

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

James McCode,	:	
	:	
Petitioner	:	
	:	
v.	:	No. 268 C.D. 2026
	:	Submitted: July 24, 2026
Pennsylvania Parole Board,	:	
	:	
Respondent	:	

BEFORE: HONORABLE RENÉE COHN JUBELIRER, President Judge
HONORABLE MICHAEL H. WOJCIK, Judge
HONORABLE STELLA M. TSAI, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION BY
PRESIDENT JUDGE COHN JUBELIRER

FILED: October 15, 2026

James McCode (McCode), representing himself,¹ petitions for review of the January 28, 2026 Order (Order) of the Pennsylvania Parole Board (Board), affirming its decision of December 1, 2025 (Recommitment Decision), that recommitted McCode as a convicted parole violator (CPV) for a term of 24 months and recalculating McCode's state sentence maximum date (state maximum date) as December 9, 2027. In the Order, the Board determined that because McCode was paroled from a state sentence and later convicted of new federal crimes that involved

¹ By order dated March 26, 2026, this Court appointed the Public Defender of Montgomery County (Public Defender) as counsel for McCode. *McCode v. Pa. Parole Bd.* (Pa. Cmwlth., No. 268 C.D. 2026, filed Mar. 26, 2026) (citing *Bronson v. Pa. Bd. of Prob. & Parole*, 421 A.2d 1021 (Pa. 1980); *Brewer v. Pa. Bd. of Prob. & Parole*, 494 A.2d 36 (Pa. Cmwlth. 1985)). The Public Defender later filed an application to withdraw as counsel, at McCode's direction, which this Court granted. *See McCode v. Pa. Parole Bd.* (Pa. Cmwlth., No. 268 C.D. 2026, filed May 14, 2026).

violence, the Board was authorized under Section 6138(a)(2) of the Prisons and Parole Code (Code), 61 Pa.C.S. § 6138(a)(2),² to recommit McCode as a CPV and to deny McCode credit for his time while at liberty on parole. The Board further held that McCode did not become available to resume serving his original state sentence until October 8, 2025, the date of his federal resentencing.

On appeal, McCode argues the Board should give effect to the Federal Bureau of Prison's (BOP) good conduct time (GCT) credit³ decision in his federal sentence because the Board is a "stranger" to McCode's relationship with the BOP and the Board should award additional backtime credit based on his earlier release date, which was due to his receipt of the GCT credit. Upon careful review of the record and the law, we reaffirm that the Board may not apply federal GCT credit to a state sentence and discern no error in the Board's determination that McCode was not available to restart serving his original state sentence until October 8, 2025. Using this date as the date from which to calculate McCode's new state maximum date, the

² Section 6138(a)(2) of the Code provides:

(a) Convicted violators.--

....

(2) If the offender's parole is revoked, the offender shall be recommitted to serve the remainder of the term which the offender would have been compelled to serve had the parole not been granted and, except as provided under paragraph (2.1), shall be given no credit for the time at liberty on parole.

61 Pa.C.S. § 6138(a)(2).

³ In the federal system, inmates serving sentences of more than 1 year, other than a life sentence, may earn up to 54 days of GCT credit, subject to a BOP determination, if the inmate displays exemplary compliance with institutional disciplinary regulations. 18 U.S.C. § 3624(b).

Board's calculation of that date as December 9, 2027, is not erroneous. Therefore, we affirm.

I. BACKGROUND

Because our review implicates only the Board's recalculation of McCode's state maximum date, a detailed recitation of the facts underlying McCode's state and federal convictions is unnecessary. McCode has been incarcerated by state and federal authorities for the better part of three decades. In 1996, McCode was convicted of state crimes and sentenced to 8-to-20 years in a State Correctional Institution (SCI), with a minimum sentence date of February 24, 2004, and a state maximum date of February 24, 2016 (original state sentence). (Certified Record (C.R.) at 1.) The Board paroled McCode in 2004, at which time he had 4,363 days remaining on his sentence. (*Id.* at 5-7.) On October 5, 2006, the Board lodged a detainer warrant against McCode based on his arrest by the Federal Bureau of Investigation for federal robbery and firearms charges, both of which constitute violent offenses.⁴ (*Id.* at 12, 19.) The Board stated that McCode's state maximum date would be extended based on a later conducted computation. (*Id.* at 12.)

