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December 2020

### Administrative Appeal Decision - Travis, Steven (2019-04-29)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Travis, Steven

Facility: Franklin CF

NYSID: [REDACTED]

Appeal Control No.: 11-070-18 R

DIN: 10-A-4093

Appearances: Steven Travis 10A4093  
Franklin Correctional Facility  
P.O. Box 10  
62 Bare Hill Road  
Malone, New York 12953

Decision appealed: October 26, 2018 revocation of release and imposition of a time assessment of hold to ME date.

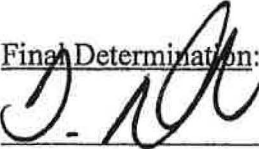

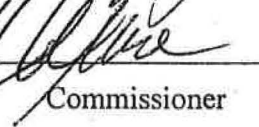
Final Revocation Hearing Date: October 23, 2018

Papers considered: Appellant's Letter-brief received February 7, 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 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 4/29/19 bc.

STATE OF NEW YORK – BOARD OF PAROLE

**APPEALS UNIT FINDINGS & RECOMMENDATION**

**Name:** Travis, Steven

**DIN:** 10-A-4093

**Facility:** Franklin CF

**AC No.:** 11-070-18 R

**Findings:** (Page 1 of 1)

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Appellant challenges the October 26, 2018 determination of the administrative law judge (“ALJ”), revoking release and imposing a hold to ME date. time assessment. Appellant’s instant offense involved breaking into a house, pointing a gun at a child, and taking money. Appellant’s current sustained parole revocation violation is his plea of guilty to testing positive for cocaine. Appellant raises the following issues: 1) his time calculation is erroneous as he is now past his ME date. 2) the senior parole officer was willing to go with lesser penalties, but his parole officer maliciously pushed his punishment due to personal hatred of him. 3) ██████████ ██████████ not prison time. 4) the sustained violation is not a violation in an important respect.

Appellant’s parole was revoked at the hearing upon his 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 he understood and there is nothing to indicate he 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, his 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).

Per 9 N.Y.C.R.R. 8006.3, the Appeals Unit lacks subject matter jurisdiction to adjudicate issues pertaining to time calculations of sentence.

The parole officer was not involved in the final hearing decision. No bias is detected in the record of proceedings, and as the appellant does not dispute his guilt, this claim is frivolous.

The Board 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).

██████████ Matter of Wilson v. Evans, 104 A.D.3d 1190, 960 N.Y.S.2d 807 (4th Dept. 2013). A mere technical violation is still a violation in an important respect. Rago v Alexander, 60 A.D.3d 1123, 874 N.Y.S.2d 605 (3d Dept. 2009).

**Recommendation:** Affirm.