

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

William McGraw,	:	
Petitioner	:	
	:	
v.	:	
	:	
Pennsylvania Parole Board,	:	No. 720 C.D. 2025
Respondent	:	Submitted: July 24, 2026

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE CHRISTINE FIZZANO CANNON, Judge
HONORABLE MATTHEW S. WOLF, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE FIZZANO CANNON

FILED: September 23, 2026

William McGraw (McGraw) petitions for review from the April 23, 2025 order (Board Order) of the Pennsylvania Parole Board (Board), which denied his challenge to the Board's recalculation of his parole violation maximum sentence date. McGraw is represented by Victoria Hermann, Esquire (Counsel), who has filed a Motion to Withdraw As Counsel (Application to Withdraw), asserting that McGraw's Petition for Review is without merit and seeking permission to withdraw as counsel. For the following reasons, we grant Counsel's Application to Withdraw and affirm the Board Order.

I. Background

On July 17, 2008, McGraw received a sentence of 10 to 20 years of incarceration following convictions for robbery and aggravated assault (the Original Sentence). *See* Certified Record (C.R.) at 6. After receiving credit for pre-sentence incarceration, McGraw's minimum and maximum sentence dates on the Original

Sentence were December 2, 2013, and December 2, 2023, respectively. *See* C.R. at 6. McGraw was released on parole from the Original Sentence on November 3, 2014.¹ *See* C.R. at 6.

The Board declared McGraw delinquent on February 18, 2015. *See* C.R. at 11. Following his arrest on new charges in March of 2015 (First New Charges), the Board recommitted McGraw to serve six months as a technical parole violator (TPV) on April 16, 2015. *See* C.R. at 12-18. Upon McGraw's conviction on the First New Charges, the Board recommitted him as a convicted parole violator (CPV) to serve a concurrent term of 12 months, resulting in a recalculated maximum date of the Original Sentence of April 19, 2024. *See* C.R. at 19-22.

Following McGraw's re-parole on August 2, 2019,² the Board issued a warrant to commit and detain on March 11, 2021, based on new criminal charges (Second New Charges). *See* C.R. at 42-43. The Board cancelled the warrant and re-released McGraw on parole by order dated March 19, 2021, after the Second New Charges were pleaded down to a summary offense. *See* C.R. at 42-43.

On March 8, 2022, the Board issued another warrant to commit and detain based on McGraw's arrest on new criminal charges (Third New Charges). *See* C.R. at 30-41 & 44. The Board cancelled the warrant and re-released McGraw on parole on May 9, 2022, following the withdrawal of the Third New Charges. *See* C.R. at 45-46.

On January 23, 2023, McGraw received a felony conviction in Missouri, which he did not report as required. *See* C.R. at 47. After being contacted

¹ McGraw was granted parole by Board Decision recorded on September 18, 2014. *See* C.R. at 3, 6. His actual date of release, however, was November 3, 2014. *See id.* at 6.

² McGraw was granted re-parole by Board Decision recorded on June 26, 2019. *See* C.R. at 30-32. His actual re-parole release date was August 2, 2019. *See id.* at 33.

by authorities on February 2, 2023, to arrange for McGraw's supervision in Pennsylvania, authorities attempted to arrest McGraw on February 16, 2023, but McGraw fled. *See* C.R. at 47. Thereafter, on February 21, 2023, the Board again declared McGraw delinquent effective February 16, 2023. *See* C.R. at 47.

Following McGraw's arrest in Pittsburgh on April 4, 2023, the Board issued another warrant to commit and detain. *See* C.R. at 48. McGraw had six open criminal cases at this time,³ which were waived to common pleas. *See* C.R. at 49-50. McGraw was incarcerated at Beaver County Jail pending determinations of technical parole violations and the resolutions of his criminal cases. He was also awaiting return to state custody for the parole panel hearing regarding his Missouri conviction.⁴

Later, McGraw was transferred to Allegheny County Jail, where he remained following the disposition of his open criminal charges. *See* C.R. at 49-50. He was returned from county custody to the Pennsylvania Department of Corrections' custody on October 28, 2024. McGraw then received, but refused to sign, a Notice of Charges and Hearing form executed on December 4, 2024, regarding these charges. *See* C.R. at 49-50. McGraw also received, and again refused to sign, an Inmate Rights at Parole Board Hearings form executed on December 12, 2024. *See* C.R. at 51.

