STATE OF NEW YORK
SUPREME COURT **COUNTY OF FRANKLIN**

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In the Matter of the Application of
LIONEL RICHARDSON,#03-A-5732,
Petitioner,

for Judgment Pursuant to Article 70 of the Civil Practice Law and Rules

-against-

DECISION AND JUDGMENT
RJI #16-1-2012-0009.07
INDEX # 2012-18
ORI # NY016015J

DARWIN LaCLAIR, Superintendent, Franklin Correctional Facility, and **ANDREA EVANS**, Chairwoman, NYS Board of Parole,
Respondents.

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This proceeding was originated by the Petition for Writ of Habeas Corpus of Lionel Richardson, verified on December 23, 2011 and filed in the Franklin County Clerk's office on January 10, 2012 (together with an untitled document, sworn to on December 23, 2011 and functioning as a Memorandum of Law). Petitioner, who is an inmate at the Franklin Correctional Facility, is challenging his continued incarceration in the custody of the New York State Department of Corrections and Community Supervision. The Court issued an Order to Show Cause on January 19, 2012 and has received and reviewed respondents' Return, dated March 7, 2012. The Court has also received and reviewed petitioner's Reply, sworn to on March 6, 2012 and filed in the Franklin County Clerk's office on March 8, 2012, as well as his separate Reply, sworn to on March 13, 2012 and filed in the Franklin County Clerk's office on March 15, 2012. By Letter Order dated June 25, 2012 the respondents were directed to supplement the record in this proceeding by filing copies of the exhibits entered into evidence at petitioner's final parole revocation hearing, which

concluded on March 22, 2011. Copies of those exhibits were filed in the Franklin County Clerk's office on July 11, 2012.

On October 24, 2003 petitioner was sentenced in Schenectady County Court to a determinate term of 5 years, with 5 years post-release supervision, upon his conviction of the crime of Attempted Robbery 1°. Attempted Robbery 1° is a class B violent felony offense under the provisions of Penal Law §70.02(1)(a) and (b). Petitioner was received into DOCCS custody on October 29, 2003. He was released from DOCCS custody to post-release supervision on several occasions only to have such releases revoked. Most recently, petitioner was released to post-release supervision on September 22, 2010. At that time DOCCS officials calculated the maximum expiration date of his period of post-release supervision as March 6, 2013.

On February 14, 2011 petitioner was served with a Notice of Violation/Violation of Release Report charging him with violating the conditions of his release in two separate respects. Charge #1 alleged, in relevant part, as follows: "Richardson violated Condition #8 of the conditions governing Parole release in that 02/08/[2011[1]] at approximately 7:15 PM . . . he threatened the safety and well-being of Julie Turner when he assaulted her by pulling her hair from her head, throwing and pinning her to the floor and causing bruising and/or lacerations on her legs, hands, arms and chest." Condition #8 of the conditions governing petitioner's release, as set forth in the Certificate of Release to Parole Supervision annexed to the respondents' Return as Exhibit C, provides that "I [petitioner]

[1] Parole Violation Charge #1 erroneously stated that petitioner's violative conduct occurred on "02/08/2010." This error was corrected, without objection, by verbal amendment at the outset of the final parole revocation hearing.

will not behave in such manner as to violate the provisions of any law to which I am subject which provide for a penalty of imprisonment, nor will my behavior threaten the safety or well-being of myself or others." *See* 9 NYCRR §8003.2(h).

Probable cause was found with respect to Charge #1 following a preliminary hearing conducted on February 17, 2011. A contested final hearing was commenced on March 8, 2011. At the conclusion of the final hearing, on March 22, 2011, Charge #1 was sustained, with a delinquency date of February 8, 2011, and the other violation charge was dismissed. The Administrative Law Judge (ALJ) presiding at petitioner's final hearing determined that petitioner was a Category 1 violator "based upon the instant offense." In this regard it is noted that on the written Parole Revocation Decision Notice the ALJ checked the box under section II (A)(1) indicating a Category 1 designation with no Board action required based upon "Conditional Release - and - crime of conviction is a violent felony offense (Penal Law definition)." *See* 9 NYCRR §8005.20(c)(1)(i). A delinquent time assessment was imposed directing that petitioner be reincarcerated to his maximum expiration date.

