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Administrative Appeal Decision - Peoples, Willie (2020-01-14)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Peoples, Willie

Facility: Otisville CF

NYSID: [REDACTED]

Appeal Control No.: 07-097-19 B

DIN: 02-A-3991

Appearances: Willie Peoples, 02-A-3991
Otisville C.F.
57 Sanitorium Road
P.O. Box 8
Otisville, New York 10963-0008

Decision appealed: June 2019 decision, denying discretionary release and imposing a hold of 24 months.

Board Member(s) who participated: **Davis, Drake, Alexander**

Papers considered: Appellant's Brief received November 18, 2019

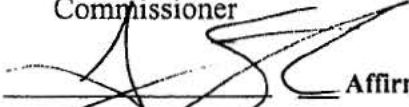
Appeals Unit Review: Statement of the Appeals Unit's Findings and Recommendation

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

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: Peoples, Willie

DIN: 02-A-3991

Facility: Otisville CF

AC No.: 07-097-19 B

Findings: (Page 1 of 1)

Appellant was sentenced to an aggregate term of 15 years to life upon his conviction of multiple offenses, including Murder in the second degree and Assault in the second degree, stemming from two incidents. In the instant appeal, Appellant challenges the June 2019 determination of the Board denying release and imposing a 24-month hold. Among other things, he argues the Board ignored his COMPAS instrument and deviated from low risk scales without explanation.

Contrary to Appellant's claim, the COMPAS is not an absolute indication of an inmate's risk. The COMPAS does not (and cannot) supersede the Board's authority to determine, based on members' independent judgment and application of section 259-i(2)(c)(A)'s factors, whether an inmate should be released. See 2011 N.Y. Laws ch. 62, § 1, part C, § 1, subpart A, § 1; Matter of Montane v. Evans, 116 A.D.3d 197, 202, 981 N.Y.S.2d 866, 870 (3d Dept. 2014). Amended 9 N.Y.C.R.R. § 8002.2(a) was intended to increase transparency in the Board's decision making by providing an explanation if and when the Board's decision was impacted by a departure from a scale in denying an inmate release. Notice of Adoption, NY Reg, Sept. 27, 2017 at 2.

The record here reflects the Board considered Appellant's COMPAS instrument. However, it appears the Board's decision – which concluded there is a reasonable probability Appellant would not live and remain at liberty without violating the law – was impacted by a departure from scales in the COMPAS and the Board did not provide an adequate explanation. Under the circumstances, a *de novo* interview is appropriate.

Recommendation: Vacate and remand for de novo interview.