

Fordham Law School

FLASH: The Fordham Law Archive of Scholarship and History

Parole Administrative Appeal Decisions

Parole Administrative Appeal Documents

December 2020

Administrative Appeal Decision - Irving, Samuel (2019-05-10)

Follow this and additional works at: <https://ir.lawnet.fordham.edu/aad>

Recommended Citation

"Administrative Appeal Decision - Irving, Samuel (2019-05-10)" (2020). Parole Information Project
<https://ir.lawnet.fordham.edu/aad/405>

This Parole Document is brought to you for free and open access by the Parole Administrative Appeal Documents at FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in Parole Administrative Appeal Decisions by an authorized administrator of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact tmelnick@law.fordham.edu.

STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Irving, Samuel

Facility: Green Haven CF

NYSID: [REDACTED]

Appeal Control No.: 12-135-18 B

DIN: 05-A-6240

Appearances: Samuel Irving (05A6240)
Green Haven Correctional Facility
594 Rt. 216
Stormville, New York 12582

Decision appealed: November 2018 decision, denying discretionary release and imposing a hold to maximum expiration date.

Board Member(s) who participated: Smith, Berliner, Alexander

Papers considered: Appellant's Brief received January 28, 2019

Appeals Unit Review: Statement of the Appeals Unit's Findings and Recommendation

Records relied upon: Pre-Sentence Investigation Report, Parole Board Report, Interview Transcript, Parole Board Release Decision Notice (Form 9026), COMPAS instrument, Offender Case Plan.

Final Determination: The undersigned determine that the decision appealed is hereby:

 Affirmed ☐ Vacated, remanded for de novo interview ☐ Modified to ☐

Commissioner

 Affirmed ☐ Vacated, remanded for de novo interview ☐ Modified to ☐

Commissioner

 Affirmed ☐ Vacated, remanded for de novo interview ☐ Modified to ☐

Commissioner

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 5/10/19.

Distribution: Appeals Unit – Appellant – Appellant's Counsel – Inst. Parole File – Central File
P-2002(B) (11/2018)

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Irving, Samuel

DIN: 05-A-6240

Facility: Green Haven CF

AC No.: 12-135-18 B

Findings: (Page 1 of 1)

Appellant challenges the November 2018 determination of the Board, denying release and imposing a hold to maximum expiration date.

Appellant raises the issue that the Board is not authorized to impose a hold to maximum expiration date because he has reached his conditional release date.

The Board has discretion to hold an inmate for a period of up to 24 months. Executive Law §259-i(2)(a) and 9 N.Y.C.R.R. § 8002.3(b); Matter of Tatta v. State of N.Y., Div. of Parole, 290 A.D.2d 907, 737 N.Y.S.2d 163 (3d Dept. 2002), lv. denied, 98 N.Y.2d 604, 746 N.Y.S.2d 278 (2002); Matter of Campbell v. Evans, 106 A.D.3d 1363, 965 N.Y.S.2d 672 (3d Dept. 2013). Therefore, the hold to maximum expiration date (which is less than 24 months) was not excessive or improper.

We note further that an inmate has no Constitutional right to be conditionally released on parole before expiration of a valid sentence. Greenholtz v. Inmates of Nebraska Penal & Correctional Complex, 442 U.S. 1, 99 S. Ct. 2100, 2104 (1979); Matter of Russo v. Bd. of Parole, 50 N.Y.2d 69, 427 N.Y.S.2d 982 (1980); Matter of Vineski v. Travis, 244 A.D.2d 737, 664 N.Y.S.2d 391 (3d Dept. 1997). Appellant's contention that the Board is not authorized to impose a hold beyond his Conditional Release date is mistaken. The Board's determination with respect to discretionary release is a distinct basis for release that has no impact on conditional release.

Recommendation: Affirm.