The Board conducted a panel hearing on McGraw's parole revocation on December 23, 2024. *See* C.R. at 82-224. By decision recorded January 9, 2025

³ Calloway County, Missouri, Docket No. 21-CW-CR-1000-01; Allegheny Court of Common Pleas Docket No. 4012-2023; Beaver County Court of Common Pleas Docket Nos. 698-2023, 746-2023, 747-2023, 921-2023 & 935-2023. *See* C.R. at 49-50.

⁴ On April 27, 2023, the Board requested a continuation of a scheduled May 9, 2023 hearing due to McGraw's unavailability. *See* C.R. at 76.

(January 2025 Decision), the Board ordered McGraw to serve a 12-month recommitment period as a CPV. *See* C.R. at 246-47. The Board awarded McGraw a partial backtime⁵ credit and recalculated his maximum sentence date to January 23, 2028. *See* C.R. at 243-45. McGraw filed a *pro se* administrative appeal of the January 2025 Decision, alleging that his due process rights were violated because he did not have a *Gagnon I*⁶ hearing for his detention. *See* C.R. at 248-50. By letter mailed April 23, 2025, the Board denied McGraw’s administrative appeal. *See* C.R. at 251-53. In affirming the January 2025 Decision in the Board Order, the Board explained:

The record reveals that on December 23, 2024, the Board conducted a panel revocation hearing. The [N]otice of [C]harges and [H]earing [forms] that were presented to you on December 12, 2024 indicated that you incurred new criminal convictions in the Judicial Circuit Court, Calloway County, Missouri; the Allegheny County Court of Common Pleas; and the Beaver County Court of

⁵ “Back[time] is that part of an existing judicially imposed sentence which the Board directs a parolee to complete following a finding . . . that the parolee violated the terms and conditions of parole” *Yates v. Pa. Bd. of Prob. & Parole*, 48 A.3d 496, 499 (Pa. Cmwlth. 2012); *see also* 37 Pa. Code § 61.1 (backtime is “[t]he unserved part of a prison sentence which a convict would have been compelled to serve if the convict had not been paroled”).

⁶ As has been explained:

When a parolee or probationer is detained pending a revocation hearing, due process requires a determination at a *pre-revocation* hearing, a *Gagnon I* hearing, that probable cause exists to believe that a violation has been committed. Where a finding of probable cause is made, a second, more comprehensive hearing, a *Gagnon II* hearing, is required before a final revocation decision can be made.

Commonwealth v. Ferguson, 761 A.2d 613, 617 (Pa. Super. 2000) (internal citations omitted); *see also Jackson v. Pa. Bd. of Prob. & Parole* (Pa. Cmwlth., No. 170 C.D. 2020, filed Nov. 19, 2020), slip op. at 5 n.8.

Common Pleas. The offenses in question were Forgery, Evading Arrest or Detention on Foot (3[counts])[.] Possession with Intent to Deliver, Fleeing and Eluding a Police Officer, and Flight to Avoid Apprehension. The Board relied upon your acknowledgement of the new convictions and the sentencing orders as evidence to support the new criminal convictions. As such, the Board was authorized to recommit you as a [] CPV[] based on your new attributable convictions. 61 Pa.C.S. § 6138(a)(1).

In your correspondence, you object to your recommitment because you did not have a 1st level hearing for your detention. However, probable cause to detain was already established prior to the Board lodging a warrant against you due to your conviction [] in Calloway County, Missouri. Therefore, the detention hearing was not necessary and your objection in this regard is without merit.

