

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Albert Patrichiou Carroll,	:	
Petitioner	:	
	:	
v.	:	
	:	
Pennsylvania Parole Board,	:	No. 447 C.D. 2025
Respondent	:	Submitted: June 16, 2026

BEFORE: HONORABLE ANNE E. COVEY, Judge
HONORABLE STACY WALLACE, Judge
HONORABLE STELLA M. TSAI, Judge

OPINION BY
JUDGE COVEY

FILED: October 14, 2026

Albert Patrichiou Carroll (Carroll) petitions this Court for review of the Pennsylvania Parole Board's (Board) March 24, 2025 decision affirming its decision recorded November 14, 2024 (mailed November 21, 2024) that recommitted him as a convicted parole violator (CPV) to serve a 15-month term with no credit for his time spent at liberty on parole. Carroll presents one issue for this Court's review: whether the Board erred by concluding that its parole revocation hearing was timely held. After review, this Court reverses and remands.

Carroll is currently an inmate at the State Correctional Institution (SCI) at Laurel Highlands.¹ On July 1, 2016 and January 6, 2017, the Union County Common Pleas Court sentenced Carroll to 2 years, 2 months, and 30 days for 2 counts of retail theft (Original Sentence). On February 23, 2018, the Board rendered a decision to parole Carroll. At that time, Carroll's maximum sentence release date was March 30, 2023; accordingly, he owed 1,735 days on his Original Sentence. On January 20, 2023, the Board declared Carroll delinquent effective January 19, 2023.

¹ See <https://inmatelocator.cor.pa.gov/#/Result> (last visited Oct. 13, 2026).

On February 9, 2023, the Department of Corrections (Department) issued a Warrant to Detain Carroll pending disposition of criminal charges in Snyder County (New Charges) and recommitted him as a technical parole violator to a period of 2 months and 11 days. On March 29, 2023, the Department lifted its detainer.

On May 23, 2024, Carroll entered *nolo contendere* pleas to corruption of minors and other offenses. On June 3, 2024, the Department lodged a warrant to commit and detain Carroll, noting therein that “[a]lthough [Carroll’s] maximum sentence expired [March 30, 2023], the maximum sentence is being extended due to a new conviction. The new maximum [sentence] will be computed upon recording of the Board’s final action.” Certified Record (C.R.) at 25. Also on June 3, 2024, Carroll’s parole agent took Carroll into custody and transported him to the Columbia County Jail. On that same day, Carroll requested a panel parole revocation hearing. On June 4, 2024, the Department transferred Carroll from the Columbia County Jail to SCI-Smithfield; thus, on June 4, 2024, Carroll returned to the Department’s jurisdiction. On August 22, 2024, the Snyder County Common Pleas Court sentenced Carroll on the New Charges.²

On November 4, 2024, the Board held a parole revocation hearing before a hearing examiner (Hearing Examiner) at which the Board offered only Carroll’s August 22, 2024 Sentencing Order.³ See C.R. at 41. Thereafter, Carroll’s

² The record does not state when the Department transferred Carroll back to the Columbia County Jail for his sentencing.

³ At the close of the hearing, the Hearing Examiner took official notice of the documents in Carroll’s hearing packet which included: June 3, 2024 Request for Panel Hearing; October 17, 2024 Notice of Charges and Hearings; Inmate Rights Form; January 27, 2023 Criminal Arrest and Disposition report; Supervision History; June 3, 2024 Warrant; February 22, 2018 Order to Release on Parole; June 28, 2018 Conditions Governing Parole; Sentence Order (admitted as State’s Exhibit 1); and a secure docket print-out. See C.R. at 46-47. **Notably, a Department Inmate Moves Record was not identified as a document for which the Hearing Examiner took official notice.**

counsel objected that the parole revocation hearing was untimely. Parole Agent C. Page (Agent Page)⁴ responded:

There's a combination of things there that we would like the Board to note is that [sic] [] Carroll was not returned to [Department] custody until June 4th of 2024, which would put the 120-day mark at about [November 26, 2024]. And his request for [a] panel on June 3rd is usually what kind of [sic] is the marker for any change whenever served at the time of the offense. Also making the 120-day, [November 25, 2024]. So, I do not see a timeliness issue in respect to his return to [the Department] and his written request for a panel from back in June.

C.R. at 42-43.

