

Fordham Law School

FLASH: The Fordham Law Archive of Scholarship and History

Parole Administrative Appeal Decisions

Parole Administrative Appeal Documents

December 2020

Administrative Appeal Decision - Terenzi, Anthony (2019-06-06)

Follow this and additional works at: <https://ir.lawnet.fordham.edu/aad>

Recommended Citation

"Administrative Appeal Decision - Terenzi, Anthony (2019-06-06)" (2020). Parole Information Project
<https://ir.lawnet.fordham.edu/aad/41>

This Parole Document is brought to you for free and open access by the Parole Administrative Appeal Documents at FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in Parole Administrative Appeal Decisions by an authorized administrator of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact tmelnick@law.fordham.edu.

STATE OF NEW YORK – BOARD OF PAROLE

ANTHONY TEREZI (ADMINISTRATIVE APPEAL DECISION NOTICE)

Name: Terenzi, Anthony

Facility: Wyoming CF

NYSID



Appeal Control No.: 10-156-18 R

DIN: 12-B-1586

Appearances: Anthony Terenzi (12B1586)
Wyoming Correctional Facility
3203 Dunbar Road, Box 501
Attica, New York 14011-0501

Decision appealed: September 19, 2018 revocation of release and imposition of a time assessment of 18 months.

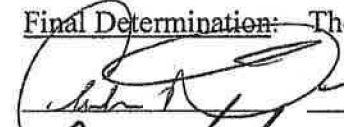
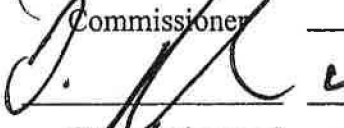

Final Revocation Hearing Date: September 19, 2018

Papers considered: Appellant's Brief received March 29, 2019

Appeals Unit Review: Statement of the Appeals Unit's Findings and Recommendation

Records relied upon: Notice of Violation, Violation of Release Report, Final Hearing Transcript, Parole Revocation Decision Notice

Final Determination: The undersigned determine that the decision appealed is hereby:

	<input type="checkbox"/> Affirmed	<input type="checkbox"/> Reversed, remanded for de novo hearing	<input type="checkbox"/> Reversed, violation vacated
Commissioner	<input type="checkbox"/> Vacated for de novo review of time assessment only	<input type="checkbox"/> Modified to _____	
	<input checked="" type="checkbox"/> Affirmed	<input type="checkbox"/> Reversed, remanded for de novo hearing	<input type="checkbox"/> Reversed, violation vacated
Commissioner	<input type="checkbox"/> Vacated for de novo review of time assessment only	<input type="checkbox"/> Modified to _____	
	<input type="checkbox"/> Affirmed	<input type="checkbox"/> Reversed, remanded for de novo hearing	<input type="checkbox"/> Reversed, violation vacated
Commissioner	<input type="checkbox"/> Vacated for de novo review of time assessment only	<input type="checkbox"/> Modified to _____	

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 6/6/19 66.

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Terenzi, Anthony

DIN: 12-B-1586

Facility: Wyoming CF

AC No.: 10-156-18 R

Findings: (Page 1 of 2)

Appellant challenges the September 19, 2018 determination of the administrative law judge (“ALJ”), revoking release and imposing a 18-month time assessment.

Appellant is serving a term of imprisonment of 2 ½ to 5 years after having been convicted of Grand Larceny 3rd. Appellant is serving his third term of state imprisonment.

Nine separate parole violation charges were brought against Appellant involving use of marijuana, opiates and methamphetamine without proper medical authorization, failure to report, and [REDACTED] a change of employment, and a change of residence.

Appellant presents the following issues in his brief: (1) certain parole violation charges were not accurate; (2) the ALJ should have imposed a different disposition following the final revocation hearing; and (3) Appellant’s counsel was ineffective.

As to the first two issues, Appellant’s parole was revoked at the hearing upon his unconditional plea of guilty. Appellant was represented by counsel at the final hearing, and the Administrative Law Judge explained the substance of the plea agreement. The guilty plea was entered into knowingly, intelligently and voluntarily, and is therefore valid. Matter of Steele v. New York State Div. of Parole, 123 A.D.3d 1170, 998 N.Y.S.2d 244 (3d Dept. 2014); Matter of James v. Chairman of N.Y. State Bd. of Parole, 106 A.D.3d 1300, 965 N.Y.S.2d 235 (3d Dept. 2013); Matter of Ramos v. New York State Div. of Parole, 300 A.D.2d 852, 853, 752 N.Y.S.2d 159 (3d Dept. 2002). Consequently, his guilty plea forecloses this challenge. See Matter of Steele, 123 A.D.3d 1170, 998 N.Y.S.2d 244; Matter of Gonzalez v. Artus, 107 A.D.3d 1568, 1569, 966 N.Y.S.2d 710, 711 (4th Dept. 2013).

In addition, Appellant did not preserve issues (1) and (2) at the time of the final revocation hearing, and they have therefore been waived. See 9 N.Y.C.R.R. §8006.3(b); Matter of Worrell v. Stanford, 153 A.D.3d 1510, 59 N.Y.S.3d 922 (3d Dept. 2017); Matter of Bowes v. Dennison, 20 A.D.3d 845, 800 N.Y.S.2d 459 (3d Dept. 2005); Matter of Currie v. New York State Board of Parole, 298 A.D.2d 805, 748 N.Y.S.2d 712 (3d Dept. 2002).

As to the third issue, counsel “is presumed to have been competent and the burden is on the [Appellant] to demonstrate upon the record the absence of meaningful adversarial representation”. Matter of Jeffrey V., 82 N.Y.2d 121, 126 (1993); People v. Hall, 224 A.D.2d 710 (2d Dept. 1996). “[T]here is nothing to substantiate [Appellant’s] contention that he was denied the effective assistance of counsel as the record discloses that he received meaningful

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Terenzi, Anthony

DIN: 12-B-1586

Facility: Wyoming CF

AC No.: 10-156-18 R

Findings: (Page 2 of 2)

representation”. Matter of James v. Chairman of New York State Board of Parole, 106 A.D.3d 1300, 1300-1301 (3d Dept. 2013); see also, Matter of Rosa v. Fischer, 108 A.D.3d 1227 (4th Dept. 2013). An ineffective assistance of counsel claim requires more than a showing of disagreement with defense counsel's strategy or tactics. Ordmandy v. Travis, 300 A.D.2d 713 (3d Dept. 2002); People v. Guay, 72 A.D.3d 1201 (3d Dept. 2010). Appellant’s hindsight disagreement with counsel’s tactics do not render counsel’s assistance ineffective. People ex rel. Williams v. Allard, 19 A.D.3d 890 (3d Dept. 2005). Furthermore, the right to effective assistance of counsel does not entitle Appellant to a flawless performance by his counsel. People v. Groves, 157 A.D.2d 970.

Counsel for the Appellant was also successful in having eight of the nine charges brought against Appellant dismissed. The Appeals Unit finds no evidence to support the ineffective assistance of counsel claim.

Recommendation: Affirm.