As of the February 8, 2011 delinquency date the running of petitioner's period of post-release supervision was interrupted (*see* Penal Law §70.45(5)(d)(i)) with 2 years and 28 days still remaining to the March 6, 2013 adjusted maximum expiration date thereof. Petitioner was returned to DOCCS custody, as a post-release supervision violator, on April 28, 2011 certified as entitled to 77 days of parole jail time credit. Since there was no time left remaining on petitioner's 2003 determinate term, the parole jail time credit was immediately applied against the period of post-release supervision (*see* Penal Law §70.45(5)(d)(iii)), reducing the time still owed from 2 years and 28 days to 1 year, 10

months and 11 days. The reduced time still owed against the period of post-release supervision re-commenced running upon petitioner's April 28, 2011 return to DOCCS custody *(see* Penal Law §70.45(5)(a)), with petitioner remaining in DOCCS custody pursuant to the delinquent time assessment imposed following the final revocation hearing. *See* Penal Law §70.45(5)(d)(iv). DOCCS officials calculated the current, re-adjusted maximum expiration date of the 5-year period of post-release supervision as March 9, 2013. (1 year 10 months and 11 days owed against the period of post-release supervision running from petitioner's April 28, 2011 return to DOCCS custody).

Petitioner first argues that since he was released from DOCCS custody to post-release supervision on September 22, 2010 - as opposed to discretionary parole release or conditional release - it was unlawful to subject him to the general parole conditions enumerated in 9 NYCRR §8003.2. Quoting from *People v. Williams*, 14 NY3d 198 at 206, petitioner asserts that the intent of the legislature in adopting the determinate sentence structure " . . .was to abolish parole and institute determinate terms of imprisonment for certain felony offenses . . ." Petitioner appears to argue that since parole was abolished for individuals, such as himself, serving determinate terms of imprisonment with additional periods of post-release supervision (Penal Law §70.45), " . . .[t]he Board [of Parole] abused their discretion by placing petitioner on parole, subjecting him to every General Parole Condition 9 NYCRR 8003.2 A to L . . ." For the reasons set forth below, however, the Court finds petitioner's argument on this point to be patently without merit.

Determinate sentencing, initially applicable with respect to second violent felony offenders (Penal Law §70.04) and second felony offenders (Penal Law §70.06) convicted

of violent felony offenses (Penal Law §70.02), was introduced into the New York Penal Law as part of the Sentencing Reform Act of 1995 (L 1995, ch 3). Under the provisions of Penal Law §70.40(1)(a)(ii), as added by L 1995, ch 3, §18, "[a] person who is serving one or more than one determinate sentence of imprisonment shall be ineligible for discretionary release on parole." In addition, under the provisions of Correction Law §803(1)(c) and Penal Law §70.40(1)(b), as added/amended by L 1995, ch 3, §§27 and 19 respectively, an individual serving a determinate sentence would not become eligible for conditional release until completing 6/7 of his/her determinate term. The Sentencing Reform Act of 1995, however, made no provision for post-release supervision of individuals who had completed serving their determinate sentences.

"Jenna's Law" (L 1998, ch 1) extended determinate sentencing to first time violent felony offenders (*see* Penal Law §70.00(6), as amended by L 1998, ch 1 §4). In addition, "Jenna's Law" added Penal Law §70.45 which mandated, in general, that "[e]ach determinate sentence also includes, as a part thereof, an additional period of post-release supervision." Penal Law §70.45(1), as added by L 1998, ch 1, §15.

"Jenna's Law", in conjunction with the Sentencing Reform Act of 1995, thus had the effect of eliminating discretionary parole release (and of limiting conditional release) for individuals, like petitioner, convicted of first time violent felony offenses and sentenced to determinate terms of imprisonment. Notwithstanding the foregoing, Penal Law §70.45(3), as added by L 1998, ch 1, §15 provides, in relevant part, that "[t]he board of parole shall establish and impose conditions of post-release supervision in the same manner and to the same extent as it may establish and impose conditions in accordance with the executive law upon persons who are granted parole or conditional release . . ."

In addition, Penal Law §70.45(4), as added by L 1998, ch 1, §15, provides that "[a]n alleged violation of any condition of post-release supervision shall be initiated, heard and determined in accordance with the provisions of subdivisions three and four of section two hundred fifty-nine-i of the executive law."