On December 5, 2007, McCode was convicted in the United States District Court for the Eastern District of Pennsylvania (District Court) and sentenced to about 23 years of federal confinement.⁵ (*Id.* at 97-98.) On October 8, 2025, after serving

⁴ It appears the record reflects two dates relating to when McCode was arrested on the federal charges. The Board lodged its detainer on October 5, 2006, but in the affirmation of the Recommitment Decision, the Board states that McCode was arrested on October 11, 2006. (*See* C.R. at 12, 19, 139-40.) However, the date discrepancy has no impact on the issues under review or our disposition.

⁵ We note that McCode's federal sentence was imposed in 2007, prior to the enactment of Section 6138(a)(5.1) of the Code, 61 Pa.C.S. § 6138(a)(5.1), which states that "[i]f the offender is (Footnote continued on next page...)

about 19 years in federal prison, McCode was resentenced to terms of 51 months of confinement with 3 years of supervised release, and 60 months of confinement with 5 years of supervised release, for a total of 111 months of confinement.⁶ (*Id.* at 97-99, 101.) Having served more than his new sentence, McCode was released from federal custody on October 8, 2025, his resentencing date, and returned to an SCI the following day. (*Id.* at 19.)

The Board issued a Notice of Charges and Hearing based on McCode’s federal convictions on November 12, 2025, and counsel entered their appearance on McCode’s behalf on November 25, 2025. (*Id.* at 14-15.) A Board hearing examiner held a revocation hearing on November 25, 2025, and took testimony from McCode, who was represented by counsel, about his rehabilitation and the education he received during confinement, heard arguments from both parties, and entered into evidence documentation of McCode’s federal convictions, which were not disputed by McCode. (*Id.* at 20-49, 73-74.)

Thereafter, the Board issued its Recommitment Decision, wherein it recommitted McCode as a CPV, determined that a 24-month recommitment period was appropriate, based on the violent nature of McCode’s federal convictions, and denied McCode credit for his time at liberty on parole as required by Section

sentenced to serve a new term of total confinement by a Federal court or by a court of another jurisdiction . . . the offender shall serve the balance of the original term before serving the new term.” As such, the order in which McCode was required to serve his state and federal sentences is not subject to the mandates of Section 6138(a)(5.1). *See Lawrence v. Pa. Bd. of Prob. & Parole*, 145 A.3d 799, 804 (Pa. Cmwlth. 2016) (noting that where an “[i]nmate’s federal sentence was imposed in 2008[, t]he order in which [the i]nmate was to serve his sentences and the Board’s recalculation of his [state] maximum sentence date are therefore not subject to Section 6138(a)(5.1)”).

⁶ “[A] statutory release date is the ‘Expires Full Term Date’ . . . less any statutory good time or extra good time adjustments.” *Von Kahl v. Kallis* (C.D. Ill., No. 18-cv-1245-JES, filed Aug. 21, 2019), 2019 WL 3947910, at *4.

6138(a)(2) of the Code. (*Id.* at 111-12). In addition, the Board determined that McCode’s effective date of return was October 8, 2025, it gave McCode 3,571 days in backtime credit, and it concluded that he still owed 792 days in backtime. (*Id.* at 108.) Based on this, the Board recalculated McCode’s state maximum date to December 9, 2027. (*Id.*) McCode filed an administrative appeal challenging the Board’s Recommitment Decision, arguing the Board failed to recognize 499 days of GCT credit the BOP applied to McCode’s federal sentence and that the Board failed to credit him an additional 473 days of backtime credit. (*Id.* at 113-15.)

