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Administrative Appeal Decision - Hill, James (2019-02-27)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Hill, James

Facility: Collins CF

NYSID [REDACTED]

Appeal Control No.: 07-151-18 R

DIN: 16-B-0100

Appearances: James Hill (16B0100)
Collins Correctional Facility
P.O. Box 340, Middle Road
Collins, New York 14034

Decision appealed: July 12, 2018 revocation of release and imposition of a time assessment of 15-months.

Final Revocation July 12, 2018


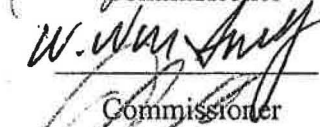
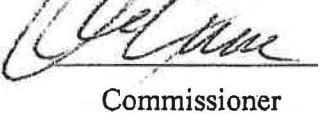
Hearing Date:

Papers considered: Appellant's Letter-brief received November 5, 2018

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

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 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 2/27/19 66.

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Hill, James

DIN: 16-B-0100

Facility: Collins CF

AC No.: 07-151-18 R

Findings: (Page 1 of 1)

Appellant challenges the July 12, 2018 determination of the administrative law judge (“ALJ”), revoking release and imposing a 15-month time assessment. Appellant was represented by counsel at the final revocation hearing.

Appellant raised the following issues in his Letter-Brief: (1) Appellant is not a Category 1 violator; (2) the 15-month hold was excessive; and (3) Appellant was not guilty of the parole violation charge he pled guilty to at the final revocation hearing.

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 ALJ 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).

In addition, Appellant did not preserve any of the three issues he now raises in his Letter-Brief, and they have therefore been waived. See 9 N.Y.C.R.R. §8006.3(b); Matter of Worrell v. Stanford, 153 A.D.3d 1510, 59 N.Y.S.3d 922 (3d Dept. 2017); Matter of Bowes v. Dennison, 20 A.D.3d 845, 800 N.Y.S.2d 459 (3d Dept. 2005); Matter of Currie v. New York State Board of Parole, 298 A.D.2d 805, 748 N.Y.S.2d 712 (3d Dept. 2002).

Recommendation: Affirm.