

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Raymond Harry Miley,	:	
Petitioner	:	
	:	
v.	:	No. 91 M.D. 2025
	:	
Pennsylvania Parole Board,	:	Submitted: June 16, 2026
Respondent	:	

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE MATTHEW S. WOLF, Judge
HONORABLE MARY HANNAH LEAVITT, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE McCULLOUGH

FILED: September 21, 2026

Before this Court in our original jurisdiction are the preliminary objections filed by the Pennsylvania Parole Board (Board) to the Petition for Review (Petition) filed by Raymond Harry Miley (Petitioner). Petitioner alleges that the Board violated his due process rights in denying his application for parole and seeks a writ of mandamus to compel the Board to disclose all information relied upon in denying him parole, to remove all false information from his file, to revise the information in his file, and to immediately interview him for parole using accurate information. Upon review, we sustain the Board's preliminary objections and dismiss the Petition.

I. Factual and Procedural Background

Petitioner is currently incarcerated at the State Correctional Institution at Phoenix (SCI-Phoenix), serving a sentence of 12 years, 6 months to 25 years for two counts of Rape of a Child; Corruption of Minors; and Involuntary Deviate Sexual

Intercourse with a Person Less than 16 years of Age. (Department of Corrections (DOC), Sentence Status Summary Sheet, attached to Board's Preliminary Objections (POs) as Ex. R-1.) On November 15, 2024, the Board denied Petitioner's application for parole, stating:

Following an interview with you and a review of your file, and **having considered all matters required by the Pennsylvania Parole Code, the Parole Board, in the exercise of its discretion**, has determined at this time that: you are denied parole/reparole. The reasons for the Board's decision include the following:

- Reports, Evaluations and Assessments/Level of risk indicates your risk to the community.
- Your failure to demonstrate motivation for success.
- Your minimization/denial of the nature and circumstances of the offense(s) committed.
- Your refusal to accept responsibility for the offense(s) committed.
- Your lack of remorse for the offense(s) committed.
- The negative recommendation made by the prosecuting attorney.
- The nature of your crime.

(Board's POs, Ex. R-2) (emphasis added). The Board's decision also stated that at Petitioner's next parole review, the Board would consider whether Petitioner had (1) maintained a favorable recommendation for parole from the DOC; (2) maintained a clear conduct record; and (3) completed the DOC's prescriptive program(s). *Id.*

On March 12, 2025, Petitioner, through counsel, filed the instant Petition with this Court. The Petition raises three claims. First, Petitioner asserts that the Board violated his substantive and procedural due process rights by relying on false information in denying his application for parole. (Petition, ¶¶ 3, 7, 9.) He further claims that in considering his parole application the Board failed to follow the standards set forth in Section 6135(a) of the Prisons and Parole Code, 61 Pa.C.S.

§ 6135(a).¹ His third claim avers that the Board violated his due process rights by exercising its discretion over whether to grant him parole in an arbitrary and capricious manner. (Petition, ¶ 10.)

On October 30, 2025, the Board filed POs in the nature of a demurrer, alleging that the Petition should be dismissed because it fails to establish a clear legal right to relief. The Board asserts that Petitioner’s claims are not based upon any evidence, but rather are based upon his mere disagreement with the Board’s decision. (Board’s POs at 6.) It further contends that Petitioner has not made any factual allegations that the Board relied on anything outside of 61 Pa.C.S. § 6135(a) or that can otherwise be described as “conscience shocking.” (POs, ¶ 20.) Therefore, the Board maintains that the Petition must be dismissed because it does not state a valid due process claim and also because it seeks relief that is beyond the scope of mandamus. *Id.*, ¶ 8.

The parties have now filed their briefs and the matter is ripe for disposition.²

¹ 61 Pa.C.S. § 6135(a).