The Board affirmed the Recommitment Decision,⁷ (*id.* at 139-40), and upheld McCode’s new state maximum date of December 9, 2027, as proper. It explained its calculations as follows:

On October 5, 2006, the Board . . . lodged its detainer against [McCode]. On October 11, 2006, [McCode] was arrested for new criminal charges for the [f]ederal docket number 2:06-CR-000543-004 and did not post bail. [McCode] was sentenced on October 8, 2025[,] to a term of [f]ederal confinement for 51 months with 3 years’ supervised^[8] release (2 counts) and 60 months confined with 5 years’ supervised release for a total of 111 months of incarceration. [McCode] was given back time from October 5, 2006[,] to October 10, 2006[,] (5

⁷ Under the Code, “the decision whether to grant or deny a [CPV] credit for time at liberty on parole is purely a matter of discretion.” *Soto v. Pa. Parole Bd.*, 311 A.3d 1260, 1262 (Pa. Cmwlth. 2024). “When exercising its discretion to deny credit for time spent at liberty on parole, the Board must provide a contemporaneous statement explaining its reason.” *Plummer v. Pa. Bd. of Prob. & Parole*, 216 A.3d 1207, 1211 (Pa. Cmwlth. 2019) (citing *Pittman v. Pa. Bd. of Prob. & Parole*, 159 A.3d 466 (Pa. 2017)). “This allows the appellate court reviewing the matter to have a method to assess the Board’s exercise of discretion.” *Id.* (citation omitted). Here, in the Recommitment Decision, the Board stated that because McCode committed a violent offense under Section 9714(g) of the Code, *as amended*, 42 Pa.C.S. § 9714(g), it was prohibited from awarding McCode credit for time at liberty on parole. (C.R. at 111.)

⁸ “Supervised release is a type of post-confinement monitoring that is overseen by federal district courts with the assistance of federal probation officers rather than by the United States Parole Commission.” *Spruill v. Pa. Bd. of Prob. & Parole*, 158 A.3d 727, 729 n.4 (Pa. Cmwlth. 2017) (citing *Gozlon-Peretz v. United States*, 498 U.S. 395 (1991)).

days) and from January 3, 2016[,] to October 8, 2025[,] (3[,]566 days) for a total of 3[,]751 days. (January 3, 2016[,] is the expiration full term date located on the federal inmate data sheet dated October 8, 2025.) When you subtract 3[,]751 days [from the 4,373 owed], there were 792 days remaining on his original sentence.

[McCode] became available to begin service of his original sentence following his sentence date of October 8, 2025. Adding 792 days to that date yields a **new maximum sentence date of December 9, 2027**.

(*Id.* at 139-40 (emphasis added).)

McCode petitioned this Court for review of the Board’s Order and filed a “Motion to Expedite Proceeding,” which this Court treated as an application to expedite.⁹ By order dated June 18, 2026, this Court granted McCode’s application and listed this matter for expedited review. *McCode v. Pa. Parole Bd.* (Pa. Cmwlth., No. 268 C.D. 2026, filed June 18, 2026).

II. DISCUSSION¹⁰

The issues under consideration are whether the Board must give effect to the BOP’s GCT credit decision and recognize an earlier release date from federal custody for the purpose of determining when McCode became available to resume serving his original state sentence and for recalculating his new state maximum date.

⁹ See *Robinson v. Schellenberg*, 729 A.2d 122, 124 (Pa. Cmwlth. 1999) (noting this Court is “generally inclined to construe pro se materials liberally”) (emphasis removed).

¹⁰ “This Court’s review determines whether the [] Board’s adjudication is supported by substantial evidence, whether an error of law has been committed, or whether constitutional rights have been violated.” *Soto*, 311 A.3d at 1262 n.1 (Pa. Cmwlth. 2024) (citation omitted). “When presented with a question of law, our standard of review is *de novo*, and our scope of review is plenary[, but w]here the law grants the [] Board discretion, we review for an abuse of discretion.” *Id.* (citing *Pittman*, 159 A.3d at 473-74).

A. Parties' Arguments

On appeal, McCode argues the Board must give effect to the BOP's GCT credit decision because the Board is a "stranger" to his relationship with the BOP and the Board cannot ignore his revised federal statutory release date when determining the date he became available to resume serving his original state sentence. (McCode's Brief (Br.) at 5-7; McCode's Reply Br. at 8-9.) McCode analogizes this situation to the scenario in *Santiago v. Pennsylvania Board of Probation and Parole*, 937 A.2d 610 (Pa. Cmwlth. 2007) (en banc), wherein we held, in part, that while the Full Faith and Credit Clause of the United States Constitution, U.S. CONST. art. IV, § 1, does not apply to criminal judgments of other states, the Board was a stranger to a Maryland court order that provided that the parolee's Maryland state sentence could run concurrent with his service of his original Pennsylvania sentence, and it could not convert that concurrent sentence to a consecutive sentence by denying the parolee credit for the time he served in an SCI. (McCode's Br. at 6-7; McCode's Reply Br. at 7-8 (citing *Santiago*, 937 A.2d at 614-15).)

