

Administrative Appeal Decision Notice

Inmate Name: Campo, Mario

Facility: Mid-Orange Correctional Facility

NYSID No.: 3353892K

Appeal Control #: 05-537-08-B

Dept. DIN# 91A4337

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: **Ludlow, Smith, Thompson**

Decision appealed from: 5/2008-Denial of discretionary release, with imposition of 24 month hold

Pleadings considered:

Brief submitted by counsel for appellant received on August 11, 2008, and Supplemental letter-brief dated November 3, 2008.
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).

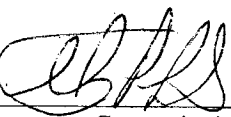
Final Determination: The undersigned have determined that the decision from which this appeal was taken be and the same is hereby

Affirmed

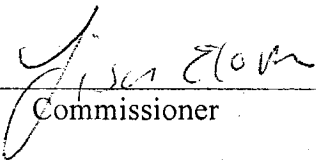
Reversed

Modified (explain)

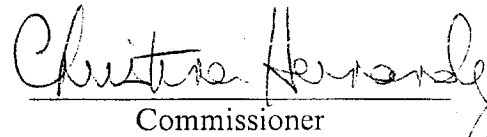
Schedule to review in person



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 1/5/09

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

STATEMENT OF APPEALS UNIT FINDINGS & RECOMMENDATION

Inmate Name: Campo, Mario
NYSID No.: 3353892K
Dept. DIN#: 91A4337

Facility: Mid-Orange Correctional Facility
Appeal Control #: 05-537-08-B

Findings:

Counsel for the appellant has submitted a brief, and a supplemental letter-brief, to serve as the perfected appeal. For the reason explained below, only one issue raised will be addressed.

One of appellant's claims is the Parole Board Decision Notice on form 9026 lists 203 months in prison plus 308 jail time days, whereas the Inmate Status Report prepared four months before the interview lists 186 total time served. Thus, appellant claims the decision is based upon erroneous information.

In response, the form 9026 does have the correct information-but that was prepared after the interview. In fact, on page #3 of the transcript the Board refers to the incorrect information that is contained in the Inmate Status Report. Since the Board was using incorrect information, the appellant is entitled to a de novo interview.

Recommendation:

Accordingly, it is recommended the decision of the Board be vacated, and a de novo interview with correct information in front of a new panel of Commissioners be held forthwith.