

From: **Kathy Manley**

Subject: Comment on proposed parole regulations

To: [rules@doccs.ny.gov](mailto:rules@doccs.ny.gov), [JKoury@nysenate.gov](mailto:JKoury@nysenate.gov)

Cc: Mujahid Farid <[mfarid@correctionalassociation.org](mailto:mfarid@correctionalassociation.org)>

I was John MacKenzie's attorney from 2013 until his tragic death on August 4, 2016. We won a de novo hearing in 2015, yet he was denied release again after that hearing, based only on the "circumstances of the offense" in 1975. Like all the others, that decision ignored John's very genuine remorse, his history of running a victim awareness program teaching prisoners to understand the impact of their crimes, and his myriad of other accomplishments. We then won an order holding the parole board in contempt for violating the law by denying release based only on something which can never change. I was hopeful we would eventually win John's release but, for him, the hope ran out. After turning 70, after facing horrible conditions in Fishkill ever since his transfer there, and after being denied release for the 10<sup>th</sup> time in July, 2016, John took his own life.

I then heard from many, many prisoners and former prisoners who had been inspired by John – it seems he was something of a legend behind bars. The letters and poems I received all paid tribute to John's compassion, integrity, courage, and his relentless fight for parole reform, not just for himself, but for everyone improperly denied release. His death deeply affected many people, and it has served as a wake-up call to fix this broken system.

These new proposed regulations may be a step in the right direction. It sounds like a positive step to require more detailed reasons when release is denied, something beyond the ridiculous boilerplate phrases cut and pasted every two years. And it sounds like a positive step to require consideration of the circumstances of youth, though that is clearly there in reaction to a court decision forcing the board to deal with this question. It may be that all of this is just window dressing, just an attempt to avoid more de novo hearings, and to avoid being held in contempt while *still* improperly denying release.

What I think really needs to happen is for there to be a *presumption* that when a person's COMPAS score is low they must be released. In order to rebut that presumption the board should have to show by clear and convincing evidence that there is some compelling reason sufficient to override that score. But until that happens, these new proposed regulations *should* be followed conscientiously, and *should* result in the release of many more deserving people – it remains to be seen whether that will happen.

Sincerely,

Kathy Manley  
Attorney  
Albany, NY