

Gay v Williams

2007 NY Slip Op 30046(U)

February 14, 2007

Supreme Court, Seneca County

Docket Number: 0038639

Judge: Dennis F. Bender

Republished from New York State Unified Court System's E-Courts Service.
Search E-Courts (<http://www.nycourts.gov/ecourts>) for any additional information on this case.

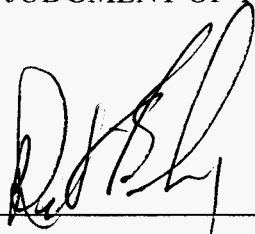
This opinion is uncorrected and not selected for official publication.

The Petitioner claims that the 20-month hold by the parole board was arbitrary and capricious. First, it is noted that the Petitioner was aware prior to his guilty plea that that would be the recommendation of the administrative law judge and he chose to plead guilty. As noted in the Return of the Respondents, this court must give deference to the parole board's determination absent a showing it is irrational, arbitrary or capricious. The court finds nothing irrational in the recommended hold. As noted by the senior parole officer's recommendation for incarceration (Return, Exhibit J), "Alternatives are not appropriate in this case. The 31 year old Gay continues serving a 3-6-0/7- 0-0 year term for Attempted Criminal Possession of a Controlled Substance 3d. Afforded the leniency of a judicial release directly to the Willard program as a result of the instant offense, the subject completed said program in June 2005, however, violated parole after less than two months at liberty when he was driving under the influence of alcohol and cocaine along with being found to be in possession of a razor which he admitted he used for cutting and packaging cocaine. Additionally, there was a 10-year old female passenger in the vehicle at the time. The subject is a multi-state offender with an extensive history in Florida for mostly property and drug-related crimes. The subject is unamenable to community supervision and poses an unacceptable risk for criminal activity and should be returned to DOCS for a hold to his minimum."

The petition is in all respects denied and dismissed on the merits.

THIS CONSTITUTES THE DECISION AND JUDGMENT OF THE COURT.

DATED: February 7, 2007



HON. DENNIS F. BENDER
Acting J.S.C.