According to McCode, based on the BOP's award of 499 days in GCT credit and the District Court's resentencing, McCode completed his federal sentence on August 22, 2014, as recognized in the resentencing order. (McCode's Br. at 2, 5.) He asserts that the Board's recognition of the earlier release date would not have the effect of awarding him credit on his state sentence for federal GCT credit as prohibited under *Fordham v. Department of Corrections*, 943 A.2d 1004 (Pa. Cmwlth. 2008). (*Id.* at 6-7; McCode's Reply Br. at 6-7.) Thus, in essence, McCode concludes that after his GCT credit was applied to his federal sentence, on paper he

was released from the BOP's custody on August 22, 2014, and this date, not January 3, 2016, should control.

The Board responds that if it recognizes that McCode became available to resume serving his original state sentence at an earlier date, in light of the BOP's GCT credit decision, this would, in effect, give McCode credit on his original state sentence based on the GCT credit he earned during his federal sentence. (Board's Br. at 6-8.) According to the Board, under *Fordham*, McCode is not eligible to have federal GCT credit applied to his original state sentence, and the Board is precluded from doing so here. (*Id.* at 8.) The Board asserts that because a state equivalent to federal GCT credit is not recognized in the Code, and the Board is not otherwise permitted to apply federal GCT credit to a state sentence, *Fordham*, which is what McCode seeks to have done by arguing the Board must use August 22, 2014, as the end of McCode's federal sentence, rather than January 3, 2016, that such an argument lacks merit. (*Id.*) However, McCode did not become available to resume serving his original state sentence until October 8, 2025, the date of his federal resentencing, and this date was the proper date from which to recalculate McCode's new state maximum date. (*Id.* at 4-5.) Nevertheless, the Board argues it gave McCode all the credit he was entitled to under *Martin v. Pennsylvania Board of Probation and Parole*, 840 A.2d 299 (Pa. 2003), because he received credit for all of the excess time he served in federal prison following his resentencing, which was 3,566 days. (*Id.* at 9.)

B. Whether Santiago Requires the Board to use August 22, 2014, as the end date of McCode's Federal Sentence.

We first examine our decision in *Santiago*, 937 A.2d 610, to determine whether it controls our disposition and provides McCode the relief he seeks. In

Santiago, while an inmate was confined at an SCI serving a Pennsylvania sentence, a Maryland court subsequently sentenced the inmate to a concurrent sentence for a Maryland conviction. 937 A.2d at 611-12. The Board refused to award the inmate backtime credit on his Pennsylvania sentence for the time spent at the SCI awaiting the Maryland sentencing. *Id.* at 611. The inmate appealed and argued that the Board erred in not giving him credit and, thereby, extending his maximum date and violated the Full Faith and Credit Clause by not giving effect to the Maryland order. *Id.* at 613. This Court noted “that one sentencing jurisdiction cannot tell another sentencing jurisdiction that time spent in **its** state prison **will count against a sentence imposed by that other state.**” *Id.* at 614 n.11 (emphasis added). We ultimately reversed, however, holding that while the Full Faith and Credit Clause was inapplicable to the facts of that case, the Board could not require the inmate to serve the Maryland sentence first and not give him credit on the Pennsylvania sentence, for time spent in the SCI, because the Board was, in effect, converting the inmate’s Maryland sentence from concurrent to consecutive. *Id.* at 614-15. The Court held that the Board was a stranger to the Maryland court order and did not have the power to alter that court’s decision to allow the inmate to serve his Maryland sentence concurrent with his Pennsylvania sentence, which he was serving at the time of sentencing. *Id.* at 615.