Notwithstanding that 120 days from June 4, 2024 is **October 2, 2024** (**not** November 25, 2024), the Hearing Examiner noted the objection and declared that the Board would rule on the objection in the final Board Decision. On November 14, 2024, the Board recommitted Carroll as a CPV to serve 15 months of backtime and recalculated his Original Sentence maximum release date as March 2, 2029. In the Hearing Report, the Hearing Examiner overruled Carroll's timeliness objection, stating:

[Carroll's counsel] objected to this matter as being untimely. **According to Board records**, [Carroll] was convicted on [May 3, 2024,] [sic] and transferred to SCI[-]Smithfield on [June 4, 2024]. **On [July 11, 2024], [Carroll] was sent on writ to Snyder County [Jail]. [Carroll] returned to [Department] custody on [September 17, 2024].** As this hearing was held on [November 4, 2024], this [Hearing Examiner] finds that it was timely and the objection is overruled.

C.R. at 118 (emphasis added).

⁴ Agent Page's first name is not noted in the hearing transcript.

On December 11, 2024, Carroll filed an administrative remedies form challenging the Board’s ruling on the timeliness objection. On March 24, 2025, the Board’s panel affirmed its decision, explaining:

[Section 71.4(1) of t]he Board’s [R]egulation[s] provides that “[i]f a parolee is confined outside the jurisdiction of the Department . . . , such as . . . confinement in a county correctional institution where the parolee has not waived the right to a revocation hearing by a panel in accordance with *Commonwealth ex rel. Rambeau v. Rundle*, . . . 314 A.2d 842 ([Pa.] 1973), the revocation hearing shall be held within 120 days of the official verification of the return of the parolee to a [s]tate correctional facility.” 37 Pa. Code § 71.4(1). Additionally, “there shall be excluded from that period a delay in any stage of the proceedings which is directly or indirectly attributable to . . . the unavailability of parolee or counsel.” [Section 71.5(c)(1) of the Board’s Regulations,] 37 Pa. Code[]§ 71.5(c)(1). [] Carroll was convicted of the new criminal offenses on May 23, 2024. On June 3, 2024, the Department . . . lodged a warrant against him and he elected to have his revocation hearing by panel. [Carroll] returned to an SCI on June 4, 2024. **After 37 days, he was transferred to Snyder County [Jail] on writ on July 11, 2024. [Carroll] returned again to an SCI on September 17, 2024,** and the Board conducted a revocation hearing 48 days later on November 4, 2024. Considering [] **Carroll spent a total of 85 days in an SCI prior to the November 4, 2024 hearing,** that revocation hearing is therefore deemed timely.

C.R. at 134 (emphasis added). Thus, rather than finding that Carroll was outside the Department’s jurisdiction, the panel concluded that Carroll was *unavailable* under Section 75.1(c)(1) of the Board’s Regulations for several days following his June 4, 2024 return to SCI-Smithfield (and the Department’s jurisdiction). Carroll appealed to this Court.⁵

⁵ This Court’s “review is limited to determining whether constitutional rights were violated, whether the decision was in accordance with [the] law, or whether the necessary findings of fact were supported by substantial evidence.” *White v. Pa. Parole Bd.*, 276 A.3d 1247, 1255 n.7 (Pa. Cmwlth. 2022).

Carroll insists that the Board was required to hold a timely parole revocation hearing and failed to meet its burden of demonstrating it had done so. Carroll contends that the Board committed multiple errors when it concluded that the November 4, 2024 hearing was timely. Carroll asserts that Agent Page erroneously claimed that the hearing was timely because Carroll was returned to an SCI on June 4, 2024, and that 120 days from that date would be November 26, 2024. Carroll observes that because 120 days from June 4, 2024 is **October 2, 2024**, the November 4, 2024 hearing was untimely, and the Board offered no other evidence rebutting Carroll's untimeliness claim. Carroll argues that rather than reserve a decision on the objection, the Hearing Examiner should have ruled that the hearing was untimely given Agent Page's miscalculation and the Board's failure to demonstrate that the hearing was timely.

Carroll also contends that, following the hearing, the Board and the Hearing Examiner compounded the Hearing Examiner's mistake by attempting to cure Agent Page's erroneous date calculation by using the Department Moves Report - **a document not in evidence**⁶ - to determine the days that Carroll was unavailable to the Board following his June 4, 2024 transfer to SCI-Smithfield, and thereby extend the hearing deadline. Finally, Carroll maintains that the Board misapplied its Regulations when it concluded, based on the extra-record Department Moves Report, that the hearing was timely.

This Court has explained:

“It has long been established that due process requires that parolees receive a hearing within a reasonable time after they are taken into custody for a parole violation.” *Taylor v. Pa. Bd. of Prob. & Parole*, 931 A.2d 114, 117 (Pa.

