

Administrative Appeal Decision Notice

Inmate Name: Lawson, Ronald

Facility: Mid-State Correctional Facility

NYSID No.: 4900939Q

Appeal Control #: 02-230-07 B

Dept. DIN# 06A4443

Appearances:

For the Division, the Appeals Unit

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

Board Member(s) who participated in appealed from decision: **Ludlow, Loomis, Ortloff**

Decision appealed from: 2/2007 Denial of Discretionary Release, with an imposition of a 24-month hold.

Pleadings considered:

Brief submitted by counsel on the behalf of appellant received on May 11, 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 ^{denial} Modified (explain) _____

Commissioner

Christina Hernandez

Commissioner

Van A. Clark

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 10/4/07 JP.

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

STATEMENT OF APPEALS UNIT FINDINGS & RECOMMENDATION

Inmate Name: Lawson, Ronald
NYSID No.: 4900939Q
Dept. DIN#: 06A4443

Facility: Mid-State Correctional Facility
Appeal Control #: 02-230-07 B

Findings:

The appellant appeals the Board's decision to deny discretionary release on the grounds that: 1) the NYS Board of Parole has become a re-sentencing authority; 2) the Board never obtained the sentencing minutes, thus he is entitled to a de novo interview; 3) the Board ignored the provisions of NYS Correction Law Section 805; 4) the Board's decision was predetermined; and 5) the Board failed to consider mitigating factors, such as his mental health condition. This appeal has merit with respect to one issue only.

The appellant claims, correctly, that the Board did not have the sentencing minutes before it at the time of the interview. The minutes evidently had been ordered by the Facility Parole Office, however, they were not received until March 2, 2007 and the Board interview occurred on February 6, 2007. Because the Board did not have the minutes before it, it is recommended that a de novo interview be conducted before three Board members who did not interview the appellant on February 6, 2007 or who take part in the decision to affirm, deny or modify this recommendation.

Recommendation:

It is the recommendation of the Appeals Unit that a de novo interview be conducted.