

Administrative Appeal Decision Notice

**Inmate Name:** Jennings, Frederic

**Facility:** Arthurkill Correctional Facility

**NYSID No.:** 1228050M

**Appeal Control #:** 11-040-07-B

**Dept. DIN#** 71A0441

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: **Hernandez, Arena, Thompson**

Decision appealed from: 10/2007-Denial of discretionary release, with imposition of 24 month hold

Pleadings considered:

Brief submitted by counsel for appellant received on December 12, 2007.  
Statement of the Appeals Unit's Findings and Recommendation

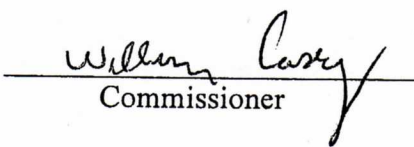
Documents relied upon:

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 3/14/08

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

**STATEMENT OF APPEALS UNIT FINDINGS & RECOMMENDATION**

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**Findings:**

Counsel for the appellant has submitted a brief to serve as the perfected appeal. While the brief raises many issues, for the reason explained below, only one issue will be addressed.

One of appellant's claims is that a Commissioner who had participated in a prior interview, and an appeal, was improperly allowed to participate in the de novo interview.

In response, Commissioner Hernandez did participate in the initial appeal dated August 16, 2007, the superceding appeal dated September 26, 2007, and the de novo interview on October 30, 2007. Thus, appellant is correct on this point, and a second de novo Parole Board Release Interview, in front of a panel of Commissioners who have not participated in the current round of litigation, shall be held forthwith.

**Recommendation:**

The October 2007 decision of the Board is vacated, and a de novo Parole Board Release Interview in front of a different panel of Commissioners shall be held forthwith.