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This memorandum is uncorrected and subject to revision before  
publication in the New York Reports.  
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No. 140  
In the Matter of Pablo Costello,  
                  Appellant,  
                  v.  
New York State Board of Parole  
et al.,  
                  Respondents.

Alfred O'Connor, for appellant.  
Nancy A. Spiegel, for respondents.  
Robert Dennison et al., amici curiae.

MEMORANDUM:

The order of the Appellate Division should be reversed,  
with costs, the challenged determination annulled, and  
petitioner's parole reinstated.

The Executive Law requires the Board of Parole ("the  
Board") to consider any victim impact statement in the decision  
to grant or deny parole release to an inmate (see Executive Law §

259-i [2][c][A])). Nonetheless, while it is undisputed that rescission proceedings were properly initiated here, under the particular circumstances of this case, the Board improperly rescinded petitioner's parole release, which should be reinstated.

Our resolution of this case should not be interpreted as minimizing either the importance of victim impact statements in parole board hearings generally or the powerfully presented evidence of the grief and loss experienced by the family of the victim in this case. On the contrary, we hope that our decision will impel both parole boards and district attorneys to comply fully with the letter and spirit of Executive Law § 259-i (2)(c)(A)(v) and CPL 440.50 (1), so that the effect of a crime on the victim and his or her family can be considered fully before a decision is made.

\* \* \* \* \*

Order reversed, with costs, the challenged determination annulled and petitioner's parole reinstated, in a memorandum. Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

Decided June 26, 2014