⁶ Notwithstanding that it was not admitted into evidence at the hearing, the Department Moves Report is contained in the Certified Record in this matter. *See* C.R. at 112. Carroll asserts that the Board's records *in evidence* do not reflect transfers during the period between his conviction and his parole revocation hearing.

Cmwlth. 2007) (*en banc*) (citing *Morrissey v. Brewer*, 408 U.S. 471 . . . (1972)). To satisfy due process, the Board has issued [R]egulations concerning the timeliness of a parole revocation hearing. *See Lawson v. Pa. Bd. of Prob. & Parole*, 977 A.2d 85, 87 (Pa. Cmwlth. 2009) (“[d]etermining whether a revocation hearing was timely is a straightforward inquiry that is governed by Board [R]egulation”).

For example, when a parolee is convicted of a new criminal offense, the Board must hold a revocation hearing within 120 days from the date the Board received official verification of that disposition.^[7]

Daniels v. Pa. Parole Bd., 326 A.3d 128, 132 (Pa. Cmwlth. 2024).

The *Daniels* Court held:

Once a parolee challenges the timeliness of a revocation hearing, the Board bears the burden to prove by a preponderance of the evidence that the hearing was timely. *Burno v. Pa. Bd. of Prob. & Parole*, 67 A.3d 1280, 1283 (Pa. Cmwlth. 2013). “If the Board does not present substantial evidence to establish the timeliness of a revocation hearing, the parole violation charges are dismissed with prejudice.” *Brown v. Pa. Bd. of Prob. & Parole*, 184 A.3d 1021, 1025 (Pa. Cmwlth. 2017) (citation omitted). Additionally, when the Board fails to produce evidence that it had the burden to produce, it “does not have the right to a second hearing to make the case it should have made in the first instance.” *Gair v. Pa. Bd. of Prob. & Parole*, 948 A.2d 884, 889 (Pa. Cmwlth. 2008); *see also Mack v. Pa. Bd. of Prob. & Parole*, 654 A.2d 129, 131 (Pa. Cmwlth. 1995) (reversing the decision of the Board and dismissing the parole violation charges with prejudice because the revocation hearing was untimely).

Daniels, 326 A.3d at 132 (bold and underline emphasis added).

As this Court held in *Daniels*, once Carroll’s counsel raised the untimeliness objection, the Board had the burden to establish by a preponderance of

⁷ Here, the Board’s Notice of Charges and Hearing identifies the date of verification as May 24, 2024. *See C.R.* at 27.

the evidence that the hearing was timely. Here, in response to the objection, Agent Page responded that the hearing occurred within the permissible time period. His testimony, based on an erroneous calculation (120 days from June 4, 2024 is October 2, 2024, not November 4, 2024), was inadequate to meet the Board’s burden.

With respect to Carroll’s argument that the Hearing Examiner and the Board erroneously considered extra-record evidence after the hearing to justify the Board’s conclusion that the hearing was timely, this Court agrees. The Board afforded itself a prohibited second bite at the apple by finding and accepting a different justification (Carroll’s purported transfer from the SCI) for holding that the hearing was timely. Further, the Board based that justification on the Department Moves Report - “[e]xtra[-]record evidence [that] cannot sustain an adjudication.” *Kyu Son Yi v. State Bd. of Veterinary Med.*, 960 A.2d 864, 873 (Pa. Cmwlth. 2008).

Even assuming, arguendo, that the Board properly considered the Department Moves Report, such reliance does not change the outcome. This Court has explained:

Section 71.4(1) of the Board’s [R]egulations provides that 120 days from the date the Board receives official verification of a parolee’s conviction is a reasonable period for conducting a revocation hearing, unless the parolee is “confined outside the jurisdiction of the [Department], such as . . . *confinement in a county correctional institution* where the parolee has not waived the right to a revocation hearing by a panel” 37 Pa. Code § 71.4(1)(i) (emphasis provided).

Leonard v. Pa. Parole Bd. (Pa. Cmwlth. No. 641 C.D. 2024, filed June 18, 2025), slip op. at 8.⁸ The *Leonard* Court expounded:

⁸ This Court’s unreported memorandum opinions filed after January 15, 2008, may be cited “for [their] persuasive value, but not as binding precedent.” Section 414(a) of the Commonwealth Court’s Internal Operating Procedures, 210 Pa. Code § 69.414(a). The unreported opinions referenced herein are cited for their persuasive value.

