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May 2022

### Administrative Appeal Decision - Blyther, Derrick (2019-02-06)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Blyther, Derrick

Facility: Otisville CF

NYSID: [REDACTED]

Appeal Control No.: 04-083-18 B

DIN: 00-A-2402

Appearances: James Pawliczek, Esq.  
62 North Main Street  
Suite 303  
Florida, New York 10921

Decision appealed: March 2018 decision denying discretionary release and imposing a hold of 12-months.

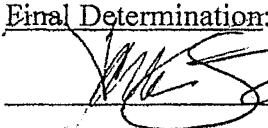
Board Member(s) who participated: Crangle, Alexander, Davis

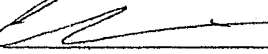
Papers considered: Appellant's Brief received September 27, 2018

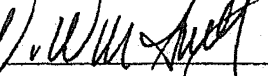
Appeals Unit Review: Statement of the Appeals Unit's Findings and Recommendation

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 2/6/2019.  
LB

STATE OF NEW YORK – BOARD OF PAROLE

**APPEALS UNIT FINDINGS & RECOMMENDATION**

**Name:** Blyther, Derrick

**DIN:** 00-A-2402

**Facility:** Otisville CF

**AC No.:** 04-083-18 B

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

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Appellant was sentenced to 19 years to life upon his conviction by plea of Murder in the second degree, Robbery in the first degree (2 counts), Attempted Robbery in the first degree, and Criminal Possession of a Weapon in the second degree. Appellant challenges the March 2018 determination of the Board denying release and imposing a 12-month hold. Among other things, he argues the decision should be set aside because the Board did not have the sentencing minutes and could not consider them and the recommendations of the sentencing judge.

While the Board did not possess the sentencing minutes despite a diligent effort to obtain them, the Appeals Unit has been able to obtain them since Appellant's appearance before the Board. A review of those minutes reflects remarks bearing on Appellant's potential release. Under the circumstances, a *de novo* interview is appropriate.

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