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Administrative Appeal Decision - Rivera, Richard (2019-04-09)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Rivera, Richard

Facility: Eastern NY CF

NYSID: [REDACTED]

Appeal Control No.: 09-138-18 B

DIN: 82-B-0892

Appearances: Lorraine McEvilley, Esq.
The Legal Aid Society
199 Water Street, 6th Floor
New York, New York 10038

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

Board Member(s) who participated: Davis, Coppola

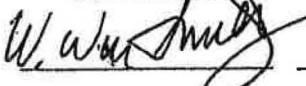
Papers considered: Appellant's Brief received March 6, 2019

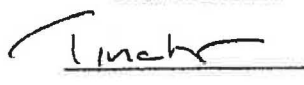
Appeals Unit Review: Statement of the Appeals Unit's Findings and Recommendation

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 4/9/2019.
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: Rivera, Richard

DIN: 82-B-0892

Facility: Eastern NY CF

AC No.: 09-138-18 B

Findings: (Page 1 of 1)

Appellant was sentenced to an aggregate term of 30 years to life upon his conviction of Murder in the second degree, Attempted Robbery in the first degree, Criminal Possession of a Weapon in the second degree, Criminal Use of a Firearm in the second degree, Robbery in the first degree and Criminal Use of a Firearm in the first degree. In the instant appeal, Appellant challenges the September 2018 determination of the Board denying release and imposing a 24-month hold. Among other things, he argues the Board failed to explain its rationale for denying release or its departure from his COMPAS.

A review by the Appeals Unit reveals the decision fails to adequately explain the reasons for the denial of parole release or 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.