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Administrative Appeal Decision - Burr, David (2017-10-26)

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Administrative Appeal Decision Notice

Inmate Name: Burr, David

Facility: Auburn Correctional Facility

NYSID No.: [REDACTED]

Appeal Control #: 05-252-17-B

Dept. DIN#: 84B0365

Appearances:

For the Board, the Appeals Unit

For Appellant:

David Burr 84B0365
Auburn Correctional Facility
P.O. Box 618
135 State Street
Auburn, New York 13021

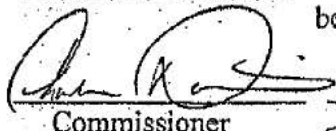
Board Member(s) who participated in appealed from decision: Ludlow, W. Smith

Decision appealed from: 5/2017-Denial of discretionary release, with imposition of 18 month hold.

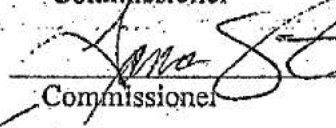
Pleadings considered: Handwritten letter on behalf of the pro se appellant received on September 19, 2017.
Statement of the Appeals Unit's Findings and Recommendation

Documents relied upon: Presentence Investigation Report, Parole Board Report, Interview Transcript,
Parole Board Release Decision (Form 9026), COMPAS, TAP/Case Plan.

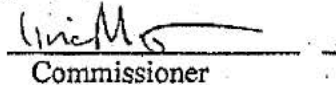
Final Determination: The undersigned have determined that the decision from which this appeal was taken
be and the same is hereby


Commissioner

Affirmed Reversed for De Novo Interview Modified to


Commissioner

Affirmed Reversed for De Novo Interview Modified to


Commissioner

Affirmed Reversed for De Novo Interview 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 10/26/17 PF

Distribution: Appeals Unit - Inmate - Inmate's Counsel - Inst. Parole File - Central File
P-2002(B) (5/2011)

STATE OF NEW YORK - BOARD OF PAROLE

STATEMENT OF APPEALS UNIT FINDINGS & RECOMMENDATION

Inmate Name: Burr, David

Facility: Auburn Correctional Facility

NYSID No.: [REDACTED]

Appeal Control #: 05-252-17-B

Dept. DIN# 84B0365

Findings:

The pro se appellant has submitted a handwritten letter to serve as the perfected appeal. For the reason explained below, only one issue raised will be addressed.

One of appellant's claims is the Board violated his rights under the 8th amendment to the constitution in that he was only 17 years old when he committed the instant offense. Appellant asserts numerous different reasons as to how the 8th amendment was violated.

In response, appellant is correct he was only 17 years old when he committed the instant offense. And the Board decision doesn't mention any 8th amendment factors concerning his youth and its attendant circumstances involving the instant offense. This fact alone requires a de novo interview be held.

Recommendation:

Accordingly, it is recommended the decision of the Board be vacated, and that a de novo interview in front of a different panel of Commissioners be held forthwith.