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May 2022

### Administrative Appeal Decision - Babcock, James J (2021-11-19)

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STATE OF NEW YORK – BOARD OF PAROLE

**APPEALS UNIT FINDINGS & RECOMMENDATION**

**Name:** Babcock, James

**DIN:** 10-A-1586

**Facility:** Riverview CF

**AC No.:** 04-126-21 B

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

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Appellant challenges the March 2021 determination of the Board, denying release and imposing an 18-month hold. The instant offenses involved Appellant murdering a woman in her home. It was 19 years after the crime before he was convicted of Manslaughter in the First Degree and has been serving a sentence of 8 1/3 to 25 years.

In the instant appeal, Appellant, through counsel, challenges the March 2021 determination of the Board, denying release and imposing a 18-month hold. Among other things, Appellant argues that there was no justification for departing from the low COMPAS scores, and that the Board failed to obtain and consider the official statement of the Appellant's defense attorney.

A review by the Appeals Unit reveals 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 low risk scores in the COMPAS and the Board did not provide an adequate explanation. As such, a *de novo* interview is appropriate.

It should be noted that a review of the file indicates that the facility contacted the Appellant's defense attorney of record in 2016 and 2017. Both letters requesting comment from the defense attorney were sent to the current and correct address of said defense attorney. Thus, the Appellant's argument that the facility failed to obtain a statement from the defense attorney of record is without merit.

The Appellant's remaining arguments are without merit.

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

STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Babcock, James

Facility: Riverview CF

NYSID: [REDACTED]

Appeal Control No.: 04-126-21 B

DIN: 10-A-1586

Appearances: Cheryl L. Kates, PC  
PO Box 734  
Fairport, NY 14450

Decision appealed: March 2021 decision, denying discretionary release and imposing a hold of 18 months.

Board Member(s) who participated: Cruse, Berliner

Papers considered: Appellant’s Brief received September 1, 2021

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 Appellant and the Appellant’s Counsel, if any, on

11/19/2021.  
CB

Distribution: Appeals Unit – Appellant - Appellant’s Counsel - Inst. Parole File - Central File  
P-2002(B) (11/2018)