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Administrative Appeal Decision - Smith, Tonya (2019-02-27)

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STATE OF NEW YORK – BOARD OF PAROLE

ADMINISTRATIVE APPEAL DECISION NOTICE

Name: Smith, Tonya

Facility: Taconic CF

NYSID [REDACTED]

Appeal Control No.: 06-037-18 R

DIN: 14-G-0945

Appearances: Tonya Smith 14G0945
Taconic Correctional Facility
250 Harris Road
Bedford Hills, New York 10507

Decision appealed: May 9, 2018 revocation of release and imposition of a time assessment of 30-months, minus shock credits.


Final Revocation Hearing Date: May 8, 2018


Papers considered: Appellant's Letter-brief received December 27, 2018


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:

 Affirmed Reversed, remanded for de novo hearing Reversed, violation vacated
Commissioner Vacated for de novo review of time assessment only Modified to _____

 Affirmed Reversed, remanded for de novo hearing Reversed, violation vacated
Commissioner Vacated for de novo review of time assessment only Modified to _____

 Affirmed Reversed, remanded for de novo hearing Reversed, violation vacated
Commissioner Vacated for de novo review of time assessment only 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 2/27/19 cc.

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Smith, Tonya

DIN: 14-G-0945

Facility: Taconic CF

AC No.: 06-037-18 R

Findings: (Page 2 of 2)

Counsel “is presumed to have been competent and the burden is on the accused to demonstrate upon the record the absence of meaningful adversarial representation.” Matter of Jeffrey V., 82 N.Y.2d 121, 126, 603 N.Y.S.2d 800, 803 (1993); see also People v. Hall, 224 A.D.2d 710, 638 N.Y.S.2d 732 (2d Dept. 1996). It will be noted that nothing can be gleaned from the record to indicate his counsel was ineffective. However, even if he 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).

Recommendation: Affirm.