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Administrative Appeal Decision - Garder, Daquan (2018-12-28)

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Administrative Appeal Decision Notice

Inmate Name: Garder, Daquan

Facility: Clinton Correctional Facility.

NYSID No.: [REDACTED]

Appeal Control #: 06-045-18-R

Dept. DIN#: 13A3571

Appearances:

For the Board, the Appeals Unit

For Appellant: Percival Clarke Esq.
10 Fiske Place
Suite 402
Mount Vernon, New York 10550

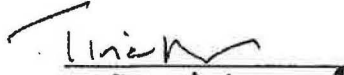


Board Member(s) who participated in appealed from decision: NONE

Decision appealed from: 5/2018-Revocation of release, with imposition of 13 month time assessment.

Pleadings considered: Brief on behalf of the appellant received on November 1, 2018.
Statement of the Appeals Unit's Findings and Recommendation

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

Final Determination: The undersigned have determined that the decision from which this appeal was taken be and the same is hereby

 _____ Commissioner	<input checked="" type="checkbox"/> Affirmed	<input type="checkbox"/> Reversed for De Novo Hearing	<input type="checkbox"/> Reversed - Violation Vacated
	<input type="checkbox"/> Vacated for De Novo Review of Time Assessment Only		<input type="checkbox"/> Modified to _____
 _____ Commissioner	<input type="checkbox"/> Affirmed	<input type="checkbox"/> Reversed for De Novo Hearing	<input type="checkbox"/> Reversed - Violation Vacated
	<input type="checkbox"/> Vacated for De Novo Review of Time Assessment Only		<input type="checkbox"/> Modified to _____
 _____ Commissioner	<input checked="" type="checkbox"/> Affirmed	<input type="checkbox"/> Reversed for De Novo Hearing	<input type="checkbox"/> Reversed - Violation Vacated
	<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 12/28/18.

Distribution: Appeals Unit - Inmate - Inmate's Counsel - Inst. Parole File - Central File
P-2002(R) (May 2011)

CB

STATE OF NEW YORK - BOARD OF PAROLE

STATEMENT OF APPEALS UNIT FINDINGS & RECOMMENDATION

Inmate Name: Garder, Daquan

Facility: Clinton Correctional Facility

Dept. DIN#: 13A3571

Appeal Control #: 06-045-18-R

Findings:

New counsel for the appellant has submitted a brief concerning the final parole revocation hearing held in May 2018. The brief raises only one issue. Appellant claims DOCCS made an incorrect parole jail time calculation after a final parole revocation hearing held on a prior parole warrant back in 2017.

In response, per 9 N.Y.C.R.R. 8006.3, the Appeals Unit lacks subject matter jurisdiction over time computation questions. As such, this appeal is dismissed due to lack of subject matter jurisdiction.

Recommendation:

Accordingly, it is recommended the decision of the Administrative Law Judge be affirmed.