Since our *Santiago* decision, we have distinguished its holding in cases with factual scenarios like the case at bar. For example, in *Baxter v. Pennsylvania Board of Probation and Parole* (Pa. Cmwlth., No. 1736 C.D. 2015, filed May 16, 2016),

slip op. at 2,¹¹ an inmate challenged the Board’s decision recommitting him as a CPV and recalculating his maximum date after the inmate was convicted of federal crimes while on parole. After completing his federal sentence, the inmate was returned to an SCI, where a recommitment hearing was held and the Board recalculated the inmate’s maximum date to add about 11 years to account for the federal sentence. *Id.*, slip op. at 3. On appeal, the inmate asserted that our holding in *Santiago* controlled and required the Board to credit time served on the federal sentence to the inmate’s state sentence. *Id.*, slip op. at 8. We held, however, that the rationale in *Santiago* did not apply “because **a federal court lacks power** to direct that a federal sentence **served in a federal prison** run concurrently with a state sentence,” and there was “no indication that the federal court ordered [the i]nmate’s new federal sentence to be served concurrently with his Pennsylvania state sentence.” *Id.*, slip op. at 10 (emphasis added) (citing *Griffin v. Pa. Dep’t of Corr.*, 862 A.2d 152 (Pa. Cmwlth. 2004), *aff’d per curiam*, 915 A.2d 639 (Pa. 2007)). We, therefore, concluded that “[t]his material distinction render[ed] *Santiago* inapposite [because the i]nmate here was **not incarcerated on both his federal and state sentences simultaneously**” and, rather, he “was held in federal custody while serving his federal sentence, and he was not returned to an SCI until after he completed his federal sentence.” *Id.* (emphasis added). The *Baxter* court further noted that “the inmate [in *Santiago*] was held **in an SCI for several years** on both the Maryland sentence and the Board’s detainer.” *Id.* (emphasis omitted).

¹¹ Under Section 414(a) of the Court’s Internal Operating Procedures, 210 Pa. Code § 69.414(a), an unpublished memorandum opinion, although not binding precedent, may be cited for its persuasive value. As such, *Baxter* is cited for its persuasive value.

We held similarly in *Burno v. Pennsylvania Board of Probation and Parole*, 67 A.3d 1280, 1285-86 (Pa. Cmwlth. 2013), in which we explained that *Santiago* authorized the receipt of “double credit on a new and original sentence **for time served in a Pennsylvania facility** in the **limited** situations where the jurisdiction imposing the new sentence deemed it to run concurrently with the original sentence.” Per *Burno*, “[t]he rationale for double credit in *Santiago*—a concurrent sentence issued by an out-of-state court—is absent” where the other jurisdiction orders the sentences to be served consecutively. *Id.* at 1286.

Like *Baxter*, this case’s factual backdrop distinguishes it from *Santiago*. McCode was paroled from his original state sentence in 2004, and he was subsequently convicted of violent federal crimes while on parole, sentenced by the District Court, and confined in a federal prison. (C.R. at 5-7, 97-98.) After completion of his federal sentence, based on the District Court’s resentencing, McCode was released from federal custody and returned to an SCI to resume serving his original state sentence. (*Id.* at 19, 98-99, 101.) There is no indication that the District Court ordered McCode’s federal sentences to run concurrent to his original state sentence while he was confined in federal prison, which, nevertheless, the District Court could not do. *Griffin*, 862 A.2d at 156. Instead, similar to *Baxter*, McCode was held in the BOP’s custody while serving his federal sentence, and he was only returned to an SCI once his federal sentence was completed. As such, these facts render *Santiago* factually distinguishable from the instant case, and to the extent McCode asserts that *Santiago* requires the Board to recognize the GCT credit and the earlier completion date of his federal sentence, we disagree.

