

Administrative Appeal Decision Notice

Inmate Name: Paul Ruine  
NYSID No.: 4942343L  
Dept. DIN#: 98-A-4733

Facility: Eastern Correctional Facility  
Appeal Control #: 11-194-12B

Appearances:  
For the Board, the Appeals Unit  
For Appellant:

Cheryl L. Kates, Esq.  
P.O. Box 734  
Victor, New York 14564

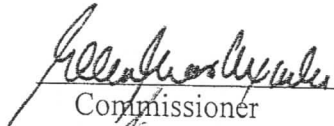
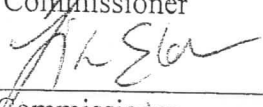
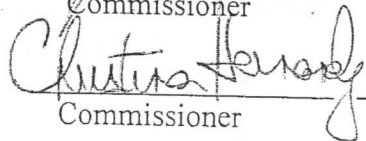
Board Member(s) who participated in appealed from decision: Coppola, Ferguson

Decision appealed from: November 2012 denial of discretionary parole release

Pleadings considered: Letters and Briefs on behalf of the appellant submitted from March 26, 2013;  
Statement of the Appeals Unit's Findings and Recommendation

Documents relied upon: Presentence Investigation Report, Inmate Status Report, Interview Transcript,  
Parole Board Release Decision (Form 9026)

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

 Commissioner	<input type="checkbox"/> Affirmed	<input checked="" type="checkbox"/> Reversed for De Novo Interview	<input type="checkbox"/> Modified to _____
 Commissioner	<input type="checkbox"/> Affirmed	<input type="checkbox"/> Reversed for De Novo Interview	<input type="checkbox"/> Modified to _____
 Commissioner	<input type="checkbox"/> Affirmed	<input checked="" type="checkbox"/> Reversed for De Novo Interview	<input type="checkbox"/> Modified to _____

*If the Final Determination is at variance with Findings and Recommendation of Appeals Unit, written reasons for the Parole Board's determination must be annexed hereto.*

This Final Determination, the related Statement of the Appeals Unit's Findings and the separate findings of the Parole Board, if any, were mailed to the Inmate and the Inmate's Counsel, if any, on 8/16/13 RP.

Distribution: Appeals Unit - Inmate - Inmate's Counsel - Inst. Parole File - Central File  
P-2002(B) (5/2011)

STATE OF NEW YORK - BOARD OF PAROLE

STATEMENT OF APPEALS UNIT FINDINGS & RECOMMENDATION

Inmate Name: Paul Ruine Facility: Eastern Correctional Facility  
NYSID No.: 4942343L Appeal Control #: 11-194-12B  
Dept. DIN#: 98-A-4733

Findings:

Appellant challenges his November 2012 denial of parole release, presenting a number of arguments. With the exception of one issue raised, and which is addressed below, all of appellant's arguments have been considered and found to be without merit.

Appellant points out that the Board's decision denying him release contains a key contradiction that renders it arbitrary and capricious. Specifically, the Board's decision in part reads as follows: "After a review of the record and interview, the panel has determined that if released at this time, *there is a reasonable probability that you would not live and remain at liberty without again violating the law....* While it appears clear you will not re-offend if released and the Board gave due consideration to the complex facts of the instant offense, your poor disciplinary record and community opposition are of grave concern to the Board" (emphasis added).

Due to the ambiguity of the Board's decision as evidenced by the afore-quoted language, it would be most appropriate to afford the inmate a new parole consideration. Executive Law §259-i(2)(c)(A); §259-i(2)(a).

Recommendation:

Accordingly, it is recommended that the appealed from decision be reversed and the appellant be afforded a de novo parole consideration.

APPEALS UNIT  
SECRETARY AND CLERK