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Administrative Appeal Decision - Knapp, Justin (2019-03-22)

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ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Knapp, Justin

Facility: Greene CF

NYSID [REDACTED]

Appeal Control No.: 10-009-18 R

DIN: 16-B-3279

Appearances: Justin Knapp 16B3279
Greene Correctional Facility
P.O. Box 975
Coxsackie, New York 12051

Decision appealed: September 19, 2018 revocation of release and imposition of a time assessment of 24 months.

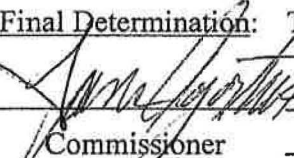
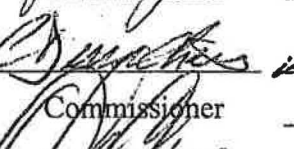
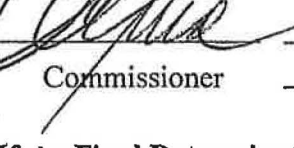
Final Revocation Hearing Date: September 19, 2018

Papers considered: Appellant's Letter-brief received January 22, 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 3/22/19 GG.

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Knapp, Justin

DIN: 16-B-3279

Facility: Greene CF

AC No.: 10-009-18 R

Findings: (Page 2 of 2)

in imposing 40 month time assessment for traveling outside city without permission and failing to report to parole officer following release for prior curfew violations).

The Board may consider the violent nature of the conduct giving rise to the violation or in the criminal history. See, e.g., Matter of Lafferty v. Annucci, 148 A.D.3d 1628, 50 N.Y.S.3d 221 (4th Dept. 2017) (no impropriety in 48-month time assessment in view of violent criminal history and disregard for parole conditions); D.L. Riley v. Alexander, 139 A.D.3d 1206, 1207, 31 N.Y.S.3d 318, 320 (3d Dept. 2016) (36-month delinquent time assessment where releasee, convicted of burglary for breaking into ex-girlfriend's apartment and stabbing her, violated parole by verbally/physically threatening and stalking another girlfriend); Matter of Rosa v. Fischer, 108 A.D.3d 1227, 1228, 969 N.Y.S.2d 706, 707 (4th Dept.) (72-month time assessment permissible given violent criminal history and recurrent disregard for conditions of parole), lv. denied, 22 N.Y.3d 855, 979 N.Y.S.2d 561 (2013).

Incarceration pursuant to a parole revocation decision does not constitute an Eighth Amendment cruel and unusual punishment violation. Gill v Stella, 845 F.Supp. 94, 102 (E.D.N.Y. 1994).

Recommendation: Affirm.