

STATE OF NEW YORK – BOARD OF PAROLE

APPEALS UNIT FINDINGS & RECOMMENDATION

Name: Hart, Thomas

DIN: 17-A-1871

Facility: Released

AC No.: 06-133-19 R

Findings: (Page 1 of 1)

Appellant challenges the May 29, 2019 determination of the administrative law judge (“ALJ”), revoking release and imposing a 3-month time assessment. The instant offense involved the appellant breaking into a vending machine at a gas station, forcibly removing the money box containing approximately \$125, and driving away. The parole revocation charges included failing to notify his parole officer that he had contact with the local police department, operating a motor vehicle without the approval of his parole officer, and possession of crack cocaine. Appellant entered a plea of guilty to the charge that he failed to notify his parole officer that he had contact with the local police department. Appellant requests that the four days he spent in county jail before being sentenced for possession of crack cocaine be credited toward his parole violation.

Appellant’s parole was revoked at the hearing upon his unconditional plea of guilty. Appellant was represented by counsel at the final hearing, and the ALJ explained the substance of the plea agreement. The inmate confirmed he understood and there is nothing to indicate he was confused. 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, his 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). Challenges that were not raised during the hearing were waived. See Matter of Davis v. Laclair, 165 A.D.3d 1367, 1368, 85 N.Y.S.3d 623 (3d Dept. 2018).

We nonetheless note that time calculation issues are beyond the scope of the Board’s jurisdiction. 9 NYCRR § 8006.3; *id.* §§ 8006 *et seq.*

Recommendation: Affirm.