C.R. at 251 (internal docket notations omitted).

On May 15, 2025, McGraw filed a timely Petition for Review with this Court.⁷ On September 2, 2025, Counsel filed a *Turner/Finley* Letter⁸ and the

⁷ McGraw’s original filing with this Court was a *pro se* letter, which this Court deemed to have preserved McGraw’s filing date. McGraw thereafter filed an ancillary petition for review and an application to proceed *in forma pauperis*. Counsel is representing McGraw, who is incarcerated and indigent, on behalf of the Public Defender’s Office of Forest County by appointment for the purpose of the instant appeal before this Court. See Commonwealth Court Order, June 16, 2025.

⁸ See *Commonwealth v. Turner*, 544 A.2d 927 (Pa. 1988); *Commonwealth v. Finley*, 550 A.2d 213 (Pa. Super. 1988) (*en banc*). Counsel files such a letter when seeking to withdraw from representation of a parole violator because the violator’s case lacks merit; it need not be “so anemic as to be deemed wholly frivolous.” *Anderson v. Pa. Bd. of Prob. & Parole*, 237 A.3d 1203, 1204 n.2 (Pa. Cmwlth. 2020) (quoting *Commonwealth v. Wrecks*, 931 A.2d 717, 722 (Pa. Super. 2007)) (internal quotation marks omitted). Such letters go by many names in the Commonwealth, including “no-merit letter,” “*Finley*” letter, “*Turner* letter,” and “*Turner/Finley* letter.” See *Anderson*, 237 A.3d at 1204 n.2.

Application to Withdraw with this Court. Thereafter, on September 9, 2025, the Court executed an order informing McGraw that he could either obtain substitute counsel at his own expense to file a brief on his behalf, or he could file a *pro se* brief on his own behalf within 30 days of the service of the order. *See* Commonwealth Court Order, Sept. 9, 2025. On October 14, 2025, McGraw filed a *pro se* “Brief of Appellant,” which stated and expanded upon the argument that the Board violated his due process rights by failing to hold a *Gagnon I* hearing. *See* McGraw’s Br. at 1-3 (pagination supplied). On November 12, 2025, the Board filed an Application for Relief seeking a stay of its briefing requirements pending the resolution of Counsel’s Application to Withdraw, which application this Court granted by Order dated November 17, 2025. *See* Application for Relief filed Nov. 12, 2025; Commonwealth Court Order, Nov. 17, 2025. On July 27, 2026, the Court entered an Order directing that the Application to Withdraw be decided together with the merits of the petition for review without oral argument. *See* Commonwealth Court Order, July 27, 2026. The Commonwealth was not required to file a brief.

II. Issues

In the *Turner/Finley* Letter, Counsel summarized the issue McGraw wishes to raise herein⁹ as: “the Board violated [McGraw’s] due process rights by not providing [McGraw] with a timely initial hearing prior to [his] revocation hearing.” *See Turner/Finley* Letter at 1 (pagination supplied). In his brief, McGraw restates and reiterates this challenge. *See* McGraw’s Br. at 1. McGraw also argues that the Board lacked the authority to recalculate the maximum sentence date of the

⁹ Our review is limited to determining whether constitutional rights were violated, whether the adjudication was in accordance with law, and whether necessary findings were supported by substantial evidence. *Miskovitch v. Pa. Bd. of Prob. & Parole*, 77 A.3d 66 (Pa. Cmwlth. 2013).

Original Sentence and further erred by incorrectly recalculating the new maximum sentence. *See* McGraw’s Br. at 2-3. McGraw is not entitled to relief.