² On November 24, 2025, Petitioner filed with this Court a document styled “Petition for Reconsideration pursuant to *Toland v. Pennsylvania Board of Probation & Parole*, 91 MD 2025.” On March 12, 2026, Petitioner filed a “Brief in Support of Amended Petition for Writ of Mandamus” which refers to this document as “an additional Petition, regarding the recent decision in *Toland v. Pennsylvania Board of Probation & Parole*, 344 A.3d 744 (Pa. 2025).” (Petitioner’s Br. in Support of Petitioner’s Amended Petition for Writ of Mandamus.) This document, however, is not a valid Amended Petition for Review because it was not filed within 20 days of the service of the preliminary objections, which were filed on October 30, 2025. It therefore was not filed “as of course within twenty days after service of a copy of preliminary objections” as required by Pennsylvania Rule of Civil Procedure (Pa.R.Civ.P.) 1028(c)(1). Nor was it filed with leave of this Court. Further, the document is not in substance an amended petition because (1) it is titled “Petition for Reconsideration” and (2) it contains very few factual averments, no legal authority, and no real legal claims. To the extent that it relies on our Supreme Court’s decision in the *Toland* **(Footnote continued on next page...)**

II. Discussion

In ruling on preliminary objections in the nature of a demurrer, the Court must accept as true all well-pleaded allegations in the petition for review and all inferences reasonably deduced therefrom. *Savage v. Storm*, 257 A.3d 187, 191 (Pa. Cmwlth. 2021). “However, the Court is not bound by legal conclusions, argumentative allegations, unwarranted inferences from facts, or expressions of opinion.” *Id.* (citation omitted). “A demurrer will not be sustained unless the face of the petition for review shows that the law will not permit recovery, and any doubts should be resolved against sustaining the demurrer.” *Stone and Edwards Insurance Agency, Inc. v. Department of Insurance*, 616 A.2d 1060, 1063 (Pa. Cmwlth. 1992) (internal citations omitted).

Because mandamus is an extraordinary remedy, “[t]his Court may only issue a writ of mandamus where the petitioner possesses a clear legal right to enforce the performance of a ministerial act or mandatory duty, the defendant possesses a corresponding duty to perform the act, and the petitioner possesses no other adequate or appropriate remedy.” *Detar v. Beard*, 898 A.2d 26, 29 (Pa. Cmwlth. 2006); *see also Crozer Chester Medical Center v. Department of Labor & Industry, Bureau of Workers’ Compensation*, 22 A.3d 189, 193 (Pa. 2011) (same). “[M]andamus can only be used to compel performance of a ministerial duty and will not be granted in doubtful cases.” *Hibbard v. Pennsylvania Board of Probation & Parole*, 816 A.2d 344, 345 n. 3 (Pa. Cmwlth. 2003). Moreover, “[t]he burden of proof falls upon the party seeking this extraordinary remedy to establish his legal right to such relief.” *Werner v. Zazyczny*, 681 A.2d 1331, 1335 (Pa. 1996). In the parole context, the only relief an inmate can obtain through mandamus is for the Board to follow proper

III case, the document does not explain how a case dealing with a discovery dispute is relevant to the instant matter which requires us to rule on the Board’s preliminary objections to the Petitioner’s Petition for Review. Therefore, the document is improvidently filed and is dismissed.

procedures and apply the proper law in ruling on his or her parole application. *Weaver v. Pennsylvania Board of Probation & Parole*, 688 A.2d 766, 777 (Pa. Cmwlth. 1997). “The General Assembly has granted the Board broad discretion in parole matters . . . and it is for the Board alone to determine whether or not the prisoner is sufficiently rehabilitated to serve the remainder of his sentence outside the confines of prison.” *Id.* at 770 (citing *Reider v. Pennsylvania Board of Probation & Parole*, 514 A.2d 967 (Pa. Cmwlth. 1986)).

Here, Petitioner claims the Board violated his due process rights by relying upon false information in denying his application for parole. (Petition, ¶ 7; Petitioner’s Br. at 6, 7, 9.) However, neither the Petition nor Petitioner’s brief include factual allegations that identify the false information upon which he claims the Board relied. In addition, he does not indicate which, if any, of the reasons given by the Board for its decision are based on false information. In *Weaver*, this Court held that in matters concerning parole, “mandamus would be issued if [a petitioner] could show that the Board’s refusal to grant parole, **as evident solely in its decision**, was, as a matter of law, based upon an erroneous conclusion that it had the discretion to deny parole for the reason given.” 688 A.2d at 777 (emphasis added). In the present case, Petitioner has not made such a showing. Nor does Petitioner provide any legal authority in support of the remedy he seeks, which is to have the unspecified alleged false information removed from his file.

