

Theodore R. Deeter, Jr., :
 :
 Petitioner :
 :
 v. : No. 531 C.D. 2025
 : Submitted: June 16, 2026
 Pennsylvania Parole Board, :
 :
 Respondent :

²“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. Pennsylvania Board of Probation and Parole*, 77 A.3d 66, (Footnote continued on next page...)

On July 1, 2011, Parolee pleaded guilty to and was incarcerated on four counts of drug manufacture, sale, delivery or possession with intent to deliver in the Forest County Court of Common Pleas. Certified Record (C.R.) at 1. The court issued consecutive sentences for each count. Parolee’s sentence ultimately carried a controlling minimum date of July 19, 2018, and a controlling maximum date of July 19, 2034. *Id.* Parolee was then released on parole on his controlling minimum date with a balance of 5,488 days remaining on his sentences. *Id.* at 6.

According to Counsel, the Board subsequently issued a warrant for Parolee’s arrest on June 21, 2021,³ due to criminal convictions in the State of Georgia relating to his possession of fentanyl and methamphetamines. *See Turner* Letter at 2. Parolee’s convictions were verified on June 15, 2023, prompting the Board to lodge a second detainer against Parolee on June 16, 2023. C.R. at 67, 78. Eventually, Georgia’s Department of Corrections sent a release notification to the Pennsylvania Department of Corrections on September 25, 2024. *Id.* at 78.

An examiner for the Board conducted a parole revocation hearing on November 25, 2024, and later, the Board issued an order to recommit Parolee as a CPV while recalculating his maximum sentence date as September 25, 2040. C.R. at 66-76, 82-83. In so doing, the Board denied Parolee credit for time spent at liberty on parole. The Board articulated the following reason for its denial: “[Parolee] has been convicted of a new crime that is the same or similar to the original offense thereby warranting denial of credit for time at liberty on parole.” *Id.* at 83.

70 n.4 (Pa. Cmwlth. 2013) (citing Section 704 of the Administrative Agency Law, 2 Pa. C.S. §704).

³ Curiously, there is no evidence of this warrant in the Certified Record. Rather, the Certified Record contains a warrant for a parolee under the name of Nicholas Chubbs. *See* C.R. at 13.

In response, Parolee filed both *pro se* and, later, counseled administrative remedies forms pertaining to the Board's order to recommit. Therein, Parolee, *inter alia*, sought reconsideration of the denial of credit for time spent at liberty on parole and asserted that the Board's 18-month recommitment overweighted the seriousness of his new convictions against his previously clean probationary record. *See* C.R. at 84-86.

The Board affirmed its order to recommit in a decision mailed on March 26, 2025. In pertinent part, the Board explained that it possesses complete discretion over the decision to deny a CPV time at liberty so long as it articulates its reason for the denial. C.R. at 89 (citing Section 6138(a)(2.1) of the Prisons and Parole Code (Parole Code), 61 Pa. C.S. §6138(a)(2.1); *Pittman v. Board of Probation and Parole*, 159 A.3d 466, 474 (Pa. 2017)). As to Parolee's latter complaint, the Board offered that the State Parole Recommitment Guidelines (Recommitment Guidelines) required it to recommit Parolee for 18 to 30 months given his most serious conviction and, as such, the recommitment was not subject to challenge. *Id.* at 89-90 (citing 204 Pa. Code §311.6; *Smith v. Pennsylvania Board of Probation and Parole*, 574 A.2d 558, 560-61 (Pa. 1990)). Finally, the Board observed that Parolee was not entitled to any credit toward his Pennsylvania sentences while incarcerated prior to his Georgia convictions as he failed to post bail for those sentences. *Id.* at 90 (citing *Gaito v. Pennsylvania Board of Probation and Parole*, 412 A.2d 568, 571 (Pa. 1980)).

On April 24, 2024, Parolee filed a counseled Petition for Review in this Court. Therein, Parolee objects to the Board's purported failure to award him credit for time he served exclusively to the Board's warrant and the Board's abuse of discretion in denying Parolee credit "for all time in good standing while on parole."

Petition for Review ¶¶5-6. Parolee also objects to the Board’s 18-month recommitment as being outside of the presumptive range set forth in the Pennsylvania Code. *Id.* ¶7. However, on August 13, 2025, Counsel filed the present Application concluding that Parolee’s appeal is frivolous. Application ¶5. As required by *Turner*, Counsel sent a letter to this Court and Parolee advising as much. *Id.* ¶6; *see also* *Turner* Letter at 6-8.

When counsel seeks to withdraw from representing a parolee challenging a parole revocation order, counsel must submit a *Turner* Letter to this Court detailing the “nature and extent” of counsel’s review, listing each issue raised by the parolee, and explaining why counsel concluded that parolee’s claim is meritless.⁴ *Zerby v. Shanon*, 964 A.2d 956, 961 (Pa. Cmwlth. 2009) (citing *Turner*, 544 A.2d at 928). The counsel’s *Turner* Letter must substantively address each issue raised by the parolee, “rather than baldly stating that the claims are without merit.” *Hughes*, 977 A.2d at 25 (citing *Hill v. Pennsylvania Board of Probation and Parole*, 707 A.2d 1214, 1215-16 (Pa. Cmwlth. 1998)). Procedurally, we must assess: (1) whether counsel notified the parolee of the request to withdraw; (2) whether counsel provided the parolee with a copy of the *Turner* Letter; and (3) whether counsel advised the parolee of his right to retain new counsel or file a brief on his own behalf. *Miskovitch*, 77 A.3d at 69. If counsel has satisfied these procedural requirements,

⁴ Per *Hughes v. Pennsylvania Board of Probation and Parole*, 977 A.2d 19, 25 (Pa. Cmwlth. 2009), we have, in the past, distinguished between whether counsel must demonstrate that a parolee’s appeal is “frivolous” or “without merit” before granting counsel leave to withdraw. *See Epps v. Pennsylvania Board of Probation and Parole*, 564 A.2d 214, 216 (Pa. Cmwlth. 1989) (requiring that counsel demonstrate the appeal is frivolous); *see also Frankhouser v. Pennsylvania Board of Probation and Parole*, 598 A.2d 607, 608 (Pa. Cmwlth. 1991) (requiring that counsel demonstrate the appeal is without merit). However, “[t]his Court has recently drawn little distinction between whether the case must be ‘frivolous’ or ‘meritless’ before counsel may withdraw.” *Hughes*, 977 A.2d at 25.

the Court will then independently review the merits of the parolee's claims. *Zerby*, 964 A.2d at 960.