III. Application to Withdraw

When court-appointed counsel concludes that a petitioner’s appeal is meritless and seeks to withdraw, counsel must notify the petitioner of her request to withdraw by sending the petitioner copies of counsel’s application to withdraw and *Turner/Finley* letter; counsel must also provide a statement that counsel has advised the petitioner of his right to retain new counsel or proceed *pro se* and raise any points petitioner may deem worthy of consideration in a brief on his own behalf. *See, e.g., Miskovitch v. Pa. Bd. of Prob. & Parole*, 77 A.3d 66, 69 (Pa. Cmwlth. 2013); *Zerby v. Shanon*, 964 A.2d 956, 960 (Pa. Cmwlth. 2009). With regard to the latter, our current approach does not prohibit counsel from incorporating that statement into either the application to withdraw or the *Turner/Finley* letter. *See Walker v. Pa. Parole Bd.* (Pa. Cmwlth., No. 492 C.D. 2023, filed Jan. 7, 2026), slip op. at 5-10 & n.8, 2026 WL 41307, at *3-5 & n.8 (unreported)¹⁰ (stating that in this context, “a separate statement is not a mandated requirement” and noting that the statement there was included in the application to withdraw and accompanied by counsel’s certificate of service upon the petitioner via first-class mail and verification of the application’s truth and correctness under penalties relating to unsworn falsifications to authorities).

Substantively, a *Turner/Finley* letter must “include an explanation of the nature and extent of counsel’s review and list each issue the petitioner wished to have raised, with counsel’s explanation of why those issues are meritless.”

¹⁰ Under Section 414(a) of this Court’s Internal Operating Procedures, an unpublished memorandum opinion of this Court issued after January 15, 2008, although not binding precedent, may be cited for its persuasive value. 210 Pa. Code § 69.414(a).

Seilhamer v. Pa. Bd. of Prob. & Parole, 996 A.2d 40, 43 (Pa. Cmwlth. 2010) (quoting *Turner*, 544 A.2d at 928) (internal quotation marks omitted; some alterations omitted). Once appointed counsel has complied with the technical requirements for a withdrawal, we independently review the merits of the petitioner's claims. *Miskovitch*, 77 A.3d at 70.

Here, the Application to Withdraw indicates that Counsel reviewed McGraw's petition for review of the denial of his administrative appeal and determined that the issue raised lacks merit. *See* Application to Withdraw. The Application to Withdraw further explains that Counsel served McGraw with a copy of the *Turner/Finley* Letter together with the Application to Withdraw. *See id.* Additionally, Counsel appended a certificate of service to the Application to Withdraw indicating that she provided McGraw with copies of both the Application to Withdraw and the *Turner/Finley* Letter on September 2, 2025, via first-class mail. *See id.*

Substantively, the *Turner/Finley* Letter begins by summarizing McGraw's due process claim. *See Turner/Finley* Letter at 1. In the *Turner/Finley* Letter, Counsel reviews the requirements of *Gagnon I* and *Gagnon II* and the law concerning parole violator detention hearings. *See Turner/Finley* Letter at 1. Counsel then reviews the procedural posture of this matter and explains why the due process claim based on a lack of a detention hearing lacks merit, citing appropriate legal authority. *See Turner/Finley* Letter at 2-3. The *Turner/Finley* Letter then explains the Application to Withdraw, a copy of which Counsel indicates is included with the *Turner/Finley* Letter, and concludes with a direction that McGraw may retain new counsel or proceed *pro se* in the event the Court grants the Application to Withdraw. *See Turner/Finley* Letter at 3. As we are satisfied that Counsel has

discharged her responsibility in complying with the technical requirements to withdraw from representation, we now conduct an independent merits review.

IV. Failure to Hold *Gagnon I* Hearing

When a parolee is charged with a new criminal offense, Section 71.3(9) of the Board's regulations entitle the parolee to a detention hearing within 30 days. *See* 37 Pa. Code. 71.3(9) ("The Board will follow the procedures generally governing preliminary hearings contained in § 71.2(1)-(8) (relating to procedure for violation of parole conditions) in conducting detention hearings, except that a detention hearing shall be held within 30 days of the parolee's detention."); *see also* 204 Pa. Code § 311.1 (defining a "[d]etention hearing" as "[a] first-level, probable cause hearing to determine whether there is probable cause that a paroled person should be detained or returned pending disposition of a new criminal charge"). Further, before a parolee's recommitment as a CPV, "[i]f a parolee is confined outside the jurisdiction of the Department of Corrections, such as confinement out-of-State, . . . **the revocation hearing shall be held within 120 days of the official verification of the return of the parolee to a State correctional facility.**" 37 Pa. Code § 71.4(1)(i) (emphasis provided).