"Jenna's Law" also included several amendments to the Executive Law clearly establishing the role of the Division of Parole (since merged into DOCCS)/Board of Parole in the establishment of conditions of release for, and supervision of, individuals released from DOCS (now DOCCS) custody to post-release supervision. Some of these Executive Law amendments were as follows:

- Executive Law §259-c(2) was amended to provide that the State Board of Parole shall " . . . have the power and duty of determining the conditions of release of the person who may be conditionally released or subject to a period of post-release supervision under an indeterminate or determinate sentence of imprisonment . . ." L 1998, ch 1, §22.

- Executive Law §259-a(4) was amended to provide that the Division of Parole (since merged into the Department of Correction and Community Supervision) " . . . shall supervise inmates released on parole or conditional release, or to post-release supervision . . ." L 1998, ch 1, §17.

- Executive Law §259-c(6) was amended to provide that the State Board of Parole shall " . . .have the power to revoke the parole, conditional release or post-release supervision status of any person and to authorize the issuance of a warrant for the re-taking of such persons . . ." L 1998, ch 1, §23.

- Executive Law §259-i(2)(b) was amended to provide, in relevant part, that " . . . [p]ersons paroled, conditionally released or released to post-release supervision from an institution under the jurisdiction of department of correctional services [now DOCCS] . . . shall, while on parole, conditional release or post-release supervision, be in the legal custody of the division of parole [now merged into DOCCS] until expiration of the maximum term or period of sentence, or expiration of the period of supervision, including any period of post-release supervision, or return to the custody of the department of correctional services, as the case may be." L 1998, ch 1, §26.

Notwithstanding the fact that petitioner, who is subject to a determinate sentence of imprisonment with an additional period of post-release supervision, was released from

DOCS (now DOCCS) custody to post-release supervision on September 22, 2010, it is clear to this Court that upon such release he entered into the legal custody of the Division of Parole (since merged into DOCCS) (*see* Executive Law §259-i(2)(b)), subject to conditions of release established by the State Board of Parole (*see* Executive Law §259-c(2) and Penal Law §70.45(3)), with such released supervised by the Division of Parole (since merged into DOCCS) (*see* former Executive Law §259-a(4)), and ultimately subject to revocation by the State Board of Parole (*see* Executive Law §259-c(6)) under the procedures set forth in Executive Law §259-i(3) and (4) (*see* Penal Law §70.45(4)).

The Court will next consider petitioner's argument that the ALJ presiding at his final parole revocation hearing erred in sustaining Parole Violation Charge #1 in the absence of direct testimony, subject to cross-examination, from Julie Turner. As noted previously, Parole Violation Charge #1 alleged that on February 8, 2011 at approximately 7:15 PM petitioner " . . . threatened the safety and well-being of Julie Turner when he assaulted her by pulling her hair from her head, throwing and pinning her to the floor and causing bruising and/or lacerations on her legs, hands, arms and chest." Ms. Turner, however, did not testify at the final parole revocation hearing.

Schenectady Police Officers Moore and Rizzo responded to a domestic dispute call on the evening of February 8, 2011 and interviewed Julie Turner approximately 20 minutes after the incident that formed the basis for Parole Violation Charge #1. P.O. Moore described Ms. Turner's emotional state at the time of the interview as "[c]alm." According to the testimony of P.O. Rizzo, Ms. Turner's emotional state was "[n]ormal." When questioned about Ms. Turner's physical state, P.O. Moore responded as follows: "She was fine. She only complained of pain to her elbow." Responding to a similar

question, P.O. Rizzo testified that Ms. Turner " . . . had a scratch on her elbow." According to the testimony of P.O. Moore, Ms. Turner stated that she " . . . [g]ot into an altercation with Mr. Richardson over her cell phone and him wanting to use the Internet . . . She stated that he pulled her hair then they began fighting on the ground, and that she had to punch him to make him release her . . .Mr. Richardson was on top of her and she had to punch him to make him release her." P.O. Rizzo testified in similar fashion that Ms. Turner stated that she and the petitioner " . . .got into an argument over him trying to use her phone, and they got in a physical altercation. She hurt her elbow."

At the time of her interview with the two police officers Ms. Turner signed a statement, received into evidence at the final hearing, as follows: "Lionel tried to take my phone from me to snoop around in it and I told him no. We began to physically fight at this point. Lionel pulled my hair and we began fighting on the floor. I don't want to seek medical attention for my scratches on my arm. Lionel left before police arrived. My kids were upstairs during this and saw none of it. I want an order of protection."

