

Administrative Appeal Decision Notice

**Inmate Name:** STRAKER, Carol

**Correctional Facility:** Taconic C.F.

**NYSID No.:** 4690041P

**Appeal Control #:** 11-293-12B

**Dept. DIN#:** 97-G-1000

Appearances:

For the Board, the Appeals Unit

For Appellant:

Cheryl Kates, Esq.  
PO Box 734  
Victor NY 14564

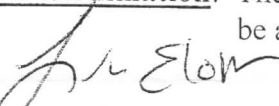
Board Member(s) who participated in appealed from decision: Ferguson, Thompson and Brown

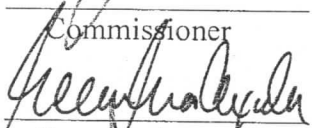
Decision appealed from: 11/2012 Denial of Discretionary Release with the imposition of a 24 month hold

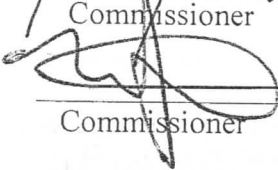
Pleadings considered: Brief on behalf of the appellant by Counsel Received on: 02/14/13; Supplemental Letter Brief Received from Counsel on 03/25/13; Supplemental Brief Received on 03/27/13; Supplemental Letter Brief Received from Counsel on 04/15/13; Supplemental Letter Brief Received from Counsel on 06/29/13; Supplemental Letter Brief Received from Counsel on 07/08/13; Supplemental Letter Brief Received from Counsel on 07/15/13; Supplemental Letter Brief Received from Counsel on 07/22/13; Supplemental Letter Brief Received from Counsel on 09/20/13; 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

  Affirmed  Reversed for De Novo Interview  Modified to \_\_\_\_\_  
Commissioner

  Affirmed  Reversed for De Novo Interview  Modified to \_\_\_\_\_  
Commissioner

  Affirmed  Reversed 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 Inmate and the Inmate's Counsel, if any, on 12/3/13 RF

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:** STRAKER, Carol

**Facility:** Taconic C.F.

**NYSID No.:** 4690041P

**Appeal Control #:** 11-293-12B

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**Findings:**

The appellant appeals from a November 2012 decision of the Parole Board that denied him release to parole supervision and set a 24 month reappearance date for her next parole consideration. One of the arguments advanced in this appeal is that staff of the former Division of Parole failed to solicit from appellant's defense counsel any recommendation regarding his possible release to parole supervision.

A review of the record reveals that, for the purpose of soliciting such a recommendation, Division staff wrote a letter on July 2, 1997 to defense counsel at 175 Remsen St., Brooklyn, New York 11201. The address appearing for appellant's defense listed in the sentencing minutes dated June 11, 1997 is 233 Broadway, New York, New York with no zip code. On July 1, 2013, appellant's defense attorney wrote the Board, advising that he never received a request to submit any information on behalf of appellant for the Board's consideration of granting appellant discretionary release to parole supervision.

When assessing the appropriateness of granting an inmate release to parole supervision, former Executive Law §259-i(1)(a)(i), now Executive Law §259-i(2)(c)(A)(vii), (see Chapter 62 of the Laws of 2011, Part C, Subpart A, § 38-f-1), required the Board of Parole to consider the recommendations of the sentencing judge, district attorney and defense counsel regarding the inmate's possible release to parole. By the record on this appeal, it appears that the Division did not directly solicit a recommendation from the attorney who represented the appellant in connection with his Kings County conviction upon which she seeks release to parole supervision. In addition, a letter from the appellant's defense counsel has now been secured for the Board's consideration. Because the Board was, and remains, statutorily obligated to consider the recommendation of an inmate's defense counsel when assessing the appropriateness of granting such inmate release to parole, and it cannot be demonstrated that a recommendation was solicited directly from the appellant's defense counsel, and such recommendation has now been secured, the appealed from decision should be set aside so that a *de novo* release interview can be conducted where the Parole Board can consider that recommendation consistent with its obligation under the pertinent provision of the Executive Law.

STATE OF NEW YORK - BOARD OF PAROLE  
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**Findings:**

(Continued from Page 1)

**Recommendation:**

Upon the foregoing, it is recommended that the November 2012 decision denying discretionary release be set aside and that a *de novo* initial appearance release interview be afforded to the appellant.