However, as this Court has explained,

in *Commonwealth ex rel. Rambeau v. Rundle*, 314 A.2d 842 (Pa. 1973), our Supreme Court distinguished between the hearing requirements for convicted and technical parole violators, holding that "of course, in the case of CPVs, as distinguished from technical violators, no such initial hearing need be held because a CPV's trial, at which the CPV was convicted of committing crimes while on parole, serves the same purpose." Later, in *Reavis v. Pennsylvania Board of Probation and Parole*, 909 A.2d 28 (Pa. Cmwlth. 2006), this Court reconciled *Rundle*, holding:

A parolee who is detained as a CPV is not constitutionally entitled to a detention hearing. **The purpose of the detention hearing is to determine whether there is probable cause to support a charge of parole violation. This purpose is fully served by the proceedings at which the prisoner is convicted.**

Id. at 35 (emphasis added).

Iwanicki v. Pa. Parole Bd. (Pa. Cmwlth., No. 97 C.D. 2024, filed June 4, 2025), slip op at 7-8 (internal brackets omitted). Accordingly, the Commonwealth does not deny a parolee due process by not holding a *Gagnon I* detention hearing prior to a parole revocation hearing conducted within 120 days where the revocation is based on a new criminal conviction, as such a hearing would be “redundant.” *Id.*, slip op. at 8-9.

Here, the Board did not violate McGraw’s due process rights by not conducting a *Gagnon I* hearing. McGraw’s CPV status was based on new criminal convictions in Missouri and Pennsylvania, which convictions established the requisite probable cause for parole violation/revocation. Under *Rambeau* and *Reavis*, a separate *Gagnon I* hearing is not constitutionally required for a CPV. Therefore, under the facts presented here, holding a *Gagnon I* hearing would have been redundant and constitutionally unnecessary, the purpose of such a hearing having been fully served by the prior proceedings that resulted in McGraw’s new convictions. Further, we observe that McGraw was returned to State custody on October 28, 2024, and the Board conducted the revocation hearing on December 23, 2024, well within the 120 days mandated by Section 71.4(1)(i) of the Board’s regulations.

V. Authority to Recalculate Maximum Sentence Date

To the extent McGraw argues that the Board lacked the authority to recalculate his maximum sentence date, he is incorrect. Section 6138(a)(1) of the Prisons and Parole Code¹¹ allows the Board to recommit parolees who commit and are convicted of crimes punishable by imprisonment while on parole. *See* 61 Pa.C.S. § 6138(a)(1). Further, Pennsylvania’s General Assembly has expressly authorized the Board to recalculate the maximum date of a sentence beyond the original date, where such recalculation does not add to the total length of the sentence. *See Hughes v. Pa. Bd. of Prob. & Parole*, 179 A.3d 117, 120 (Pa. Cmwlth. 2018) (explaining that the maximum length of the sentence, not the maximum sentence date, is controlling). Such a recalculation accounts for periods during which a prisoner is not actually serving his sentence. *See Vann v. Pa. Bd. of Prob. & Parole* (Pa. Cmwlth., No. 1067 C.D. 2017, filed Apr. 10, 2018), slip op. at 6. It is well settled that, when recalculating the sentence of a CPV, the Board does not encroach upon judicial powers, but merely requires the parole violator to serve his entire sentence under the authority granted by the General Assembly. *See Young v. Bd. of Prob. & Parole*, 409 A.2d 843, 848 (Pa. 1979) (explaining that the Board’s recalculation of a CPV’s sentence “is not an encroachment upon the judicial sentencing power”); *see also Ruffin v. Pa. Bd. of Prob. & Parole* (Pa. Cmwlth., No. 2038 C.D. 2016, filed July 13, 2017), slip op. at 8-9 (citing *Young* for the proposition that “in exercising its power to recommit a parolee beyond the maximum date set by a sentencing court without allowing for credit for time spent at liberty on parole, the Board is not engaging in an unconstitutional usurpation of judicial power but rather is operating