Upon cross-examination, P.O. Moore testified that he observed no injuries on Ms. Turner other than the scratch on her elbow. Although the discussion with Ms. Turner with respect to her hair being pulled was acknowledged, P.O. Moore further testified on cross-examination that she did not display any injuries in that regard. P.O. Rizzo similarly testified upon cross-examination that he observed no marks on Ms. Turner other than the scratch on her elbow. He specifically testified, moreover, that he did not observe anything having to do with the alleged hair pulling.

Parole Officer Lurie Rockenstyre, petitioner's supervising parole officer, also testified at the final parole revocation hearing on March 22, 2011. According to that

testimony Ms. Turner contacted her with regard to the incident in question, by telephone, on the morning of February 9, 2011. P.O. Rockenstyre met with Ms. Turner on the morning of February 10, 2011, presumably more than 36 hours after the underlying incident. In her testimony P.O. Rockenstyre described Ms. Turner's emotional state at the time of their meeting as follows: "She appeared somewhat, I don't know, she was upset but she definitely had a lot to discuss and wanted to talk to somebody about it. She was also upset that, more upset I would say, that CPS [Child Protective Services] was involved also in the matter . . . Somebody had made a call to their hot line . . . She might have suspected Mr. Richardson but I don't remember her declaring anything in the statement about –." P.O. Rockenstyre also testified that at the time of the February 10, 2011 meeting with Julie Turner none of Ms. Turner's children were present since they had been taken into CPS custody. When questioned as to whether she observed any marks on Ms. Turner's body on the morning of February 10, 2011, P.O. Rockenstyre testified as follows: "There were several bruises on her body including on her knees, her arms, I believe there was one on her chest. Also, there were areas of hair missing frm the back and side of her head."

P.O. Rockenstyre took a written statement from Ms. Turner, received into evidence at the final hearing, as follows: "On February 8, 2011 at 7:15 pm Lionel Richardson came to my house . . .I told him I did not want him here. He came in my back door he started verbally attacking me. I was standing in the kitchen he came behind me grabbed me by the hair multiple times dropped me to the floor several times. I have chunks of hair missing, he put me on the kitchen floor and pinned me by laying on my stomach & chest. I managed to get him off of me by punching him in the face. As a result I have several

bruises on my hands, arms, chest and legs. He grabbed me by my hair ripping chunks of my hair out. I am fearful for my childrens[’] safety as well as my own. I am relocating to Georgia as a result.”

P.O. Rockenstyre also testified that she took a series of photographs of Ms. Turner during the course of their meeting on the morning of February 10, 2011. Although the transcript of the final parole revocation hearing indicates that 16 color photographs were received into evidence, the record before the Court only contains 15 black and white photocopies. These copies, however, show substantial bruising around Ms. Turner’s knees as well as small nicks on her hands and a more substantial laceration on her lower arm, just above the wrist. In addition, several close ups of Ms. Turner’s scalp appear to show areas with hair missing, particularly near the back of the head.

In addition to the foregoing, P.O. Rockenstyre testified that petitioner had contacted her on the morning of February 9, 2011, presumably by telephone, and “ . . . indicated that he had had an altercation with Ms. Turner on the 8th that he wanted to talk to me about, and he did say that he was at the house on the 8th, and that an altercation had ensued and they had physically struggled.” P.O. Rockenstyre’s direct testimony, however, included no additional details with respect to her February 9, 2011 conversation with petitioner other than that no injuries were mentioned. On cross-examination, however, P.O. Rockenstyre acknowledged that during her February 9, 2011 conversation with petitioner he indicated that drugs were present at Ms. Turner’s house and that he had a physical altercation with a male drug dealer who was present in the house at or about the time of the February 8, 2011 incident. In addition, P.O. Rockenstyre acknowledged that during the course of her February 9, 2011 conversation with petitioner

he stated that on the evening of February 8, 2011 he observed in Ms. Turner's home a baby with a bag containing cocaine.

