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Administrative Appeal Decision - Almonte, Juan (2020-04-14)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Almonte, Juan

Facility: Otisville CF

NYSID: [REDACTED]

Appeal Control No.: 09-031-19 B

DIN: 98-A-3050

Appearances: Juan Almonte, 98-A-3050
Otisville Correctional Facility
57 Sanitorium Road
P.O. Box 8
Otisville, NY 10963-0008

Decision appealed: August 2019 decision, denying discretionary release and imposing a hold of 18 months.

Board Member(s) who participated: Corley, Smith, Agostini

Papers considered: Appellant's Brief received December 11, 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 4/14/2020.
LB

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Almonte, Juan

DIN: 98-A-3050

Facility: Otisville CF

AC No.: 09-031-19 B

Findings: (Page 1 of 1)

Appellant challenges the August 2019 determination of the Board, denying release and imposing a 18-month hold. Appellant is currently serving a sentence of 21 years to life as a result of his conviction for murder in the 2nd degree. Appellant contends that the Board's determination relied on erroneous information.

In its decision, the Board, stated that “[i]n the Instant Offense you were convicted of Murder, Second, for entering your father's home and stabbing your grandmother, multiple times, in the neck and head, resulting in her death.” A review of the record indicates that appellant was convicted of felony murder (Penal Law 125.25 (3)), but acquitted of the remaining murder charge. Therefore, it appears that the Board's determination relied on erroneous information.

In light of the foregoing, appellant's remaining contentions need not be addressed.

Recommendation: Vacate and remand for de novo interview.