In the matter *sub judice*, Counsel has complied with all applicable *Turner* requirements. First, Counsel notified Parolee of his Application. Counsel likewise provided Parolee with a copy of the *Turner* Letter that substantively details Counsel's review of the matter and discusses why each issue Parolee wishes to have reviewed by the Court is meritless: (1) whether the Board awarded Parolee credit for all time served exclusively to its warrant; (2) whether the Board abused its discretion in denying Parolee credit for time at liberty; and (3) whether the Board's recommitment order exceeded the presumptive range authorized by the Pennsylvania Code. *Turner* Letter at 4-7. Finally, Counsel advised Parolee of his right to obtain new counsel or raise new issues he deems worthy of consideration. *Id.* at 7-8. We will therefore grant Counsel's Application and turn to the merits of Parolee's Petition for Review.

Parolee first asserts that the Board failed to award Parolee credit for all time served exclusively on its warrant. Section 6138(a)(2) of the Parole Code states, in pertinent part: "If the parolee's recommitment is so ordered, the parolee shall be reentered to serve the remainder of the term which the parolee would have been compelled to serve had the parole not been granted" 61 Pa. C.S. §6138(a)(2). But, in *Gaito*, 412 A.2d at 571, our Supreme Court clarified that when "a defendant is being held in custody solely because of a detainer lodged by the Board and has otherwise met the requirements for bail on the new criminal charges, the time which he spent in custody shall be credited against his original sentence." Here, the Certified Record indicates that Parolee failed to post bail on his Georgia charges pending conviction and sentencing, *see* C.R. at 55, such that the Board did not err

in concluding that Parolee did not serve any time exclusively to its warrant. The Board thus correctly used September 25, 2024 as the correct date of Parolee's return.

Parolee next contends that the Board abused its discretion by declining to award Parolee credit for time spent at liberty on parole. Section 6138(a)(2.1) of the Parole Code provides: "The [B]oard may, in its discretion, award credit to an offender recommitted . . . for the time spent at liberty on parole" 61 Pa. C.S. §6138(a)(2.1). Our Supreme Court has explained that this provision of the Parole Code "unambiguously grants the Board discretion to award credit to a CPV recommitted to serve the remainder of the sentence," so long as the Board provides a "contemporaneous statement explaining its rationale." *Pittman*, 159 A.3d at 475. The Board here declined to award Parolee with credit for time spent at liberty because his new conviction was the same or similar to his original convictions. C.R. at 83. In light of the Board's discretion in these matters and its proffered reasoning, Parolee's view that the Board overweighted the seriousness of his new convictions is immaterial and we can discern no abuse of discretion in the Board's decision.

Finally, as to Parolee's challenge to the length of his recommitment, we note that Parolee was re-paroled on April 29, 2026. *See Inmate Locator*, Pennsylvania Department of Corrections, <https://inmatelocator.cor.pa.gov/#/> (last visited August 20, 2026). Nevertheless, to the extent a justiciable controversy exists on this point,⁵ "as long as the period of recommitment is within the presumptive range for the violation, the Commonwealth Court will not entertain challenges to the propriety of the term of recommitment." *Smith*, 574 A.2d at 560. Here, the Recommitment Guidelines mandate a recommitment term of 18-30 months where a

⁵ Cf. *Mistich v. Pennsylvania Board of Probation and Parole*, 863 A.2d 116, 119 (Pa. Cmwlth. 2004) (absent narrow exceptions, courts will not enter judgments or decrees to which no effect can be given).

non-violent CPV's new conviction carries an offense gravity score of 13-16 under the 8th Edition Sentencing Guidelines. *See* 204 Pa. Code §311.6 (*see also id.* §311.5(b)(2)(i)(D)). Those guidelines, in turn, provide that a conviction for possession with intent to deliver fentanyl in an amount greater than 1 gram but lesser than or equal to 10 grams carries an offense gravity score of 16. *Id.* §303a.9. Because Parolee's Georgia conviction is equivalent to that offense, *see* C.R. at 22-23, the Board applied the correct presumptive range under the Recommitment Guidelines. 204 Pa. Code §311.5(b)(1)(ii) ("For out-of-state convictions, the current equivalent offense under the 8th Edition Sentencing Guidelines applies."). Thus, we will not entertain Parolee's challenge thereto. *Smith*, 574 A.2d at 560.

Accordingly, we grant Counsel's Application and affirm the Board's Order.

MICHAEL H. WOJCIK, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Theodore R. Deeter, Jr.,	:	
	:	
Petitioner	:	
	:	
v.	:	No. 531 C.D. 2025
	:	
Pennsylvania Parole Board,	:	
	:	
Respondent	:	

ORDER

AND NOW, this 20th day of August, 2026, Kent D. Watkins, Esquire's application to withdraw as counsel is **GRANTED** and the Pennsylvania Parole Board's March 26, 2025 order is **AFFIRMED**.

MICHAEL H. WOJCIK, Judge