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December 2020

### Administrative Appeal Decision - Mastropietro, Joseph (2019-06-06)

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STATE OF NEW YORK – BOARD OF PAROLE

**ADMINISTRATIVE APPEAL DECISION NOTICE**

Name: Mastropietro, Joseph

Facility: Great Meadow CF

NYSID

Appeal Control No.: 12-064-18 R

DIN: 88-B-0811

Appearances: Joseph Mastropietro (88B0811)  
Great Meadow Correctional Facility  
11739 State Route 22, Box 51  
Comstock, New York 12821

Decision appealed: December 7, 2018 revocation of release and imposition of a time assessment of 12 months.


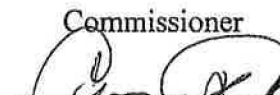

Final Revocation November 7, 2018  
Hearing Date:

Papers considered: Appellant's Brief received March 20, 2019

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 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 6/6/19 60.

STATE OF NEW YORK – BOARD OF PAROLE

**APPEALS UNIT FINDINGS & RECOMMENDATION**

**Name:** Mastropietro, Joseph                      **DIN:** 08-B-0811  
**Facility:** Great Meadow CF                      **AC No.:** 12-064-18 R

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

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Appellant challenges the December 7, 2018 determination of the administrative law judge (“ALJ”), revoking release and imposing a 12-month time assessment.

Appellant is serving an aggregate indeterminate term of imprisonment of 25 years to Life after having been convicted of Murder 2<sup>nd</sup>, Manslaughter 1<sup>st</sup>, and Burglary 1<sup>st</sup>. The instant offenses occurred shortly after he was placed on probation following a prior Assault conviction. Together with his accomplices, Appellant entered a building, stole property, and caused the death of an elderly woman by stabbing her three times.

Seventeen separate parole violation charges were brought against Appellant. These charges involved changing his residence, and his employment on two separate occasions, without notifying his parole officer, and failing to fully and truthfully responding to questions asked by his parole officer. Additional charges involved a threat to kill a woman, threatening the safety or wellbeing of another person on more than one occasion, unlawful use of marijuana, several curfew violations, engaging in an unauthorized relationship, and failing to follow a special condition of release that he not have contact with a certain person. Appellant pled guilty to charges that he violated curfew, and entered into an unapproved relationship without the knowledge or approval or his parole officer.

Appellant raises the following issues in his brief: (1) the accusatory instruments contained false information; (2) one of the charges he pled guilty to was not supported by facts; and (3) counsel for Appellant was ineffective.

As to the first two issues, 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).

In addition, Appellant did not preserve any of the issues he now raises in his 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,