In such circumstances, the revocation hearing must be conducted within 120 days of the date of the official verification of the parolee's return to [Department] custody at an SCI. [37 Pa. Code § 71.4(1).]

This exception is based on the principle that the 120-day period does not begin to run until the Board acquires jurisdiction over the parolee, which it does not have during the periods where the parolee is “confined” in a county prison. *Koehler v. P[a.] Bd. of Prob. & Parole*, 935 A.2d 44, 50 (Pa. Cmwlth. 2007); *Hartage v. P[a.] B[d.] of Prob. & Parole*, 662 A.2d 1157, 1160 (Pa. Cmwlth. 1995); *Williams v. P[a.] B[d.] of Prob. & Parole*, . . . 579 A.2d 1369, 1371 ([Pa. Cmwlth.] 1990). The exception applies notwithstanding the fact that, pursuant to [Section 6136(1)-(3) of the Prisons and Parole Code (Parole Code),] 61 Pa.C.S. § 6136(1)-(3), the Board now has remote communication and observation access to county-confined state parolees.

Leonard, slip op. at 8-9 (footnote omitted).

Importantly, the *Leonard* Court added:

However, the exception does not apply where a state parolee is housed in a county prison solely to attend his or her criminal proceedings. *Foley v. P[a.] B[d.] of Prob. & Parole*, 195 A.3d 630, 632-34 (Pa. Cmwlth. 2018) (citing *Morgan v. P[a.] B[d.] of Prob. & Parole*, 814 A.2d 300 (Pa. Cmwlth. 2003), and *Montgomery v. P[a.] B[d.] of Prob. & Parole*, 808 A.2d 999 (Pa. Cmwlth. 2002)). **Where a parolee is transferred for this reason and *not* to serve a county-imposed sentence, the parolee does not leave the jurisdiction of the Board even where physically housed in a county prison.** *Foley*, 195 A.3d at 633-34. In such circumstances, the 120-day period for conducting a revocation hearing begins to run the day the Board receives the official verification of the parolee's conviction. *Id.*; 37 Pa. Code § 71.4(1).

Leonard, slip op. at 9 (bold emphasis added).

Following his conviction, on June 4, 2024, Carroll was returned to the Department's jurisdiction when he was transferred to SCI-Smithfield. Carroll's

subsequent transfer to Snyder County Jail on writ for sentencing did not remove him from the Department’s jurisdiction. Specifically, as here: “**When a parolee is transferred on new charges to another jurisdiction by judicial writ, he remains ‘in the primary custody of the first jurisdiction** unless and until the first sovereign relinquishes jurisdiction over the person.’” *Burrell v. Pa. Bd. of Prob. & Parole* (Pa. Cmwlth. No. 308 C.D. 2019, filed Nov. 13, 2019), slip op. at 12 (emphasis added) (quoting *Foley*, 195 A.3d at 632 (citation omitted)).

Here, Carroll did not leave the Department’s jurisdiction⁹ when he was transferred to Snyder County Jail on writ between July 11, 2024 and September 17, 2024, because Snyder County was “considered simply to be ‘borrowing’ [Carroll] from the [Board] for the purposes of . . . sentencing him.” *Foley*, 195 A.3d at 632 (quoting *Morgan*, 814 A.2d at 303); *see also Leonard*. Nor was Carroll unavailable under Section 71.5(c)(1) of the Board’s Regulations during such time, because even while on writ to Snyder County, he was available to the Board pursuant to Section 6136 of the Parole Code which provides that “[a]ll prison officials shall” grant the Board access to any offender at all reasonable times. 61 Pa.C.S. § 6136.

In accordance with *Daniels*, *Leonard*, and *Foley*, this Court is constrained to conclude that the Hearing Examiner should have ruled that the Board did not meet its burden of proving that Carroll’s parole revocation hearing was timely and dismissed the parole violation charges with prejudice.

For all of the above reasons, the Board’s decision is reversed.

ANNE E. COVEY, Judge

⁹ See Section 71.4(1)(i) of the Board’s Regulations

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O R D E R

AND NOW, this 14th day of October, 2026, the Pennsylvania Parole Board's (Board) March 24, 2025 order is REVERSED. Albert Patrichiou Carroll's (Carroll) parole violation charges are DISMISSED WITH PREJUDICE. This matter is REMANDED to the Board with instructions to dismiss the parole revocation charges against Carroll based on the May 23, 2024 conviction, and to recalculate his backtime accordingly.

Jurisdiction is relinquished.

ANNE E. COVEY, Judge