

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Robert James Frawley,	:
Petitioner	:
	:
v.	: No. 146 C.D. 2025
	: Submitted: May 12, 2026
Pennsylvania Parole Board,	:
Respondent	:

BEFORE: HONORABLE LORI A. DUMAS, Judge
HONORABLE STACY WALLACE, Judge
HONORABLE BONNIE BRIGANCE LEADBETTER, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE WALLACE

FILED: October 15, 2026

Robert James Frawley (Frawley) petitions for review of a January 8, 2025 order (Order) of the Pennsylvania Parole Board (Board), which denied Frawley's appeal of a decision rescinding his automatic reparole because he committed a disciplinary infraction involving a controlled substance. Frawley's appointed counsel (Counsel) filed a *Turner* letter¹ advising the Court that Frawley's appeal lacks merit, and an Application to Withdraw as Counsel (Application). After review, we grant the Application and affirm the Order.

¹ *Commonwealth v. Turner*, 544 A.2d 927 (Pa. 1988).

I. Factual and Procedural Background

Frawley pled guilty in 2015 to burglary and received a sentence of 6-12 years of imprisonment. Certified Record (C.R.) at 1.²

The Board granted parole and released Frawley in 2020. *Id.* at 6-14. Several times thereafter, the Board recommitted Frawley as a technical parole violator, then released him on automatic reparole. C.R. at 16-43; *see* 61 Pa.C.S. § 6138(d)(3).

On June 5, 2024, while incarcerated after his latest parole violation, Frawley “received a possession of contraband (Suboxone) misconduct.” C.R. at 44. The Board issued an Automatic Reparole Recission Report to rescind his automatic reparole because the infraction involved a controlled substance. *Id.* at 45-48. On August 23, 2024, the Board rescinded Frawley’s automatic reparole. C.R. at 49. *See* 61 Pa.C.S. § 6138(d)(5)(i).³

Frawley appealed to the Board, asserting the statute did not require rescission because his infraction was possession of contraband, not possession of a controlled substance. *Id.* at 50-53, 56-58.

On January 8, 2025, the Board gave notice of the Order affirming the decision to rescind automatic reparole. *Id.* at 60-62. Counsel filed a timely Petition for Review (Petition) on Frawley’s behalf, asserting the Order lacked support in

² This Court granted Frawley’s application to proceed *in forma pauperis* and thereby excused him from reproducing the record. Pa.R.A.P. 2151(b).

³ If the Board recommits an inmate for a technical parole violation (TPV) that inmate must serve a specified amount of time; the amount depends on how many TPVs the inmate committed. He is then automatically reparaoled without further Board action. 61 Pa.C.S. § 6138(d)(3). The provision on which the Board relied in rescinding Frawley’s automatic reparole provides that the time limits in subsection (d)(3) do not apply if the inmate commits a disciplinary infraction “involving” a controlled substance. 61 Pa.C.S. § 6138(d)(5)(i).

substantial evidence and the Board “mischaracterized and improperly applied” the statute. Petition at 2.⁴

Counsel filed the Application and *Turner* letter.⁵ Letter, Kent D. Watkins, Esq. to Office of Chief Clerk of Commonwealth Court (Letter), 4/15/2025. This Court issued an Order allowing Frawley to engage new counsel and file a brief, through new counsel or on his own behalf, within 30 days. Order, 4/17/2025. Counsel served that Order on Frawley. Certificate of Service, 4/18/2025. No other counsel has appeared, and Frawley did not file a brief.

II. *Turner* Letter and Application to Withdraw

Before considering the merits of Frawley’s appeal, we must first address Counsel’s *Turner* letter and Application. Where court-appointed counsel believes the petitioner’s case lacks merit, this Court may permit counsel to withdraw from the representation if counsel submits a *Turner* letter that “detail[s] the nature and extent of . . . [counsel’s] review and list[s] each issue the petitioner wished to have raised, with counsel’s explanation of why those issues . . . [are] meritless.” *Turner*, 544 A.2d at 928. Further, we must confirm counsel satisfied the following procedural requirements: (1) counsel notified the petitioner of the request to withdraw; (2) counsel provided the petitioner with a copy of the *Turner* letter; and (3) counsel advised the petitioner of his right to retain new counsel or file a brief on his own behalf. *Miskovitch v. Pa. Bd. of Prob. & Parole*, 77 A.3d 66, 69 (Pa. Cmwlth. 2013). When counsel satisfies these procedural requirements, we conduct

⁴ The Petition is not paginated; citations here refer to electronic page numbers of the filed PDF document.

⁵ The term “*Turner* letter” refers to the Pennsylvania Supreme Court decision that set forth “the appropriate procedures for the withdrawal of court-appointed counsel in collateral attacks on criminal convictions.” *Turner*, 544 A.2d at 927.

an independent review of the issues and, if we concur in counsel's assessment, we may grant counsel leave to withdraw. *Hont v. Pa. Bd. of Prob. & Parole*, 680 A.2d 47, 48 (Pa. Cmwlth. 1996).

Counsel satisfied the technical *Turner* requirements in this case. The Letter sets forth the relevant factual and procedural history. Letter at 1-4. It indicates after "conducting an exhaustive examination of the record" Counsel "concluded that Mr. Frawley's appeal is without merit and lacks support in either law or fact." *Id.* at 1. The Letter analyzes the issues Frawley raised in his appeal and discusses the record facts and applicable law. *Id.* at 4-6. Counsel provided Frawley a copy of the letter and informed him of his right to retain substitute counsel or file a *pro se* brief. *Id.* at 6. As Counsel complied with *Turner's* requirements, we now independently review the merits of Frawley's Petition.

