

Administrative Appeal Decision Notice

**Inmate Name:** Wayne Blanchard **Facility:** Great Meadow Correctional Facility  
**NYSID No.:** 3143849L **Appeal Control #:** 09-194-12B  
**Dept. DIN#:** 92-A-4233

Appearances:

For the Board, the Appeals Unit  
For Appellant:

Cheryl L. Kates, Esq.  
P.O. Box 734  
Victor, New York 14564

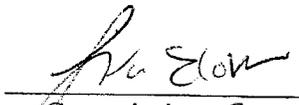
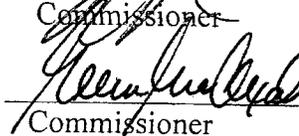
Board Member(s) who participated in appealed from decision: **Ludlow, Ross, Smith**

Decision appealed from: August 2012 denial of discretionary parole release

Pleadings considered: Briefs on behalf of the appellant submitted from September 2012 to April 2013  
Statement of the Appeals Unit's Findings and Recommendation

Documents relied upon: Presentence Investigation Report, Inmate Status Report, Interview Transcript,  
Parole Board Release Decision (Form 9026)

**Final Determination:** The undersigned have determined that the decision from which this appeal was taken  
be and the same is hereby

	<input type="checkbox"/> Affirmed	<input checked="" type="checkbox"/> Reversed for De Novo Interview	<input type="checkbox"/> Modified to _____
Commissioner			
	<input type="checkbox"/> Affirmed	<input checked="" type="checkbox"/> Reversed for De Novo Interview	<input type="checkbox"/> Modified to _____
Commissioner			
	<input type="checkbox"/> Affirmed	<input checked="" type="checkbox"/> Reversed for De Novo Interview	<input type="checkbox"/> 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 5/11/13 ff.

Distribution: Appeals Unit - Inmate - Inmate's Counsel - Inst. Parole File - Central File  
P-2002(B) (5/2011)

STATE OF NEW YORK - BOARD OF PAROLE

**STATEMENT OF APPEALS UNIT FINDINGS & RECOMMENDATION**

**Inmate Name:** Wayne Blanchard                      **Facility:** Great Meadow Correctional Facility  
**NYSID No.:** 3143849L                                      **Appeal Control #:** 09-194-12B  
**Dept. DIN#:** 92-A-4233

**Findings:**

Appellant challenges his August 2012 denial of parole release through a series of appeal submissions making several arguments. One of those arguments is that the Board of Parole did not render a sufficiently detailed decision.

Executive Law § 259-i(2)(a) in part mandates that if parole is not granted to an inmate “the inmate shall be informed in writing within two weeks of such appearance of the factors and reasons for such denial of parole. Such reasons shall be given in detail and not in conclusory terms.”

The Parole Board Release Decision Notice form is the written notification of the Board’s decision that is provided to an inmate. In appellant’s case, this decision notice stated the following:

Following a careful review and deliberation of your record and interview, this panel concludes that discretionary release is not warranted due to concern for the public safety and welfare. The following factors were properly weighed and considered: Your instant offense in the Bronx in November 1991 involved your knifepoint robbery of a female victim. Your criminal history indicates you were on life parole at the time, less than nine months from a 1976 Murder 2<sup>nd</sup>. Your institutional programming indicates progress and achievement which is noted to your credit. Your disciplinary record reflects one Tier 2 report.

The transcript of appellant’s parole interview also includes the transcription of the Board’s subsequent decision. The transcript of the decision (page 13-14) states the above, but following that, includes this additional portion of the Board’s decision:

You have approximately six felonies, this is your third state bid. Required statutory factors have been considered, including your risk to the community, rehabilitation efforts, and your needs for successful community reentry. Based on all required factors and the file considered, your discretionary release at this time would thus not be compatible with the welfare of society at large and would tend to deprecate the seriousness of the instant offense and undermine respect for the law.

The Parole Board Release Decision Notice here might have provided a sufficient statement of reasoning for denying appellant parole release if in fact it accurately represented the Board’s decision. Here, however, a significant portion of the actual decision was lacking from the decision

STATE OF NEW YORK - BOARD OF PAROLE

**STATEMENT OF APPEALS UNIT FINDINGS & RECOMMENDATION**

**Inmate Name:** Wayne Blanchard                      **Facility:** Great Meadow Correctional Facility  
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**Dept. DIN#:** 92-A-4233

notice. Under the particular circumstances of this case, appellant was not substantially informed of the Board's decision and reasoning in accordance with Executive Law § 259-i(2)(a) and this defect cannot be said to have been timely cured. It is therefore advisable that appellant be provided with a de novo parole release consideration.

Appellant's remaining arguments have been considered and found to be without merit.

**Recommendation:**

Accordingly, it is recommended that the appealed from decision be reversed and that appellant be afforded a de novo parole release consideration.