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December 2020

### Administrative Appeal Decision - Labumbard, Lisa (2019-10-11)

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**ADMINISTRATIVE APPEAL DECISION NOTICE**

Name: Labumbard, Lisa

Facility: Taconic CF

NYSID: [REDACTED]

Appeal Control No.: 04-131-19 R

DIN: 16-G-0254

Appearances: Lisa Labumbard 16G0254  
Taconic Correctional Facility  
250 Harris Road  
Bedford Hills, New York 10507

Decision appealed: March 11, 2019 revocation of release and imposition of a time assessment of 15 months.


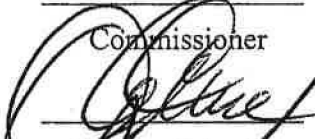

Final Revocation Hearing Date: March 11, 2019

Papers considered: Appellant's Letter-brief received June 6, 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 10/11/19 66.



STATE OF NEW YORK – BOARD OF PAROLE

**APPEALS UNIT FINDINGS & RECOMMENDATION**

**Name:** Labumbard, Lisa **DIN:** 16-G-0254  
**Facility:** Taconic CF **AC No.:** 04-131-19 R

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

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Counsel's failure to investigate something, if it had no effect on the outcome, is not significant. Bond v Stanford, 171 A.D.3d 1320, 97 N.Y.S.3d 807 (3<sup>rd</sup> Dept. 2019). It will be noted that nothing can be gleaned from the record to indicate her counsel was ineffective. However, even if she was, by the appellant's plea of guilty, it would not warrant a different result. Hunter v New York State Board of Parole, 167 A.D.2d 611, 563 N.Y.S.2d 234(3d Dept 1990). A parolee's being dissatisfied with the counsel's services does not constitute ineffective assistance of counsel in a parole revocation hearing. People ex rel. Campolito v Portuondo, 248 A.D.2d 768, 669 N.Y.S.2d 726, 727 (3d Dept 1998).

Appellant was sentenced by the criminal court per CPL 410.91 to be executed as a sentence of parole supervision. Thus, per 9 N.Y.C.R.R. 8005.20(d), appellant falls outside of the guidelines. As such, appellant is not a category three.

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 (1<sup>st</sup> 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). Administrative Law Judge can consider the nature of the underlying charge, the nature of the violations, and the ongoing nature of the inmate's drug use. Washington v Annucci, 144 A.D.3d 1541, 41 N.Y.S.3d 808 (4<sup>th</sup> Dept. 2016); Youngblood v Stanford, 170 A.D.3d 456, 93 N.Y.S.3d 837 (1<sup>st</sup> Dept. 2019). The ALJ may impose a time assessment instead of providing rehabilitative treatment. Robinson v Travis, 295 A.D.2d 719, 743 N.Y.S.2d 330 (3d Dept 2002).

**Recommendation:** Affirm.