

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Linares, Jorge

DIN: 96-A-3483

Facility: Otisville CF

AC No.: 12-021-19 B

Findings: (Page 1 of 1)

Appellant challenges the November 2019 determination of the Board, denying release and imposing a 24-month hold. Appellant is incarcerated for repeatedly raping and sexually abusing several of his minor children, and threatening them if they told what happened. Appellant raises the following issues: 1) the decision is arbitrary and capricious in that the Board failed to consider and/or properly weigh the required statutory factors. 2) no aggravating factors exist. 3) the decision lacks substantial evidence. 4) the Board failed to list an facts in support of the statutory standard cited. 5) the decision lacks future guidance. 6) the decision illegally resentenced him. 7) the decision lacks detail. 8) the Board violated his rights under the due process clause of the constitution. 9) the decision violated his constitutional right to counsel. 10) the Board failed to comply with the 2011 amendments to the Executive Law, and the 2017 regulations, in that the COMPAS was ignored, the attempted departure was illegally done, and statistically he is not a risk to re-offend. Also, the 2017 regulation creates a constitutional liberty interest in early release.

All of appellant's COMPAS scores are in the low or unlikely category. The Board decision says it is departing from the COMPAS due to his conviction after a jury trial. That is not a proper reason for a departure. As such, a de novo is warranted.

Recommendation: Vacate and remand for de novo interview.