To support his allegation that the Board relied upon false information, Petitioner asserts that:

The reasons given by [the Board] [for denying his parole] are false, and **they suggest the [Board] has relied on false information.** [Petitioner] has made no effort to minimize the nature and circumstances of the offenses and his written description of the offense behavior shows no minimization. To the contrary, Mr. Miley’s written

statement is an expression of total insight into his role in the offense conduct.

(Petition, ¶ 14) (emphasis added). Instead of making factual allegations, Petitioner assumes that the Board relied upon false information because “Petitioner **knows of no documentation** that could possibly exist” that would support any of the statements made by the Board in its decision denying Petitioner parole and because “much of the documentation Petitioner possesses directly refutes these statements.” (Petitioner’s Br. at 8-9.) He further states in his brief that “[i]n their decision, the Board **appeared to have relied** upon information that is incorrect and false” *Id.* at 8-9 (emphasis added). In Petitioner’s view, “his incarceration record clearly reflects that the reasoning of the Board is fully unsupported and based upon an *objectively* inaccurate portrayal of Petitioner.” *Id.* at 7 (emphasis in original). In addition, while Petitioner admits that his offense was “of a serious nature,” he stresses that he was not determined to be a sexually violent predator (SVP). *Id.* at 9. Petitioner therefore concludes that “[a]s Petitioner has not seen any documentation in support of the Board’s statements in their decision but *has* seen documents to the contrary, he can draw no other conclusion than that the Board relied on false and incorrect information in rendering their decision.” *Id.*

Pennsylvania is a fact-pleading jurisdiction. *Bricklayers of Western Pennsylvania Combined Funds, Inc. v. Scott’s Development Company*, 90 A.3d 682, 694 n.14 (Pa. 2014). “An action filed in mandamus must define the issues, and every act or performance essential to that act must be set forth in the complaint.” *Nickson v. Commonwealth Board of Probation & Parole*, 880 A.2d 21, 23 (Pa. Cmwlth. 2005). Pennsylvania Rule of Appellate Procedure (Pa.R.A.P.) 1513(e)(4), which governs the contents of a petition for review filed in the Court’s original jurisdiction, requires a petitioner to plead “a general statement of the material facts upon which the cause of action is based[.]” Pa.R.A.P. 1513(e)(4). *See also* Pa.R.Civ.P. 1019(a)

(stating that “[t]he material facts on which a cause of action or defense is based shall be stated in a concise and summary form”).³ As this Court stated in *Toland v. Pennsylvania Board of Probation & Parole (Toland I)*, “[o]ur pleading rules operate ‘to require the [petitioner] to disclose the material facts sufficient to enable the adverse party to prepare the case.’” 263 A.3d 1220, 1230-31 (Pa. Cmwlth. 2021) (citing *Bennett v. Beard*, 919 A.2d 365, 367 (Pa. Cmwlth. 2007)).

In the case *sub judice*, Petitioner offers **no** specific facts to support his conclusion that the information the Board relied on in denying his parole is false, but instead disagrees with the Board’s **assessment** of the facts it considered in making its parole decision. In *Toland I*, this Court considered an inmate’s request for mandamus relief based on the inmate’s claim that the Board had relied upon false information in denying his parole application. There, as here, the petitioner requested that this Court order the Board to produce all information relied upon in denying parole, to remove all false information from the petitioner’s file, to prepare revised information to be used in the petitioner’s case, and to immediately interview the petitioner for parole using accurate information. 263 A.3d at 1229. In that case, the petitioner alleged that during his parole interview the Board’s interviewer incorrectly reported that the petitioner had been convicted of four counts of rape, when the petitioner in fact had only been charged with one count of rape. *Id.* at 1227. He also alleged that the Board incorrectly considered his supposed past history of domestic violence, when, in fact, he had never been accused, investigated or arrested for domestic violence. *Id.* Thus, in *Toland I*, the petitioner successfully alleged that the Board relied upon incorrect information and that its decision to deny his parole

