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Administrative Appeal Decision - Molina, Robert (2020-03-31)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Molina, Robert

Facility: Fishkill CF

NYSID: [REDACTED]

Appeal Control No.: 10-121-19 B

DIN: 96-A-3949

Appearances: Robert Molina 96A3949
Fishkill Correctional Facility
271 Matteawan Road
Beacon, New York 12508

Decision appealed: September 2019 decision, denying discretionary release and imposing a hold of 17 months.

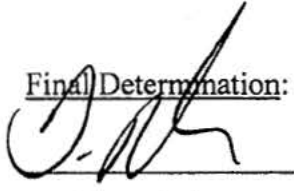
Board Member(s) who participated: Crangle, Demosthenes, Davis

Papers considered: Appellant’s Letter-brief received October 22, 2019

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

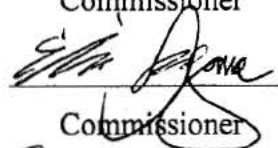
Records relied upon: Pre-Sentence Investigation Report, Parole Board Report, Interview Transcript, Parole Board Release Decision Notice (Form 9026), COMPAS instrument, Offender Case Plan.

Final Determination: The undersigned determine that the decision appealed is hereby:



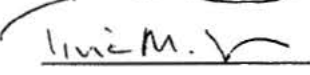
Affirmed Vacated, remanded for de novo interview Modified to _____

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 3/31/2020.
LB

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Molina, Robert

DIN: 96-A-3949

Facility: Fishkill CF

AC No.: 10-121-19 B

Findings: (Page 1 of 1)

Appellant challenges the September 2019 determination of the Board, denying release and imposing a 17-month hold. Appellant's underlying instant offense is for strangling to death a woman who was a witness to a prior crime committed by appellant, and as a part of the crime, extracting the victim's teeth with a pair of pliers, cutting off her fingertips and burning her corpse with acid. Appellant raises the following issues: 1) the decision is arbitrary and capricious, and irrational bordering on impropriety, in that the Board failed to consider and/or properly weigh the required statutory factors. 2) the decision lacks details. 3) the decision failed to list any facts in support of the statutory standard cited. 4) no aggravating factors exist. 5) the decision illegally resentenced him. 6) the decision was due to bias. 7) the decision lacks any future guidance. 8) the Board failed to comply with the 2011 amendments to the Executive Law, and the 2017 regulations, in that the COMPAS was ignored, and no reason for departing from the COMPAS was given.

Appellant's COMPAS scores were all numerically perfect. But, the Board decision doesn't state if they are departing from the COMPAS or not. Also, the Board decision lists the crime, but doesn't provide or articulate any reasons for the denial. As such, a de novo interview is required.

Recommendation: Vacate and remand for de novo interview.