Both P.O. Rockensytre and Parole Revocation Specialist Jeffords, who presented the case against petitioner at the final parole revocation hearing, testified with respect to their efforts to contact/secure testimony from Julie Turner prior to the March 22, 2011 final hearing. P.O. Rockensytre testified that she attempted to contact Ms. Turner by telephone, to arrange service of a subpoena, using a phone number recently provided by Ms. Turner, "within the last couple of weeks," but that the number was not working. P.O. Rockenstyre also testified that she went to Ms. Turner's previous residence to serve the subpoena on the morning of the final hearing but there did not appear to be any one living there. Finally, P.O. Rockenstyre testified that she was informed by CPS staff that Ms. Turner planned to leave the area and return to Georgia.

P.R.S Jeffords testified with respect to four telephone numbers potentially associated with Julie Turner - three local and one out-of-state. P.R.S Jeffords further testified that on March 21, 2011 she called all four numbers, leaving messages at two of the local numbers and noting that the other local number and the out-of-state number indicated that the customer could not receive messages. P.R.S Jeffords also testified that on the evening of March 21, 2011 she again attempted to reach Ms. Turner at the four telephone numbers in question with the same results except with respect to one of the local numbers where she spoke to an individual who stated that there was no "Julie Turner" at that number, which was a new trac phone number. P.R.S Jeffords testified that she again attempted to reach Ms. Turner, at the three remaining numbers, with the same results, on the morning of the March 22, 2011 final hearing. Finally, P.R.S. Jeffords

testified that on March 21, 2011 she was advised by CPS staff that on an unspecified date authorities in Georgia " . . .had acknowledged that Ms. Turner had arrived in Georgia."

At a final revocation hearing a alleged parole violator, like petitioner, has a constitutional and statutory right to confront/cross examine adverse witnesses unless the presiding ALJ specifically finds good cause for not allowing such confrontation. *See Morrissey v. Brewer*, 408 US 471, 488-489 and Executive Law §259-i(3)(f)(v). "In deciding whether confrontation is required, a hearing officer should consider not only the preference for confrontation, but also whether, under the circumstances, confrontation would aid the fact-finding process, and the burden which would be placed on the State in producing the witness." *People ex rel McGee v. Walters*, 62 NY2d 317, 322. *See People ex rel Rosenfeld v. Sposato*, 87 AD3d 665.

The ALJ presiding at petitioner's final parole revocation hearing devoted several paragraphs of the extensive "ANALYSIS" section of the Parole Revocation Decision Notice to issues associated with Ms. Turner's availability and the petitioner's right to confront and cross examine her. Although noting that the right to confront and cross examine must be "closely guarded," the ALJ ultimately concluded, in effect, that Ms. Turner's apparent re-location to Georgia, coupled with petitioner's "admission" to involvement in a physical "altercation" with Ms. Turner as well as the testimonies of the two police officers and Parole Officer Rockenstyre were sufficient to sustain Parole Violation Charge #1 despite petitioner's inability to confront and cross-examine Ms. Turner. For the reasons set forth below, however, this Court does not agree with the ALJ's conclusion on this point.

As noted by the Court of Appeals in *McGee*:

> "The importance of the right to confront adverse witnesses at parole revocation hearings should . . . not be underestimated or ignored. 'In almost every setting were important decisions turn on questions of fact, due process requires an opportunity to confront and cross examine adverse witnesses.' (*Goldberg v. Kelly*, 397 US 254, 269.) A rule securing a parolee's right at a parole revocation hearing to confront witnesses who would relay adverse information is grounded in part on the principle that the fact-finding process is enhanced when the recollections of the witness may be tested and his or her demeanor may be evaluated through cross-examination (cf. *Ohio v. Roberts*, 448 US 56, 63-65 . . .)." *People ex rel McGee v. Walters*, 62 NY2d 317, 322.

Although the presiding ALJ was no doubt correct in her assessment that Ms. Turner left New York and relocated to Georgia prior to the March 22, 2011 final parole revocation hearing, the Court notes, for what it is worth, that the lion's share of the efforts of P.O. Rockenstyre and P.R.S. Jeffords to contact Ms. Turner took place on March 21, 2011 (the day before the hearing) and on the morning of the hearing itself. The belated nature of these efforts to contact Ms. Turner to secure her testimony at the final hearing are difficult to understand given the fact that a contested preliminary hearing was conducted, without the presence of Ms. Turner, on February 17, 2011 as well as the fact that the March 8, 2011 session of the final hearing was adjourned for a contested hearing on March 22, 2011 with the adjournment "chargeable to the Division for witnesses." Since Ms. Turner was apparently the only person (other than petitioner) with firsthand knowledge as to what transpired during the incident of February 8, 2011, a more timely and vigorous effort to secure her testimony at the final hearing (more than four weeks after the preliminary hearing and two weeks after the March 8, 2011 initial session of the final hearing) would be expected.

