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Administrative Appeal Decision - Alcock, Timothy (2018-12-28)

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Administrative Appeal Decision Notice

Inmate Name: Alcock, Timothy

Facility: Wyoming Correctional Facility

NYSID No.: [REDACTED]

Appeal Control #: 08-106-18R

Dept. DIN#: 05-B-0981

Appearances:

For the Board: The Appeals Unit

For Appellant: Timothy Alcock, 05-B-0981
Wyoming Correctional Facility
3203 Dunbar Road
P.O. Box 501
Attica, New York 4011-0501

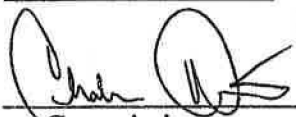
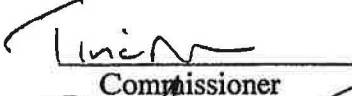

Board Member(s) who participated in appealed from decision: None.

Decision appealed from: 8/2018 Revocation of Parole with a 15-month time assessment.

Pleadings considered: Brief on behalf of the appellant received on October 19, 2018
Statement of the Appeals Unit's Findings and Recommendation

Documents relied upon: Notice of Violation, Violation of Release Report, Final Hearing Transcript, Parole Revocation Decision Notice.

Final Determination: The undersigned have determined that the decision from which this appeal was taken be and the same is hereby

 _____ Commissioner	<input checked="" type="checkbox"/> Affirmed	<input type="checkbox"/> Reversed 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 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 type="checkbox"/> Affirmed	<input type="checkbox"/> Reversed 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, the written reasons for such determination shall be annexed hereto.

This Final Determination, the related Statement of the Appeals Unit's Findings and separate findings of the Board, if any, were mailed to the Inmate and the Inmate's Counsel, if any, on 12/28/18 ^{LB}.

Distribution: Appeals Unit – Inmate - Inmate's Counsel - Inst. Parole File - Central File

STATE OF NEW YORK - BOARD OF PAROLE

STATEMENT OF APPEALS UNIT FINDINGS & RECOMMENDATION

Inmate Name: Alcock, Timothy

Facility: Wyoming Correctional Facility

Dept. DIN#: 05-B-0981

Appeal Control #: 08-106-18R

Findings: (Page 1 of 1)

Appellant was sentenced to 13 years in prison followed by five years of post-release supervision upon his conviction of Robbery in the second degree. He was conditionally released on January 5, 2017. In 2018, he was charged with violating several conditions of his release. Thereafter, Appellant's parole was revoked at a final revocation hearing upon his unconditional plea of guilty to a Rule 8 violation. This appeal ensued.

Appellant challenges the August 2018 decision of the Administrative Law Judge (hereinafter "ALJ") to revoke his parole, arguing that the 15-month time assessment is excessive.

The record reflects Appellant, who was represented by counsel at the final revocation hearing, pleaded guilty to one charge with the understanding that the ALJ would impose a time assessment of 18 months. After the plea was entered, the ALJ reduced the agreed-upon time in Appellant's favor and imposed a 15-month time assessment. Appellant's valid guilty plea forecloses this challenge. See Matter of Harris v. Evans, 121 A.D.3d 1151, 993 N.Y.S.2d 790 (3d Dept. 2014); 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 Gonzalez v. Artus, 107 A.D.3d 1568, 1569, 966 N.Y.S.2d 710, 711 (4th Dept. 2013).

Recommendation:

It is the recommendation of the Appeals Unit that the ALJ's decision be affirmed.