C. Effect of Using August 22, 2014, as the End of McCode’s Federal Sentence

McCode argues that using August 22, 2014, as the end of his federal sentence, rather than January 8, 2016, will not have the effect of crediting McCode’s federal GCT time to his original state sentence. However, we find the Board’s contrary arguments persuasive. In *Fordham*, 943 A.2d at 1005, we reviewed in our original jurisdiction a challenge “claiming that the ‘good time’ credit [] earned during a federal prison sentence pursuant to 18 U.S.C. § 3624(b)[] should be credited to a concurrent Pennsylvania sentence” In examining the different sentencing schemes utilized in the federal system and in the Commonwealth, respectively, we opined:

The United States government utilizes a determinate sentencing scheme in which an inmate is sentenced to a set number of years of imprisonment, often referred to as a “flat” sentence. *Commonwealth v. Kleinicke*, 895 A.2d 562 (Pa.[]Super.[]2006) [(en banc), *overruled on other grounds*, *Alleyn v. United States*, 570 U.S. 99 (2013)¹²]. Because the duration of an inmate’s sentence is immediately determinable upon sentencing, parole is unnecessary; but as a substitute, an inmate may earn credit for good behavior to reduce the overall length of his sentence. *See* 18 U.S.C. § 3624(b).

In Pennsylvania, however, an indeterminate sentencing scheme is employed wherein a sentencing judge announces a range consisting of a minimum and maximum sentence, *Kleinicke*, and only by serving time may an inmate attain parole, if proper, at the end of his minimum sentence. Unlike its federal counterpart, the only statute in Pennsylvania governing the award of credit for time served by an inmate after [their] state sentence is imposed is Section 9761 of the Judicial Code, 42 Pa.C.S. § 9761,[] and **there is no mention in this statute regarding the applicability of “good time” credit earned elsewhere to a Pennsylvania sentence.**

¹² In general, “Superior Court decisions are not binding on this Court, but they offer persuasive precedent where they address analogous issues.” *Pa. State Police v. Madden*, 284 A.3d 272, 278 n.13 (Pa. Cmwlth. 2022) (citation and internal quotation marks omitted).

Id. at 1006 (emphasis added).¹³ Thus, under *Fordham*, there is no equivalency of federal GCT credit for Pennsylvania sentences, and an inmate can never receive credit on a state sentence based on receiving federal GCT credit.

Here, using August 22, 2014, as the end date of McCode’s federal sentence, rather than January 3, 2016, would effectively result in applying federal GCT credit to McCode’s original state sentence, which is prohibited under *Fordham*. This is because the only reason McCode can claim he had an earlier “end” date is because the District Court applied the GCT credit to the federal sentence. In other words, without the application of the GCT credit to the federal sentence, McCode’s federal sentence end date would not have changed. Thus, because Pennsylvania utilizes an indeterminate sentencing scheme that does not have an equivalent to federal GCT credit, the Board does not, and may not, consider an inmate’s federal GCT credit when recalculating a state sentence once the inmate is returned to an SCI.

III. CONCLUSION

For the foregoing reasons, our decision in *Santiago* is factually distinguishable from the instant case, and the Board’s use of the August 22, 2014 date for its credit determination would have impermissibly resulted in the application of federal GCT

¹³ In *Parks v. Pennsylvania Board of Probation and Parole* (Pa. Cmwlth., No. 2349 C.D. 2014, filed October 16, 2015), an unpublished disposition in our appellate jurisdiction, we clarified our *Fordham* decision in response to an argument that *Fordham* permitted the Board to apply federal good time credit to a concurrent state sentence, explaining:

In *Fordham*, we did not state that an inmate could receive “good time” credit against [their] state sentence if the federal sentence was being served concurrently with [their] state conviction. In fact, **we held that an inmate could never receive time credit for federal good time against a state sentence[.]**

Id., slip op. at 7 (emphasis added).

credit to McCode's original state sentence. Ultimately, the Board properly held that McCode did not become available to resume serving his original state sentence until October 8, 2025, the date of his federal resentencing and return to an SCI, and using that date to recalculate McCode's new state maximum date results in the new maximum of December 9, 2027. Accordingly, we affirm.

RENÉE COHN JUBELIRER, President Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

James McCode,	:	
	:	
Petitioner	:	
	:	
v.	:	No. 268 C.D. 2026
	:	
Pennsylvania Parole Board,	:	
	:	
Respondent	:	

ORDER

NOW, October 15, 2026, the Order of the Pennsylvania Parole Board, entered on January 28, 2026, is **AFFIRMED**.

RENÉE COHN JUBELIRER, President Judge