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Administrative Appeal Decision - Payne, Douglas (2019-02-06)

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Administrative Appeal Decision Notice

Inmate Name: Payne, Douglas

Facility: Great Meadow Correctional Facility.

NYSID No.: [REDACTED]

Appeal Control #: 09-018-18-R

Dept. DIN#: 17A1115

Appearances:

For the Board, the Appeals Unit

For Appellant: Douglas Payne 17A1115
Great Meadow Correctional Facility
Box 51
Comstock, New York 12821


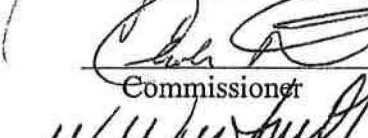
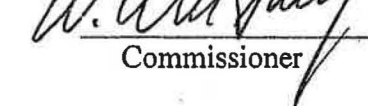
Board Member(s) who participated in appealed from decision: NONE

Decision appealed from: 8/2018-Revocation of release, with imposition of 12 month time assessment.

Pleadings considered: Letter on behalf of the pro se appellant received on October 26, 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

	<input type="checkbox"/> Affirmed	<input type="checkbox"/> Reversed 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 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 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 2/6/19 66.

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

STATE OF NEW YORK - BOARD OF PAROLE

STATEMENT OF APPEALS UNIT FINDINGS & RECOMMENDATION

Inmate Name: Payne, Douglas

Facility: Great Meadow Correctional Facility

Dept. DIN#: 17A1115

Appeal Control #: 09-018-18-R

Findings:

The now pro se appellant has submitted a letter to serve as the perfected appeal. The letter raises three primary issues. 1) he is not guilty of the curfew violation, as it is parole's fault that many public clocks were not synchronized. 2) he received ineffective assistance of counsel. 3) the time assessment is excessive.

Appellant appeared at the hearing with counsel, and after discussions a plea bargain was entered into. Appellant's parole was revoked at the hearing upon his unconditional plea of guilty with an explanation. Given his plea of guilty with an explanation, all issues are now waived and/or moot and are not preserved for judicial review. Stanbridge v Hammock, 55 N.Y.2d 661, 663, 446 N.Y.S.2d 929 (1981); Herman v Blum, 54 N.Y.2d 677, 678, 442 N.Y.S.2d 510 (1981); Wescott v New York State Board of Parole, 256 A.D.2d 1179, 682 N.Y.S.2d 499 (4th Dept 1998); Kirk v Hammock, 119 A.D.2d 851, 500 N.Y.S.2d 424, 426 (3d Dept 1986); Chavis v Superintendent, 236 A.D.2d 892, 653 N.Y.S.2d 752 (4th Dept 1997).

Given the appellant is serving under second DIN#, is a category one violator, and he received the minimum time assessment allowed, no violation of his rights took place.

Recommendation:

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