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December 2020

### Administrative Appeal Decision - Wood-Delgado, Eric (2019-04-15)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Wood-Delgado, Eric

Facility: Washington CF

NYSID: [REDACTED]

Appeal Control No.: 11-118-18 R

DIN: 12-A-2272

Appearances: Eric Wood-Delgado (12A2272)  
Washington Correctional Facility  
72 Lock Eleven Lane, Box 180  
Comstock, New York 12821

Decision appealed: November 7, 2018 revocation of release and imposition of a time assessment of 17 months.

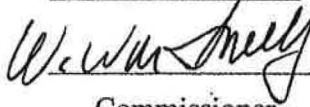
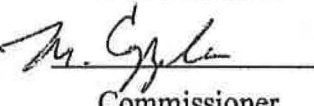
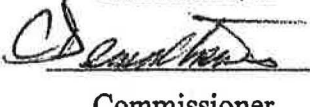
Final Revocation Hearing Date: November 7, 2018

Papers considered: Appellant's Brief received January 14, 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 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 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 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 _____	

**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 4/15/19 CB.

STATE OF NEW YORK – BOARD OF PAROLE

**APPEALS UNIT FINDINGS & RECOMMENDATION**

**Name:** Wood-Delgado, Eric                      **DIN:** 12-A-2272  
**Facility:** Washington CF                      **AC No.:** 11-118-18 R

**Findings:** (Page 1 of 2)

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Appellant challenges the November 7, 2018 determination of the administrative law judge (“ALJ”), revoking release and imposing a 17-month time assessment.

Appellant is serving a determinate term of imprisonment of 5 years, with 8 years of post-release supervision, after having been convicted by plea of the crime of Rape in the second degree. The presentence investigation report states that Appellant, on a number of occasions, [REDACTED]

Three charges were brought against Appellant in the instant parole revocation matter. Two charges involve Appellant being outside his residence between 8 p.m. and 8 a.m. The other charge involved Appellant changing his residence without the knowledge or consent of his parole officer, which is the charge he entered a plea of guilty to.

To sustain a violation charge, the administrative law judge (“ALJ”) must conclude that the parolee’s conduct constituted a violation of the cited condition “in an important respect.” Executive Law § 259-i(3)(f)(x); 9 N.Y.C.R.R. §§ 8005.19(e), 8005.20(b). The conclusion must be supported by a preponderance of the evidence. Executive Law § 259-i(3)(f)(viii); 9 N.Y.C.R.R. §8005.19(e); Matter of Davis v. Laclair, 165 A.D.3d 1367, 1368, 85 N.Y.S.3d 623 (3d Dept. 2018).

The Appeals Unit has reviewed the testimony and accusatory instruments received into evidence at the final revocation hearing, as well as the ALJ’s detailed decision, and has determined that this evidence was sufficient to establish by a preponderance of the evidence that Appellant violated the conditions of release in an important respect, recognizing that it is the province of the ALJ to resolve credibility issues and to determine the relative weight to be accorded the evidence. Simpson v. Alexander, 63 A.D.3d 1495 (3d Dept. 2009); Matter of Santiago v. Dennison, 45 AD3d 994 (3d Dept. 2007).

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).

