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Administrative Appeal Decision - Hamilton, Denaro (2019-02-27)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Hamilton, Denaro

Facility: Upstate CF

NYSID: [REDACTED]

Appeal Control No.: 12-049-18 B

DIN: 17-R-0969

Appearances: Denaro Hamilton 17R0969
Upstate Correctional Facility
Box 2000
309 Bare Hill Road
Malone, New York 12953

Decision appealed: November 2018 decision, denying discretionary release and imposing a hold of 12-months.

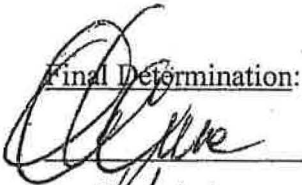
Board Member(s) who participated: Drake, Crangle

Papers considered: Appellant's Letter-brief received December 11, 2018

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

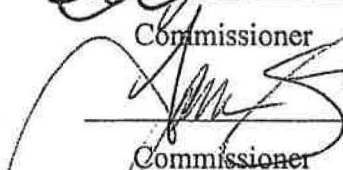
Records relied upon: Pre-Sentence Investigation Report, Parole Board Report, Interview Transcript, Parole Board Release Decision Notice (Form 9026), COMPAS instrument, Offender Case Plan.

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



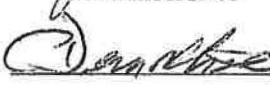
Affirmed Vacated, remanded for de novo interview Modified to _____

Commissioner



Affirmed Vacated, remanded for de novo interview Modified to _____

Commissioner



Affirmed Vacated, remanded for de novo interview Modified to _____

Commissioner

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 2/27/19 66.

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Hamilton, Denaro

DIN: 17-R-0969

Facility: Upstate CF

AC No.: 12-049-18 B

Findings: (Page 1 of 1)

Appellant challenges the November 2018 determination of the Board, denying release and imposing a 12-month hold. Appellant raises only one issue. Appellant claims the Board decision is based upon erroneous information. Specifically, he pled to two charges only, both of which are non-violent, and all other charges were dismissed.

The Board decision is not based upon any erroneous information. The decision expressly states appellant is guilty of only two crimes, and repeats the facts as found in the Pre-sentence Investigation Report. The Board is mandated to consider the report and is entitled to rely on the information contained in the report. Executive Law § 259-i(2)(c)(A); 9 N.Y.C.R.R. § 8002.2(d)(7)¹; Matter of Carter v. Evans, 81 A.D.3d 1031, 1031, 916 N.Y.S.2d 291, 293 (3d Dept.), lv. denied, 16 N.Y.3d 712, 923 N.Y.S.2d 416 (2011). See also Matter of Dolan v. New York State Bd. of Parole, 122 A.D.3d 1058, 1059, 995 N.Y.S.2d 850, 852 (3d Dept. 2014) (finding no “indication that respondent erroneously considered petitioner’s presentence investigation report, given that petitioner did not timely challenge the accuracy of any of the information in that report”), lv. denied, 24 N.Y.3d 915, 4 N.Y.S.3d 601 (2015).

Recommendation: Affirm.

¹ For interviews conducted prior to the 2017 amendments, the provision was set forth in 9 N.Y.C.R.R. § 8002.3(a)(9).