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May 2022

### Administrative Appeal Decision - Tenesaca, Silvio (2021-12-23)

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STATE OF NEW YORK – BOARD OF PAROLE

**APPEALS UNIT FINDINGS & RECOMMENDATION**

**Name:** Tenesaca, Silvio

**DIN:** 19-A-4112

**Facility:** Gouverneur CF

**AC No.:** 07-021-21 B

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

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Appellant challenges the June 2021 determination of the Board, denying release and imposing a 24-month hold. The instant offense consisted of the appellant driving a car and crashing into a pedestrian driving a bicycle, causing the cyclist's death. Appellant later blew a .17% B.A.C. Appellant raises many issues. One of the issues raised is a claim the Board failed to properly depart from the COMPAS.

The COMPAS puts appellant's arrest risk in the low category. But the Board decision states there is a reasonable probability appellant would not remain at liberty without violating the law. As such, this is a departure from the COMPAS. But the Board decision doesn't specify any individualized scale they are departing from. As such, since the COMPAS departure wasn't properly done, a de novo is warranted.

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

STATE OF NEW YORK – BOARD OF PAROLE

**ADMINISTRATIVE APPEAL DECISION NOTICE**

**Name:** Tenesaca, Silvio

**Facility:** Gouverneur CF

**NYSID:** [REDACTED]

**Appeal Control No.:** 07-021-21 B

**DIN:** 19-A-4112

Appearances: Cheryl Kates Esq.  
P.O. Box 734  
Fairport, New York 14450

Decision appealed: June 2021 decision, denying discretionary release and imposing a hold of 24 months.

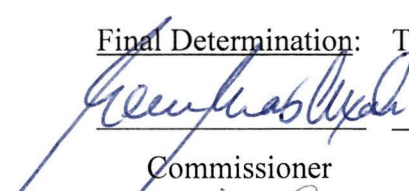
Board Member(s) who participated: Drake, Davis

Papers considered: Appellant’s Letter-brief received September 23, 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.

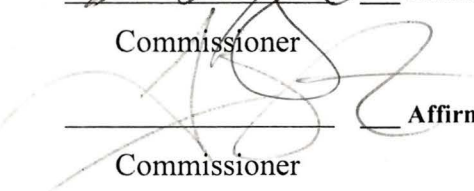
Final Determination: The undersigned determine that the decision appealed is hereby:

  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

12/23/2021  
LB