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May 2021

### Administrative Appeal Decision - James, Andrew (2020-11-24)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: James, Andrew

Facility: Fishkill CF

NYSID: [REDACTED]

Appeal Control No.: 04-022-20 B

DIN: 00-A-3509

Appearances: Mary Raleigh Esq.  
27 Crystal Farm Road  
Warwick, New York 10990

Decision appealed: March 2020 decision, denying discretionary release and imposing a hold of 18 months.


Board Member(s) who participated: Segarra, Davis, Coppola

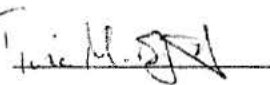
Papers considered: Appellant’s Brief received August 28, 2020


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 11/24/2020.

LB

STATE OF NEW YORK – BOARD OF PAROLE

**APPEALS UNIT FINDINGS & RECOMMENDATION**

**Name:** James, Andrew

**DIN:** 00-A-3509

**Facility:** Fishkill CF

**AC No.:** 04-022-20 B

**Findings:** (Page 1 of 1)

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Appellant challenges the March 2020 determination of the Board, denying release and imposing a 18-month hold. Appellant's instant offense is for shooting the victim to death. 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) as the appellant was only 18 years old when he committed the murder, the Board failed to consider youth and its transient immaturity. 3) the Board failed to list any facts in support of any statutory standard. 4) the decision lacks future guidance. 5) the Board failed to comply with the 2011 amendments to the Executive Law in that the COMPAS was ignored, and the departure was illegally done.

The Board decision doesn't cite any of the prongs of the statutory standards that govern these decisions. As such, since the Board decision is missing required criteria, a de novo interview is warranted.

**Recommendation:** Vacate and remand for de novo interview.