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Administrative Appeal Decision - Yonamine, Masao (2020-02-10)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Yonamine, Masao

Facility: Otisville CF

NYSID: [REDACTED]

Appeal Control No.: 08-143-19 B

DIN: 88-A-7233

Appearances: Masao Yonamine, 88-A-7233
Otisville Correctional Facility
P.O. Box 8
Otisville, NY 10963

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



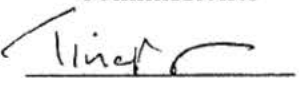
Board Member(s) who participated: **Alexander, Demosthenes, Davis**

Papers considered: Appellant's Letter-brief received September 19, 2019
Appellant's Letter-brief received October 4, 2019
Appellant's Letter-brief received October 29, 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:

	<input type="checkbox"/> Affirmed	<input checked="" type="checkbox"/> Vacated, remanded for de novo interview	<input type="checkbox"/> Modified to _____
Commissioner			
	<input type="checkbox"/> Affirmed	<input checked="" type="checkbox"/> Vacated, remanded for de novo interview	<input type="checkbox"/> Modified to _____
Commissioner			
	<input type="checkbox"/> Affirmed	<input checked="" type="checkbox"/> Vacated, remanded for de novo interview	<input type="checkbox"/> 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 2/10/2020.
LB

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Yonamine, Masao

DIN: 88-A-7233

Facility: Otisville CF

AC No.: 08-143-19 B

Findings: (Page 1 of 1)

Appellant challenges the July 2019 determination of the Board, denying release and imposing a 24-month hold. The instant offense involved Appellant chasing the victim for two blocks, firing his weapon at the victim and hitting the victim, and walking up to the victim and shooting the victim in the head after the victim fell to the ground. Appellant raises the following issues: 1) the decision relied solely on the instant offense; 2) the decision amounted to a resentencing of Appellant; 3) the decision was set forth in conclusory terms; 4) the Board did not explain its departure from the COMPAS risk scales; 5) the 2011 amendments and 2017 regulatory revisions conferred a liberty interest in parole; 6) the Board's consideration of an acquitted charge renders the determination unlawful; and 7) the Board failed to consider two letters of support containing evidence of his rehabilitation and release plans.

A review by the Appeals Unit reveals that although the two letters of support were submitted prior to the interview, it appears they were either not included in the file or overlooked by the Board. As such, a *de novo* interview is appropriate.

Recommendation: Vacate and remand for de novo interview.