¹¹ 61 Pa.C.S. §§ 101-7301.

under the express authority granted to it by the General Assembly”). Thus, the Board was authorized to recalculate McGraw’s maximum sentence date.

VI. Maximum Sentence Date Recalculation

Regarding McGraw’s suggestion that the Board incorrectly calculated his new maximum date, he is not entitled to relief. Here, the record indicates that, upon his re-parole, McGraw had 1722 days remaining on the Original Sentence. *See* C.R. at 243. The Board awarded McGraw credit for confinement time (70 days), a Board awarded credit (528 days), and a backtime credit (2 days), leaving McGraw with 1122 days of backtime owed. *See* C.R. at 243. The Board ultimately revoked McGraw’s parole on January 9, 2025, and recalculated the new maximum date for the Original Sentence by adding the 1122 days of backtime on the revocation date, yielding a recalculated maximum date for the Original Sentence of January 23, 2028. *See* C.R. at 243-45. We find no error in the Board’s calculations and thus no violation of McGraw’s rights.

Further, to the extent McGraw argues that he was entitled to credit on the Original Sentence for time he spent at liberty on parole, we also do not agree. Parolees convicted of new criminal offenses committed while on parole are subject to recommitment as CPVs and may, in the Board’s discretion, lose credit for *all* “time at liberty on parole,” also known as “street time,” upon recommitment. *Pittman v. Pa. Bd. of Prob. & Parole*, 159 A.3d 466, 474 (Pa. 2017); *see also* 61 Pa.C.S. § 6138(a)(1)-(2.1) (explaining that if the parolee is recommitted as a CPV, the parolee shall be given no credit for the time spent at liberty on parole unless the Board, in its discretion, decides to award the time as provided therein). When exercising its discretion to deny CPVs street time credit, “the Board must provide a contemporaneous statement explaining its reason for denying a CPV credit for time

spent at liberty on parole.” *Pittman*, 159 A.3d at 475. However, “the reason the Board gives does not have to be extensive and a single sentence explanation is likely sufficient in most instances.” *Id.* at 475 n.12. Here, the Board exercised its discretion and denied McGraw a street time credit, explaining its reasoning for the denial of street time as follows: “The offender absconded while on parole supervision thereby warranting the denial of credit for time at liberty on parole.” C.R. at 247. This reason is adequate for the Board to exercise its discretion to deny McGraw credit for time spent at liberty on parole. *See* 61 Pa.C.S. § 6138(a)(2.1). Thus, the Board did not err in denying McGraw credit for time spent at liberty on parole.

VII. Conclusion

For the reasons discussed above, following our independent review of the record and applicable law, we agree with Counsel that McGraw’s issue on appeal lacks factual or legal merit. Additionally, to the extent McGraw raised further substantive issues in his brief to this Court, those issues also lack merit for the reasons discussed above. Accordingly, we find the instant appeal lacks merit, grant the Application to Withdraw, and affirm the Board Order’s denial of the claims contained in McGraw’s administrative appeal of the January 2025 Decision.

CHRISTINE FIZZANO CANNON, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

William McGraw,	:	
Petitioner	:	
	:	
v.	:	
	:	
Pennsylvania Parole Board,	:	No. 720 C.D. 2025
Respondent	:	

ORDER

AND NOW, this 23rd day of September, 2026, the Motion to Withdraw As Counsel filed by Victoria Hermann, Esquire, is GRANTED. The April 23, 2025 order of the Pennsylvania Parole Board is AFFIRMED.

CHRISTINE FIZZANO CANNON, Judge