

*State of New York*  
*Supreme Court, Appellate Division*  
*Third Judicial Department*

Decided and Entered: November 16, 2017

524814

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In the Matter of DOMINIC M.  
FRANZA,

Appellant,

v

MEMORANDUM AND ORDER

TINA M. STANFORD, as Chair of  
the Board of Parole, et  
al.,

Respondents.

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Calendar Date: October 24, 2017

Before: Peters, P.J., McCarthy, Lynch, Mulvey and Aarons, JJ.

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Dominic M. Franza, Beacon, appellant pro se.

Eric T. Schneiderman, Attorney General, Albany (Brian D. Ginsberg of counsel), for respondents.

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Appeal from a judgment of the Supreme Court (Ceresia, J.), entered January 25, 2017 in Albany County, which dismissed petitioner's application, in a proceeding pursuant to CPLR article 78, to review a determination of the Board of Parole denying petitioner's request for parole release.

In 1992, petitioner was convicted of, among other things, three counts of attempted murder in the second degree and he was sentenced to an aggregate prison term of 25 to 50 years. In December 2015, he made his first appearance before the Board of Parole seeking to be released to parole supervision. At the conclusion of the hearing, his request was denied and he was ordered held for an additional 24 months. The denial was subsequently affirmed on administrative appeal. Thereafter,

petitioner commenced this CPLR article 78 proceeding challenging it. Following joinder of issue, Supreme Court dismissed the petition and this appeal by petitioner ensued.

Initially, "[i]t is well settled that parole release decisions are discretionary and will not be disturbed as long as the Board complied with the statutory requirements set forth in Executive Law § 259-i" (Matter of Cobb v Stanford, 153 AD3d 1500, 1501 [2017]; see Matter of Platten v New York State Bd. of Parole, 153 AD3d 1509, 1509 [2017]). Contrary to petitioner's claim, the record discloses that the Board followed the appropriate procedure and considered the relevant statutory factors in denying petitioner's request. Specifically, the Board took into account, among other things, the serious nature of petitioner's crimes, his prison disciplinary record, his program accomplishments and his postrelease plans, as well as the COMPAS Needs and Risk Assessment instrument (see Matter of Lewis v Stanford, 153 AD3d 1478, 1478 [2017]; Matter of Paniagua v Stanford, 153 AD3d 1018, 1019 [2017]). Inasmuch as petitioner has not demonstrated that the Board's decision evinces "'irrationality bordering on impropriety'" (Matter of Silmon v Travis, 95 NY2d 470, 476 [2000], quoting Matter of Russo v New York State Bd. of Parole, 50 NY2d 69, 77 [1980]), we find no reason to disturb it. We have considered petitioner's remaining arguments and find them to be unpersuasive.

Peters, P.J., McCarthy, Lynch, Mulvey and Aarons, JJ.,  
concur.

ORDERED that the judgment is affirmed, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive style with a large, prominent "R" at the beginning and a long, sweeping underline at the end.

Robert D. Mayberger  
Clerk of the Court