The Court also finds that the ALJ failed to adequately consider whether, under the circumstances of this case, the cross-examination of Julie Turner would have aided the

fact finding process. In this regard the ALJ noted that the petitioner's February 9, 2011 telephone "admission" to an "altercation" with Ms. Turner was critical and further noted as follows: "The Division presented the two responding police officer's [Moore and Rizzo] who gave testimony about the event on 2/8/11 close in time and documented it [in ?] the Domestic Incident Report. Ms. Turner's statement to [Parole] Officer Rockenstyre corroborates in sum and substance what occurred on 2/8/11 and what was reported to the police. While there were some dissimilarities in the observed injuries by the police and those photographed by Officer Rockenstyre, 9 NYCRR section 8005.20(c)(1)(vi), requires only a minimum *attempted* infliction of physical injury upon another." (Emphasis in original). This Court finds, however, that the "dissimilarities" between the injuries observed by the two police officers on the evening of February 8, 2011, as well as in the statement made to the police officers by Ms. Turner at that time, and the injuries observed by Parole Officer Rockenstyre on the morning of February 10, 2011, as well as the statement made to P.O. Rockenstyre by Ms. Turner at that time, were significant and would have likely constituted the material for the extensive cross-examination of Ms. Turner by counsel for the petitioner. In this regard the Court notes that Ms. Turner's February 8, 2011 statement only mentioned petitioner's alleged attempt to take her cell phone as well as her hair being pulled, "fighting on the floor," and "scratches" on her arm. The only injury observed by P.O. Moore and/or P.O. Rizzo on February 8, 2011 was a scratch on Ms. Turner's elbow. In her statement of February 10, 2011, made after CPS became involved, Ms. Turner described a more violent assault on the part of petitioner. In her February 10, 2011 statement Ms. Turner made no mention of any dispute with regard to a cell phone but instead stated that after petitioner came to her house she simply

told him that she did not want him there. Ms. Turner then described petitioner as "verbally attacking" her before " . . .he came behind me grabbed me by the hair multiple times dropped me to the floor several times. I have chucks of hair missing, he put me on the kitchen floor and pinned me by laying on my stomach and chest. I managed to get him off of me by punching him in the face. As a result I have several bruses [sic] on my hands, arms, chest and legs. He grabbed me by my hair ripping chunks of my hair out." As noted previously, P.O. Rockenstyre testified as follows with respect to Ms. Turner's physical conditions on the morning of February 10, 2011: "There were several bruises on her body including on her knees, her arms, I believe there was one on her chest. Also, there were areas of hair missing from the back and side of her head."

In view of the dissimilarities between Ms. Turner's February 8, 2011 statement and her February 10, 2011 statement, and in the view of the differences between the observations of her physical condition on those dates, the Court finds that confrontation/cross-examination would have significantly aided the fact finding process, particularly when the intervening involvement of CPS is factored in.

With respect to petitioner's February 9, 2011 telephone "admission" of an "altercation" with Ms. Turner on February 8, 2011, the Court notes that such "admission," as described by P.O. Rockenstyre, was vague, with no specific details provided with regard to the nature of the physical "altercation" between petitioner and Ms. Turner and/or the roles of petitioner and Ms. Turner in such "altercation." No injuries were mentioned.

In view of all of the above the Court concludes that petitioner's constitutional and statutory rights to confront/cross examine adverse witnesses was violated when the final parole revocation hearing of March 22, 2011 was conducted and Parole Violation Charge

#1 was sustained in the absence of direct testimony, subject to the cross-examination, from Julie Turner. Accordingly, the Court finds that the petition must be granted. In view of this conclusion and finding the Court declines to reach petitioner's remaining arguments.

Based upon all of the above, it is, therefore, the decision of the Court and it is hereby

ADJUDGED, that the petition is granted, without costs or disbursements, and the respondents are directed to re-release petitioner to post-release supervision, subject to such conditions as are deemed appropriate by the Board of Parole.

DATED: October 1, 2012 at
Indian Lake, New York

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S. Peter Feldstein
Acting Supreme Court Judge