

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Sanders, Britney

DIN: 12-G-0965

Facility: Bedford Hills CF

AC No.: 03-143-19 R

Findings: (Page 1 of 2)

Appellant challenges the March 1, 2019 determination of the administrative law judge (“ALJ”), revoking release and imposing a 12-month time assessment.

Appellant is serving a determinate term of imprisonment of 5 ½ years with 5 years of post-release supervision after having been convicted of Attempted Gang Assault 1st. Appellant pulled her victim to the ground by the hair, struck her repeatedly with a closed fist in the head and body and, while the victim was being held down, in concert with another cut the victim with a razor about the face, neck, head, arms and back. The victim suffered significant injuries.

Appellant appeared before the ALJ facing five parole violation charges involving failure to make an office report on separate occasions, curfew violation, changing her residence without the permission of her parole officer, and failing to complete a required residential program. At the final revocation hearing, Appellant entered a plea of guilty to failing to make an office report. It should be noted that this is the second time Appellant has had her parole revoked with respect to her current crime of conviction.

While difficult to ascertain, it appears that Appellant challenges the length of the time assessment and procedural and substantive errors attendant to the final revocation hearing.

In response to these issues, we note that Appellant’s parole was revoked at the hearing upon her unconditional plea of guilty.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 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, her 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).

In addition, Appellant did not preserve any of the issues she now raises in her brief, and they have therefore been waived. See 9 N.Y.C.R.R. §8006.3(b); Matter of Worrell v. Stanford, 153 A.D.3d 1510, 59 N.Y.S.3d 922 (3d Dept. 2017); Matter of Bowes v. Dennison, 20 A.D.3d 845, 800 N.Y.S.2d 459 (3d Dept. 2005); Matter of Currie v. New York State Board of Parole, 298 A.D.2d 805, 748 N.Y.S.2d 712 (3d Dept. 2002).

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Sanders, Britney

DIN: 12-G-0965

Facility: Bedford Hills CF

AC No.: 03-143-19 R

Findings: (Page 2 of 2)

Appellant is a Category 1 violator and, therefore, the ALJ must impose a minimum time assessment of 15 months, or a hold to the maximum expiration date of Appellant's sentence, whichever is less. The ALJ may in certain cases reduce the minimum 15-month time assessment by up to three months, and this was part of the stipulated settlement made on the record at the final revocation hearing. See 9 N.Y.C.R.R. §8005.20(c)(1). The 12-month time assessment imposed by the ALJ at the final revocation hearing was agreed to on the record by both Appellant and her attorney without objection, and was not excessive as the Executive Law does not place an outer limit on the length of the time assessment that may be imposed. Matter of Washington v. Annucci, 144 A.D.3d 1541, 41 N.Y.S.3d 808 (4th Dept. 2016); Matter of Wilson v. Evans, 104 A.D.3d 1190, 1191, 960 N.Y.S.2d 807, 809 (4th Dept. 2013); Murchison v. New York State Div. of Parole, 91 A.D.3d 1005, 1005, 935 N.Y.S.2d 741, 742 (3d Dept. 2012).

Recommendation: Affirm.