³ Pa.R.A.P. 1517 provides: “Unless otherwise prescribed by these rules, the practice and procedure under this chapter relating to pleadings in original jurisdiction petition for review practice shall be in accordance with the appropriate Pennsylvania Rules of Civil Procedure, so far as they may be applied.”

application was based on demonstrably incorrect information. Given these facts, this Court overruled the Board's demurrer.⁴

The facts of the present case differ greatly from those in *Toland I*. Here, Petitioner did not aver any facts to support his assertion that the Board relied upon incorrect information when rendering its decision. Rather, Petitioner's claims are based solely on subjective allegations, unwarranted inferences, and expressions of opinion that this Court is not bound by when evaluating preliminary objections. *Savage*, 257 A.3d at 191. The allegation here that the Board relied upon false information more closely resembles a similar allegation made in *Coady v. Vaughn*, 251 F.3d 480 (3d Cir. 2001). There, the Third Circuit Court of Appeals stated:

[W]hile the petition alleges that the Board considered false information, it does not specify the basis for this allegation, and it is apparent from the petition that Coady simply has a different opinion with respect to the factors cited by the Board and believes it gave inadequate weight to information about his institutional experience tending to support his opinion.

Coady,⁵ 251 F.3d. at 487.

In addition, in considering an allegation that false information had been relied upon by a state parole board, the Eleventh Circuit Court of Appeals acknowledged that "the parole statute does not authorize state officials to rely on knowingly false information in their determinations." *Monroe v. Thigpen*, 932F.2d 1437, 1442 (11th Cir. 1991) (citation omitted). The *Monroe* court further stated that:

⁴ Similarly in *Byrd v. Pennsylvania Board of Probation & Parole*, 826 A.2d 65 (Pa. Cmwlth. 2003), although he did not prevail, a petitioner who claimed that the Board denied him parole based on false information identified the alleged false information as erroneous information that he had been classified as a SVP. *Id.* at 65-66.

⁵ While not binding, decisions from the federal district and circuit courts may be cited for their persuasive value. *Edinger v. Borough of Portland*, 119 A.3d 1111, 1115 (Pa. Cmwlth. 2015).

We held in *Slocum v. [Georgia State Board of Pardons and Paroles*, 678 F.2d 940, 942 (11th Cir.), *cert. denied*, 459 U.S. 1043 (1982),] prisoners do not state a due process claim by merely asserting that erroneous information may have been used during their parole consideration. *Id.* at 942. We also determined that prisoners do not have a due process right to examine their prison files as part of a general fishing expedition in search of false information that could possibly exist in their files. *Id.*

Monroe, 932 F.2d at 1442.

As noted above, Pa.R.A.P. 1513(e)(4) requires a petitioner to plead “a general statement of the material facts upon which the cause of action is based[.]” Pa.R.A.P. 1513(e)(4). Our Supreme Court has held, where, as here, facts necessary to substantiate a claim have not been pled, the case is properly dismissed. *Frey v. Dougherty*, 132 A. 717 (Pa. 1926). Accordingly, we find Petitioner’s argument that the Board relied upon false information in making its parole decision to be without merit.

Next, Petitioner argues that the Board violated his due process rights by failing to follow the standards set forth in 61 Pa.C.S. § 6135(a) of the Parole Code. (Petition, ¶ 3.) He avers that in denying his application for parole, the Board ignored the following factors that it was statutorily required to consider:

- (1) an offender’s prison conduct;
- (2) the recommendation of the confining institution;
- (3) the nature and circumstances of the offense;
- (4) the recommendation of the judge and the prosecutor;
- (5) the prisoner’s general character and background;
- (6) the prisoner’s non-existent criminal history; and
- (7) submission of a satisfactory parole plan.

Id., ¶15. He further states that the Board ignored his rehabilitative, educational, and behavioral accomplishments while incarcerated and instead focused on the nature of the crimes he committed more than ten years ago. *Id.* Specifically, Petitioner maintains that the Board ignored the following facts: (a) he entered a guilty plea to his crimes and at the parole hearing he took total responsibility for his crimes; (b) he was not classified as an SVP; (c) he participated in all programs deemed appropriate by the DOC; (d) he has a long record of clear conduct; (e) he has no prior convictions; and (f) he submitted a reentry plan. (Petition, ¶¶ 11, 13.)

