NYSID No [REDACTED]

Appeal Control #: 06-119-18 B

Dept. DIN#: 18B0470

Appearances:

For the Board, the Appeals Unit

For Appellant:

Stephen K. Underwood, Esq.
1395 Union Road
West Seneca, New York 14224

Board Member(s) who participated in appealed from decision: Cruse, Agostini.

Decision appealed from: 6/2018 Denial of Discretionary Release; 24-month hold.

Pleadings considered:

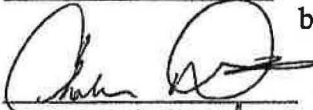
Brief on behalf of the Appellant submitted on: October 23, 2018.

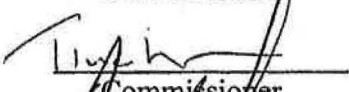
Statement of the Appeals Unit's Findings and Recommendation.

Documents relied upon:

Pre-Sentence Investigation Report, Parole Board Report, Interview Transcript, Parole Board Release Decision Notice (Form 9026), COMPAS instrument, Offender Case Plan, commissioner's Worksheet.

Final Determination: The undersigned have determined that the decision from which this appeal was taken be and the same is hereby

 _____ Affirmed Reversed for De Novo Interview _____ Modified to _____
Commissioner

 _____ Affirmed Reversed for De Novo Interview _____ Modified to _____
Commissioner

 _____ Affirmed Reversed 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 1/11/2019.
LB

Distribution: Appeals Unit – Inmate - Inmate's Counsel - Inst. Parole File - Central File
P-2002(B) (5/2011)

STATE OF NEW YORK - BOARD OF PAROLE

STATEMENT OF APPEALS UNIT FINDINGS & RECOMMENDATION

Inmate Name: PINKNEY, RAHEEN

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Facility: Groveland Correctional Facility

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Appellant raises a number of issues in the brief submitted in support of the administrative appeal initiated after the Board of Parole's decision to deny Appellant's immediate release to community supervision following an interview held on or about June 6, 2018. Among the issues raised is that the Board did not consider applicable legal authority when making its determination to deny Appellant's release to community supervision. As to this issue, there is merit.

The legal standard governing the decision-making process of the Board when assessing the suitability of an inmate's possible release to community supervision is: (1) whether or not there is a reasonable probability that the inmate, if released, will live and remain at liberty without violating the law; (2) whether or not the inmate's release is incompatible with the welfare of society; and (3) whether or not the inmate's release will so deprecate the seriousness of the crime as to undermine respect for law. See Executive Law §§259-c(4), 259-i(2)(c)(A); Robles v. Dennison, 745 F. Supp. 2d 244 (W.D.N.Y. 2010); Matter of Hamilton v. New York State Div. of Parole, 119 A.D.3d 1268 (3d Dept. 2014). The Appeals Unit has determined that the Board's decision does not conform to applicable statutory requirements. Accordingly, that decision must properly be vacated, and Appellant is entitled to a *de novo* interview.

Given that a *de novo* interview is being recommended, a response to Appellant's remaining arguments is not warranted.

Recommendation:

It is the recommendation of the Appeals Unit that the Board's decision be reversed, and that a *de novo* interview be conducted before a panel of new Board members.