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Administrative Appeal Decision - Conner, Lemar (2019-06-06)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Conner, Lemar

Facility: Willard DTC

NYSID: [REDACTED]

Appeal Control No.: 03-085-19 R

DIN: 04-A-1523

Appearances: Lemar Conner 04A1523
Willard Drug Treatment Campus
7116 County Road 132
P.O. Box 303
Willard, New York 14588

Decision appealed: February 15, 2019 revocation of release and imposition of a time assessment of 12 months/90 day DOCCS alternate drug treatment program.


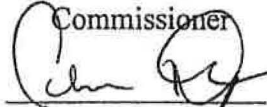

Final Revocation Hearing Date: February 14, 2019

Papers considered: Appellant's Letter-brief received March 12, 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 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 6/6/19 66.

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Conner, Lemar

DIN: 04-A-1523

Facility: Willard DTC

AC No.: 03-085-19 R

Findings: (Page 1 of 1)

Appellant challenges the February 15, 2019 determination of the administrative law judge (“ALJ”), revoking release and imposing a 12-month/DOCCS alternate 90 day treatment program time assessment. Appellant’s instant offense involved him and a co-defendant shooting a victim, thereby killing him. The present parole violation stems from appellant traveling to the State of Ohio, in violation of his parole conditions, and while in Ohio incurring new criminal arrests. Appellant ended up pleading guilty in Ohio to Identity Fraud, and Possession of Criminal Tools, both felonies in Ohio. In his final parole revocation hearing, appellant pled guilty to the charge of leaving the State of New York without the permission of his parole officer. Appellant raises only one claim, that being the time assessment imposed is harsh and excessive.

It is presumed the Administrative Law Judge considered all of the relevant factors. Ramirez v New York State Board of Parole, 214 A.D.2d 441, 625 N.Y.S.2d 505 (1st Dept 1995); Garner v Jones, 529 U.S. 244, 120 S.Ct. 1362, 1371, 146 L.Ed.2d 236 (2000). The time assessment imposed is clearly permissible. Otero v New York State Board of Parole, 266 A.D.2d 771, 698 N.Y.S.2d 781 (3d Dept 1999) leave to appeal denied 95 N.Y.2d 758, 713 N.Y.S.2d 2 (2000); Carney v New York State Board of Parole, 244 A.D.2d 746, 665 N.Y.S.2d 687 (3d Dept 1997); Issac v. New York State Division of Parole, 222 A.D.2d 913, 635 N.Y.S.2d 756 (3d Dept. 1995).

Recommendation: Affirm.