III. Discussion

In reviewing the Board's decision, we are limited to determining whether constitutional rights have been violated, whether an error of law has been committed, or whether the necessary findings of fact are supported by substantial evidence. *Gibson v. Pa. Bd. of Prob. & Parole*, 3 A.3d 754, 755 n.1 (Pa. Cmwlth. 2010) (citing Section 704 of the Administrative Agency Law, 2 Pa. C.S. § 704). "'Substantial evidence' has been defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion," and "requires something more than a scintilla creating a mere suspicion of the existence of the fact to be established." *Chapman v. Pa. Bd. of Prob. & Parole*, 484 A.2d 413, 416 (Pa. Cmwlth. 1984) (citations omitted). When presented with a question of law, such as statutory interpretation, our standard of review is *de novo*, and our scope of review is plenary. *Pittman v. Pa. Bd. of Prob. & Parole*, 159 A.3d 466, 473 (Pa. 2017). "In other

words, we do not defer to the . . . [Board’s] conclusions of law, and we reassess the record with a fresh pair of eyes.” *Allegheny Cnty. Dep’t of Health v. Wilkerson*, 329 A.3d 111, 117 (Pa. Cmwlth. 2024).

Frawley presents two issues in his Petition. He first contends the Order “is not supported by substantial evidence.” Petition at 2. Frawley waived that issue. Although the form on which he submitted his appeal to the Board contains a mark in the box for “Insufficient Evidence,” C.R. at 50, neither his submission to the Board, *id.* at 50-52, 56-58, nor his filing in this Court, Petition at 2, identifies any finding of fact not supported by substantial evidence, or explains why the Order lacks such support. The regulation required a clear and specific presentation of factual points for the Board’s consideration. 37 Pa. Code § 73.1(a)(3). Frawley provided none to the Board, and his failure to present the issue there waives it here. Pa.R.A.P. 1551(a).

Even if Frawley had not waived the issue, we would conclude it lacks merit. The Board rescinded automatic parole because Frawley committed a disciplinary infraction “involving” a controlled substance, 61 Pa.C.S. § 6138(d)(5)(i), possession of contraband consisting of a dose of Suboxone. Frawley does not dispute that correctional authorities found he committed that infraction. He also does not dispute the facts underlying that finding, nor could he, as an inmate may not collaterally attack the disciplinary finding in an appeal from rescission of reparole. *Henderson v. Pa. Parole Bd.*, 277 A.3d 633, 637 (Pa. Cmwlth. 2022).

Frawley next contends the Board “improperly applied” the statute, arguing it does not support rescission of automatic reparole because his infraction was not one “involving” a controlled substance. Frawley bases that argument on the fact that the particular charge levied against him in the disciplinary proceeding was possession

of contraband, not possession of a controlled substance. The fact remains, however, that the contraband Frawley possessed was Suboxone, C.R. at 44-48, a controlled substance.⁶

In *Thomas v. Pennsylvania Parole Board*, 304 A.3d 810 (Pa. Cmwlth. 2023), we rejected the same argument Frawley makes here. In that case we affirmed a decision by the Board rescinding automatic reparole for an inmate found guilty only of possession of contraband, because the contraband in question was a controlled substance, therefore, the infraction was one “involving” a controlled substance under the statute. *Id.* at 815. Although that statement arguably is dictum, as the Court first concluded Thomas waived this issue by failing to present it to the Board, we find the reasoning persuasive here.

The statute does not require the infraction be adjudicated based on an explicit charge of possession of a controlled substance, to be one “involving” a controlled substance. The ordinary meaning of “involving,” in this context, is “to relate closely.” Merriam-Webster Dictionary, Involving, found at <https://www.merriam-webster.com/dictionary/involving> (last visited October 14, 2026).⁷ Frawley’s possession of contraband relates closely to a controlled substance because the contraband he possessed *is* a controlled substance. *See also Rawson v. Com., Dept.*

⁶ Suboxone contains buprenorphine. Prescribing Information, Suboxone, located at https://www.accessdata.fda.gov/drugsatfda_docs/label/2018/020733s022lbl.pdf (last visited October 14, 2026). Buprenorphine is a controlled substance. 35 P.S. § 780-104(3)(i)(11); 28 Pa. Code § 25.72(d)(10). *See also Miller v. Pa. Parole Bd.* (Pa. Cmwlth., No. 9 C.D. 2021, filed Dec. 22, 2021), 2021 WL 6057879.

⁷ The term “involving” is not defined in the statute. *See* 61 Pa.C.S. § 6101. The Court construes the term according to its “common and approved usage” 1 Pa.C.S. § 1903. That usage may be determined by resort to dictionary definitions. *St. Ignatius Nursing Home v. Dep’t of Pub. Welfare*, 918 A.2d 838, 845 (Pa. Cmwlth. 2007).

of Transp., Bureau of Driver Licensing, 99 A.3d 143, 151-52 (2014) (court construed “broadly” the term “involving,” in a statute that required suspension of operating privileges of a driver convicted of an offense “involving” possession of a controlled substance, and held attempt to possess a controlled substance mandated suspension even though attempt was not in the list of specific offenses in the statute).

For the reasons explained above, the Board did not err as a matter of law by rescinding Frawley’s automatic reparole.

IV. Conclusion

The Application is granted, and the Order is affirmed.

STACY WALLACE, Judge

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ORDER

AND NOW, this 15th day of October 2026, the Application to Withdraw as Counsel filed by Petitioner's appointed counsel, Kent D. Watkins, Esquire, is **GRANTED**. The Order issued by the Pennsylvania Parole Board on January 8, 2025, denying Petitioner's administrative appeal of the Board decision recorded on August 23, 2024, rescinding automatic reparole of Petitioner under the statute, 61 Pa.C.S. § 6138(d)(5)(i), is **AFFIRMED**.

STACY WALLACE, Judge