

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Coleman, Brandon

DIN: 17-A-2789

Facility: Greene CF

AC No.: 03-171-19 R

Findings: (Page 1 of 1)

Appellant challenges the February 27, 2019 determination of the administrative law judge (“ALJ”), revoking release and imposing a 14-month time assessment.

Appellant is serving a determinate term of imprisonment of 2 years with 3 years post-release supervision after having been convicted of the crime of Rape 3rd. Appellant had unlawful sexual intercourse with a minor.

A number of parole violation charges were brought against Appellant involving violating an existing court order of protection, having contact with an individual in violation of a condition of parole, and failing to notify his parole officer of an arrest. At the final revocation hearing, Appellant entered a plea of guilty to the charge that he violating a court order of protection.

In his brief, Appellant raises the issue that the 14-month time assessment was excessive. Appellant raised no objection to the time assessment imposed by the ALJ at the final revocation hearing. Appellant did not preserve this issue at the final revocation hearing, and it has 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).

In addition, 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. See 9 N.Y.C.R.R. §8005.20(c)(1). In this case, the ALJ reduced the 15-month minimum to 14 months. We note further that 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). The time assessment of 14 months was proper.

Recommendation: Affirm.