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Administrative Appeal Decision - Marone, Franklin (2020-09-15)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Marone, Franklin

Facility: Cape Vincent CF

NYSID: [REDACTED]

Appeal Control No.: 01-074-20 B

DIN: 18-A-2888

Appearances: Scott A. Otis, Esq.
P.O. Box 344
Watertown, NY 13601

Decision appealed: January 2020 decision, denying discretionary release and imposing a hold of 24 months.

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

Papers considered: Appellant's Brief received May 12, 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 9/15/2020.

LB

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Marone, Franklin

DIN: 18-A-2888

Facility: Cape Vincent CF

AC No.: 01-074-20 B

Findings: (Page 1 of 1)

Appellant challenges the January 2020 determination of the Board, denying release and imposing a 24-month hold. Appellant is incarcerated for two separate instant offenses. In one, Appellant submitted false information on an affidavit of financial disclosure regarding his assets and ability to pay restitution due on a prior conviction. In the second, Appellant stole approximately \$292,000 from his mother, \$40,000 from an ex-girlfriend, \$15,000 from another ex-girlfriend, and \$16,775 from a fourth victim. Among other things, Appellant argues that the Board failed to justify its departure from his low risk COMPAS scales.

A review by the Appeals Unit reveals the decision fails to adequately explain the reasons for the denial of parole release, including by providing an explanation for 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.