To the extent that Petitioner seeks to have this Court require the Board to consider certain factors or weigh them in a particular manner in deciding his parole application, he fails to state a claim upon which relief may be granted. While “the Board is required to consider a prisoner’s application for parole filed after the minimum term of his sentence has expired, it has the power and broad discretion to grant or deny the application.” *McGinley v. Pennsylvania Board of Probation & Parole*, 90 A.3d 83, 92 (Pa. Cmwlth. 2014); *see also Mickens-Thomas v. Board of Probation & Parole*, 699 A.2d 792 (Pa. Cmwlth. 1997).

Section 6135(a) of the Parole Code sets forth the factors the Board “shall consider” when reviewing an inmate’s parole application. These factors include:

- (1) The nature and circumstances of the offense committed.
- (2) Any recommendations made by the trial judge and prosecuting attorney.
- (3) The general character and background of the inmate.
- (4) Participation by an inmate sentenced after February 19, 1999, and who is serving a

sentence for a crime of violence as defined in 42 Pa.C.S. § 9714(g) (relating to sentences for second and subsequent offenses) in a victim impact education program offered by the Department of Corrections.

- (5) The written or personal statement of the testimony of the victim or the victim's family submitted under section 6140 (relating to victim statements, testimony and participation in hearing).
- (6) Notes of testimony of the sentencing hearing, if any, together with additional information regarding the nature and circumstances of the offense committed for which sentence was imposed as may be available.
- (7) The conduct of the person while in prison and his physical, mental and behavioral condition and history, his history of family violence and his complete criminal record.

61 Pa.C.S. § 6135(a). The Board's decision denying Petitioner's application for parole specifically mentions two of the factors listed by Petitioner as having been ignored by the Board. These factors are "the nature and circumstances of your crime" and "any recommendations made by . . . the prosecuting attorney."⁶ Thus, Petitioner's assertion that the Board did not consider these two required factors is in error. *See* Board's Decision at 1.⁷ In addition, we note that the Board's decision

⁶ The Board's decision explicitly stated that it based its decision upon "the nature of your crime" and "the negative recommendation made by the prosecuting attorney." (Board's POs, Ex. R-2.)

⁷ In addition, Petitioner contends that if there was a negative recommendation by the prosecuting attorney, it was never disclosed to him in violation of due process. (Petition, ¶ 11.) **(Footnote continued on next page...)**

expressly states that it **interviewed the Petitioner** and **reviewed his file**. And that it “considered all matters required by the Pennsylvania Parole Code,” *Id.*

While the Board is statutorily required to consider the seven listed factors when making its parole decisions, Petitioner appears to assume that any factor not specifically mentioned in the Board’s statement of reasons for its decision was not considered. We find this conclusion to be unwarranted because the Parole Code contains no requirement that the Board **discuss** each factor listed in Section 6135(a) in its parole decision. Rather, the Parole Code only requires that the Board **consider** each factor and that the Board’s decisions provide a “brief statement of the reasons for its action.” 61 Pa.C.S. § 6139(a)(5)(ii).⁸ This Court has held that the Board’s statement of reasons for its decision need not be “extremely detailed [or] specific.” *Hollawell v. Pennsylvania Board of Probation & Parole*, 701 A.2d 290, 291 (Pa. Cmwlth. 1997). Here, the Board specifically indicated that it considered all of the factors required by the Parole Code. (Board’s POs, Ex. R-2.)

Because “the Board is specifically given discretion to determine whether [a prisoner] poses a risk to society and in the factors it considers relevant for doing so[.]” *Homa v. Pennsylvania Board of Probation & Parole*, 192 A.3d 334 (Pa. Cmwlth. 2018), “mandamus cannot be used to dispute the weight the Board gave to the factors for parole.” *Id.* at 332; *see also Weaver*, 688 A.2d at 777

However, Petitioner does not claim that the Board had a legal duty to provide this information to Petitioner.

