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Administrative Appeal Decision - Cassenti, Lisa (2019-04-15)

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ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Cassenti, Lisa

Facility: Lakeview Shock CF

NYSID [REDACTED]

Appeal Control No.: 11-157-18 R

DIN: 17-G-0346

Appearances: Lisa Cassenti 17G0346
Lakeview Correctional Facility
P.O. Box T
Brocton, New York 14716

Decision appealed: November 15, 2018 revocation of release and imposition of a time assessment of 24 months.

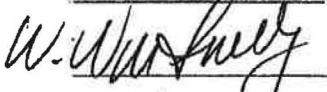
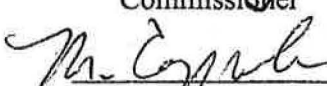
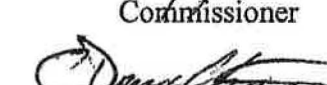
Final Revocation Hearing Date: November 15, 2018

Papers considered: Appellant's Letter-brief received January 9, 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:

 Commissioner	<input checked="" type="checkbox"/> Affirmed	<input type="checkbox"/> Reversed, remanded for de novo hearing	<input type="checkbox"/> Reversed, violation vacated
<input type="checkbox"/> Vacated for de novo review of time assessment only	<input type="checkbox"/> Modified to _____		
 Commissioner	<input checked="" type="checkbox"/> Affirmed	<input type="checkbox"/> Reversed, remanded for de novo hearing	<input type="checkbox"/> Reversed, violation vacated
<input type="checkbox"/> Vacated for de novo review of time assessment only	<input type="checkbox"/> Modified to _____		
 Commissioner	<input checked="" type="checkbox"/> Affirmed	<input type="checkbox"/> Reversed, remanded for de novo hearing	<input type="checkbox"/> Reversed, violation vacated
<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 4/15/19 66.

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Cassenti, Lisa **DIN:** 17-G-0346
Facility: Lakeview Shock CF **AC No.:** 11-157-18 R

Findings: (Page 1 of 1)

Appellant challenges the November 15, 2018 determination of the administrative law judge (“ALJ”), revoking release and imposing a 24-month time assessment. Appellant raises only one issue. Appellant claims the time assessment imposed is harsh and excessive. She requests Willard and/or rehabilitation treatment.

First of all, appellant’s parole was revoked at the hearing upon her 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 she understood and there is nothing to indicate she 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, her 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).

Appellant’s current crimes include identity theft and scheme to defraud [REDACTED]. Her current sustained charges including overdosing on heroin just one week after being released again from prison. And she was given the SHOCK incarceration program as well. 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). The Board may impose a time assessment [REDACTED]. Robinson v Travis, 295 A.D.2d 719, 743 N.Y.S.2d 330 (3d Dept 2002).

Recommendation: Affirm.