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May 2021

### Administrative Appeal Decision - Perez, Carlos (2020-02-28)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Perez, Carlos

Facility: Riverview CF

NYSID: [REDACTED]

Appeal Control No.: 06-141-19 B

DIN: 93-B-1561

Appearances: Cheryl L. Kates, Esq.  
P.O. Box 734  
Fairport, NY 14450

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

Board Member(s) who participated: **Cruse, Crangle**

Papers considered: Appellant's Letter-brief received September 30, 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.

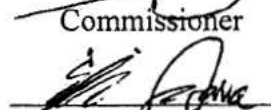
Final Determination: The undersigned determine that the decision appealed is hereby:

 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 2/28/2020.  
LB

STATE OF NEW YORK – BOARD OF PAROLE

**APPEALS UNIT FINDINGS & RECOMMENDATION**

**Name:** Perez, Carlos

**DIN:** 93-B-1561

**Facility:** Riverview CF

**AC No.:** 06-141-19 B

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

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Appellant challenges the June 2019 determination of the Board, denying release and imposing a 24-month hold. The instant offense involved Appellant causing the death of the victim by shooting with a rifle, taking possession of the victim's vehicle, and later burning the vehicle. Appellant raises the following issues:

- 1) the Board, in violation of due process, based its decision on erroneous information regarding the crime of conviction and letters of assurance;
- 2) the Board failed to review age as a mitigating factor;
- 3) the Board failed to discuss all mandatory factors on the record including criminal history, rehabilitative programming, parole plans, and relapse prevention plan;
- 4) the Board failed to discuss the COMPAS risk assessment and failed to specify what scales they deviated from the COMPAS scores;
- 5) the Board failed to discuss the SASSI risk assessment and used an evaluative tool that does not apply to Appellant because he has a substance abuse history;
- 6) the Board rendered a decision in conclusory terms; and
- 7) the Board denied parole based on the personal opinion that Appellant presented with a bitter attitude

A review by the Appeals Unit reveals that although three letters of assurance were submitted prior to the interview, it appears they were either not included in the file or overlooked by the Board. There was also insufficient discussion of the COMPAS during the interview. As such, a *de novo* interview is appropriate.

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