⁸ Section 6139 of the Parole Code sets forth the procedures the Parole Board must follow when considering applications for parole. Section 6139(a)(5)(ii) provides:

- (ii) If an incarcerated person is denied parole, the board shall provide a brief statement of the reasons for the board’s refusal.

61 Pa.C.S. § 6139(a)(5)(ii).

(“Mandamus cannot be used to say that an agency considered improper factors, that its findings of fact were wrong, or that the reasons set forth in its decision are a pretense.”).

In *McGinley*, this Court held:

The Board has the discretion as to which of these factors should be afforded the most weight. . . . “[I]n an action in mandamus involving an administrative agency’s exercise of discretion, we may only direct the agency to perform the discretionary act; we may not direct the agency to exercise its judgment or discretion in a particular way or direct the retraction or reversal of action already taken.” *Hibbard*. Accordingly, this Court is not permitted to compel the Board, when considering whether to grant parole, to weigh the factors in Section 6135 of the [] Parole Code in a particular way.

90 A.3d at 93.

The Third Circuit Court of Appeals has held that “the requirements of substantive due process are met if there is some basis for the challenged decision.” *Coady*, 251 F.3d at 487; *see also Stewart v. Pennsylvania Board of Probation & Parole*, 714 A.2d 502, 507 (Pa. Cmwlth. 1998) (stating that “as long as the factors cited by the Parole Board for its parole denial . . . are facially relevant, we will not inquire further”). In the present case, the Board provided seven reasons that were rationally related to the issues before it upon which it based its decision to deny Petitioner’s application for parole. *See* Board’s POs, Ex. R-1. For these reasons, we find that Petitioner has failed to show facts legally sufficient to establish his clear right to legal relief based upon the claim that the Board failed to follow the standards set forth in Section 6235(a) of the Parole Code.

Finally, Petitioner’s claim that the Board exercised its discretion in an arbitrary and capricious manner also fails. *Id.*, ¶¶ 10, 13. Other than his bald assertion that the Board relied upon false information and failed to carry out its

statutory obligations under the Parole Code, Petitioner provides no argument or explanation as to how the Board’s decision was arbitrary or capricious.

This Court has held that failure to adequately develop an argument in briefing may result in waiver of that argument. *Toland v. Pennsylvania Board of Probation & Parole*, 311 A.3d 649 (Pa. Cmwlth. 2024) (*Toland II*). There, we explained that, for purposes of our original jurisdiction, the Rules of Appellate Procedure operate as our local rules, and as such, “issues relating to briefing in original jurisdiction implicate the relevant Rules of Appellate Procedure.” *Id.* at 670 n. 23 (citing *Chester Community Charter School v. Department of Education*, 996 A.2d 68, 74-75 (Pa. Cmwlth. 2010)). Pa.R.A.P. 2119(a) directs counsel to include “discussion and citation of authorities . . .” *See Commonwealth v. Perez*, 93 A.3d 829, 838 (Pa. 2014) (“[T]o the extent [a party’s] claims fail to contain developed argument or citation to supporting authorities . . . they are waived.”). Therefore, Petitioner’s failure to provide any authority for its third argument which maintains that the Board’s decision on his parole application was arbitrary or capricious amounts to a waiver of this argument.

III. Conclusion

After careful review of the Petition, accepting as true all well-pleaded allegations and reasonable inferences therefrom, we conclude that Petitioner failed to state a valid mandamus claim because he did not allege a clear legal right to relief or a corresponding duty in the Board to grant such relief. Accordingly, we sustain the Board’s Preliminary Objection in the nature of a demurrer and dismiss the petition for review.

PATRICIA A. McCULLOUGH, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Raymond Harry Miley,	:	
Petitioner	:	
	:	
v.	:	No. 91 M.D. 2025
	:	
Pennsylvania Parole Board,	:	
Respondent	:	

ORDER

AND NOW, this 21st day of September, 2026, the preliminary objections in the nature of a demurrer filed by the Pennsylvania Parole Board are SUSTAINED, the Petition for Review is DISMISSED and the document entitled “Petition for Reconsideration” is DISMISSED as improvidently filed.

PATRICIA A. McCULLOUGH, Judge