

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 - Cintron, Frank (2019-02-27)

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

Recommended Citation

"Administrative Appeal Decision - Cintron, Frank (2019-02-27)" (2020). Parole Information Project
<https://ir.lawnet.fordham.edu/aad/155>

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

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Cintron, Frank

Facility: Rikers Island

NYSID: [REDACTED]

Appeal Control No.: 11-060-18 R

DIN: 16-R-0264

Appearances: Frank Cintron 16R0264
Rikers Island Correctional Facility
10-10 Hazen Street
East Elmhurst, New York 11370

Decision appealed: October 15, 2018 revocation of release and imposition of a time assessment of 6-months.

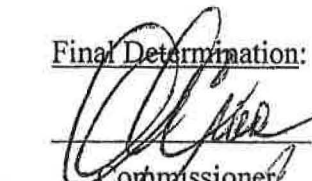


Final Revocation Hearing Date: October 4, 2018

Papers considered: Appellant's Letter-brief received December 12, 2018

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 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 2/27/19 bb.

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Cintron, Frank **DIN:** 16-R-0264
Facility: Rikers Island **AC No.:** 11-060-18 R

Findings: (Page 1 of 1)

Appellant challenges the October 15, 2018 determination of the administrative law judge (“ALJ”), revoking release and imposing a 6-month time assessment. Appellant raises the following issues: 1) the plea was a result of coercion, as the ALJ threatened him with a larger time assessment should he not accept. 2) the Violation of Release Report charges have errors in them.

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 inmate confirmed he understood and there is nothing to indicate he was confused. 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).

There is nothing in the record to support Appellant’s claim that his plea was coerced. Matter of Thorpe v. Fischer, 53 A.D.3d 1003, 1004, 862 N.Y.S.2d 636, 637 (3d Dept. 2008). That the ALJ discussed the inmate’s exposure does not make the plea coercive. See generally People v. Harrison, 70 A.D.3d 1257, 896 N.Y.S.2d 224 (3d Dept.), lv. denied, 15 N.Y.3d 774, 907 N.Y.S.2d 463 (2010).

Appellant failed to raise the issue of alleged errors at the hearing, thereby waiving the issues. Peek v Dennison, 39 A.D.3d 1239 (4th Dept. 2007) lv.app.den. 9 N.Y.3d 860, 840 N.Y.S.2d 759 (2007).

Recommendation: Affirm.