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Administrative Appeal Decision - Strawitch, Carl (2023-09-20)

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ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Strawitch, Carl

Facility: Fishkill CF

NYSID: [REDACTED]

Appeal Control No.: 01-086-23 B

DIN: 94-A-6683

Appearances: Chris Fennell, Esq.
Jenner & Block LLP
1155 Avenue of the Americas
New York, New York 10036-2711

Decision appealed: December 2022 decision, denying discretionary release and imposing a hold of 24 months.


Board Member(s) who participated: Corley, Lee

Papers considered: Appellant's Brief received May 19, 2023

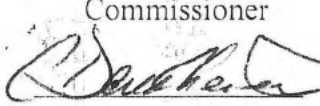
Appeals Unit Review: Statement of the Appeals Unit's Findings and Recommendation

Records relied upon: Pre-Sentence Investigation Report, Parole Board Report, Interview Transcript, Parole Board Release Decision Notice (Form 9026), COMPAS instrument, Offender Case Plan.

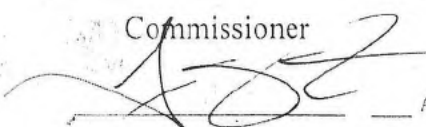
Final Determination: The undersigned determine that the decision appealed is hereby:

 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

9/20/2023
LB

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Strawitch, Carl

DIN: 94-A-6683

Facility: Fishkill CF

AC No.: 01-086-23 B

Findings: (Page 1 of 1)

Appellant is serving a sentence of 25 years to life upon his conviction of Murder in the Second Degree and Burglary in the First Degree. In the instant appeal, Appellant challenges the December 2022 determination of the Board denying release and imposing a 24-month hold. Among other things, he argues the Board arbitrarily issued inconsistent decisions and the Board failed to explain departures from his COMPAS instrument.

Insofar as there is an inconsistency between Appellant's decision notice and the decision contained in the transcript, language from a sentence was omitted from the decision notice due to a clerical error. However, it appears 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 scales in the COMPAS instrument and the Board did not provide an explanation. 9 NYCRR § 8002.2(a). Under the circumstances, a *de novo* interview is appropriate.

Recommendation: Vacate and remand for de novo interview.