

Administrative Appeal Decision Notice

Inmate Name: Shaw, Richie

Facility: Washington Correctional Facility

NYSID No.: 5216612M

Appeal Control #: 09-230-07-B

Dept. DIN# 97R5455

Appearances:

For the Division, the Appeals Unit

For Appellant: Cheryl Kates Esq.
P.O. Box 711
Honeoye, New York 14471

Board Member(s) who participated in appealed from decision: **Thompson, Arena**

Decision appealed from: 9/2007-Denial of discretionary release, with imposition of 24 month hold

Pleadings considered:

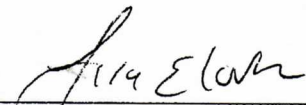
Brief submitted by counsel for appellant received on October 19, 2007.
Statement of the Appeals Unit's Findings and Recommendation

Documents relied upon:

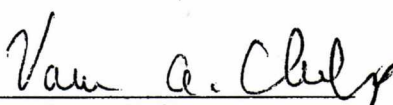
Pre-Sentence Investigation Report, Inmate Status Report, Interview Transcript, Parole Board Release Decision Notice (Form 9026).

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

Affirmed Reversed Modified (explain) _____



Commissioner



Commissioner



Commissioner

If the Final Determination is at variance with findings and recommendation of Appeals Unit, the written reasons for such determination shall be annexed hereto.

This Final Determination, the related Statement of the Appeals Unit's Findings and separate findings of the Board, if any, were mailed to the Inmate and the Inmate's Counsel, if any, on 11/20/07.

Distribution: Appeals Unit - Inmate - Inmate's Counsel - Inst. Parole File - Central File

STATEMENT OF APPEALS UNIT FINDINGS & RECOMMENDATION

Inmate Name: Shaw, Richie
NYSID No.: 5216612M
Dept. DIN#: 97R5455

Facility: Washington Correctional Facility
Appeal Control #: 09-230-07-B

Findings:

Counsel for the appellant has submitted a brief to serve as the perfected appeal of the de novo Parole Board Release Interview. The brief raises many issues. However, for the reason explained below, only one of the issues raised will be addressed.

One of appellant's claim is that Commissioner Arena participated in the Appeals Unit decision which led to the de novo interview. And, she then participated in the de novo interview as well.

In response, although no direct conflict has been created, in order to avoid any appearance of impropriety, the Division of Parole will consent to a second de novo Parole Board Release Interview.

Recommendation:

Accordingly, it is recommended the decision of the Board be vacated, and that a second de novo Parole Board Release Interview be held forthwith. None of the Commissioners participating in the second de novo interview shall have been a part of either the original, or the de novo, interview, or a part of either administrative appeal.