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Administrative Appeal Decision - Gribeluk, Kelly (2020-07-01)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Gribeluk, Kelly Facility: Taconic CF
NYSID: [REDACTED] Appeal Control No.: 12-045-19 BMT
DIN: 17-G-0436

Appearances: Cheryl Kates Esq.
P.O. Box 734
Fairport, New York 14450

Decision appealed: December 2019 decision, denying Merit Time release and imposing a hold to PIE date.

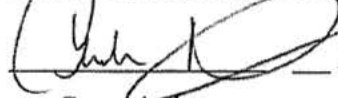
Board Member(s) who participated: Cruse, Corley, Demosthenes

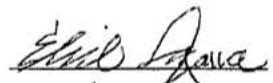
Papers considered: Appellant’s Letter-brief received March 20, 2020


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 7/1/2020
LB

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Gribeluk, Kelly

DIN: 17-G-0436

Facility: Taconic CF

AC No.: 12-045-19 BMT

Findings: (Page 1 of 1)

Appellant challenges the December 2019 determination of the Board, denying Merit Time release and imposing a hold to PIE date. Appellant's instant offense is for paying a hit man to murder the estranged wife of her boyfriend. 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 sentencing minutes contain lies from the victim and can't be relied upon. 3) the Board never reviewed the letter from the appellant's former criminal defense lawyer. 4) the Board ignored the EEC and its presumption of release. 5) the decision is based upon penal philosophy and personal opinion. 6) the decision is made in violation of the due process clause of the constitution. 7) the decision illegally resentenced her. 8) the Board never reviewed the plea bargain minutes. 9) the decision was predetermined. 10) the Board failed to comply with the 1011 amendments to the Executive Law and the 2017 regulations in that they are evidence and forward based, the COMPAS was ignored, and no scale for departure from the COMPAS was listed.

The appellant has an EEC. But, in the first paragraph of the Board decision, the Board states the appellant's release would deprecate the serious nature of her crime so as to undermine respect for the law. That is the wrong statutory standard to be invoked in cases involving an EEC. Since the Board adjudicated the matter under the wrong standard, a de novo interview is required.

Recommendation: Vacate and remand for de novo interview.