IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Curtis E. Scharer,	:	
	:	
Petitioner	:	
	:	
v.	:	No. 586 C.D. 2025
	:	Submitted: June 16, 2026
Pennsylvania Parole Board,	:	
	:	
Respondent	:	

BEFORE: HONORABLE RENÉE COHN JUBELIRER, President Judge
HONORABLE MICHAEL H. WOJCIK, Judge
HONORABLE CHRISTINE FIZZANO CANNON, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE WOJCIK FILED: August 21, 2026

Curtis E. Scharer (Inmate) petitions for review from an April 22, 2025 order of the Pennsylvania Parole Board (Board) that denied his administrative appeal challenging the denial of credit for time spent at liberty on parole, also known as "street time." Also before us is a petition to withdraw as counsel filed by Inmate's court-appointed attorney, David Crowley, Esq. (Attorney Crowley), on the ground that Inmate's appeal is without merit. For the reasons that follow, we grant Attorney Crowley's petition to withdraw as counsel, and we affirm the Board's order.

I. Background

In October 2010, Inmate was originally sentenced to a term of incarceration in a state correctional institution (SCI) of 8 to 16 years after being

found guilty of criminal solicitation and criminal attempt. Certified Record (C.R.) at 1. Inmate's original maximum sentence date was May 19, 2026. *Id*.

On April 23, 2020, the Board released Inmate on parole. C.R. at 11. Among the conditions of release, the Board informed Inmate: "If you are convicted of a crime committed while on parole/reparole, the Board has the authority, after an appropriate hearing, to recommit you to serve the balance of the sentence or sentences which you were serving when paroled/reparoled, with no credit for time at liberty on parole." *Id*. at 12.

On April 26, 2022, while on parole, the Board arrested Inmate on its warrant to commit and detain for technical parole violations. C.R. at 14, 16. The Board cancelled its warrant and released Inmate from temporary detention on August 5, 2022. *Id*. at 17.

On March 14, 2024, the Board issued a new warrant to commit and detain following Inmate's arrest in Westmoreland County, Pennsylvania for several violations of the Vehicle Code, 75 Pa. C.S. §§101-9910. C.R. at 18, 88; *see id.* at 34. On March 17, 2024, Inmate was taken into custody and then criminally charged with new drug-related offenses because agents found drug paraphernalia and crack cocaine in the home during the arrest. *Id*. at 90. On April 3, 2024, the Board decided to continue Inmate's parole pending disposition of the new criminal charges. *Id*. at 20. A week later, the Board declared Inmate delinquent. *Id*. at 22. Inmate was arrested on the new Board warrant on August 18, 2024. *Id*. at 23. On September 13, 2024, the Board ordered his detention pending the disposition of the new criminal charges. *Id*. at 24.

On October 4, 2024, the Board recommitted Inmate as a technical parole violator (TPV) to serve 6 months' "backtime"[1] for violating the conditions of his parole. C.R. at 25-27. The Board informed Inmate that his parole violation maximum date was subject to change if he was convicted of the pending criminal charges. *Id*. at 27.

On October 16, 2024, Inmate entered a negotiated guilty plea for use/possession of drug paraphernalia, a misdemeanor, and was sentenced to 1 to 12 months' confinement. C.R. at 31, 71. On October 23, 2024, Inmate was convicted of the Vehicle Code violations,[2] all of which were non-revocable summary offenses not punishable by imprisonment, and he was sentenced to pay fines, costs, and restitution. C.R. at 31, 87.

As a result of the new drug conviction, the Board charged Inmate as a convicted parole violator (CPV). C.R. at 31. A panel revocation hearing was held on February 4, 2025, before a hearing examiner and a Board member. *Id.* at 45.

---

[1] As this Court has explained:

> When parole is revoked, whether for technical or criminal violations of the conditions for parole, the Board imposes a specific period of time that must be served in prison and credited to the sentence being served on parole before the prisoner will again be considered for parole on that sentence. That period is commonly referred to as "backtime."

Abrams v. Pennsylvania Board of Probation and Parole, 935 A.2d 604, 606 n.3 (Pa. Cmwlth. 2007).

[2] Specifically, Inmate was convicted of violating Sections 1312 (change of name or address), 1515(a) (failure to notify change of address), 4730(a)(1) (violation of use of official certificate of inspection) of the Vehicle Code, 75 Pa. C.S. §§1312, 1515(a), 4730(a)(1). *See* C.R. at 31.

Attorney Crowley represented Inmate at the hearing and noted on the record that Inmate acknowledged his convictions. *Id*. at 51, 53, 87.

By hearing report dated February 12, 2025, the hearing examiner recommended 6 months of recommitment with no credit for time spent at liberty on parole because (1) Inmate absconded while on parole supervision, and (2) continued to demonstrate unresolved drug and/or alcohol issues. *Id*. at 90. The hearing examiner noted that Inmate was convicted of a new drug-related offense and had tested positive for cocaine on four occasions between July 2021 and November 2022. *Id*. The hearing examiner also noted that Inmate has approximately four years and four months of time at liberty on parole in jeopardy. The Board member assigned to the hearing panel adopted the hearing examiner's recommendation. *Id*. at 91, 96.

By decision recorded February 13, 2025, mailed February 21, 2025, the Board formally recommitted Inmate as a TPV and CPV to serve 6 months' backtime concurrently. C.R. at 109-10. The Board calculated Inmate's new parole violation maximum date of July 6, 2030. The Board did not award any credit for street time. *Id*. at 110. The Board explained that Inmate absconded while on parole supervision and continues to demonstrate unresolved drug and/or alcohol issues. *Id*.

Inmate, initially representing himself, filed an administrative appeal from the Board's decision challenging the Board's decision to deny credit for time spent at liberty on parole. C.R. at 111. He argued it was unreasonable for the Board to deny credit for over 4 years spent at liberty on parole when his new criminal conviction only resulted in a 1-month to 12-month sentence of incarceration. *Id*. A week later, Attorney Crowley filed a second appeal on Inmate's behalf arguing that the Board's decision to deny street time does not appear to have been made

contemporaneously with the decision to recommit Inmate in violation of *Pittman v. Pennsylvania Board of Probation and Parole*, 159 A.3d 466, 473 (Pa. 2017). C.R. at 113-14. Attorney Crowley also suggested that the Board's decision to deny credit was not made by both panel members. *Id*. at 114. By decision mailed April 22, 2025, the Board denied Inmate's administrative appeal and affirmed its recommitment decision. *Id*. at 115-16.

On Inmate's behalf, Attorney Crowley filed a petition for review in this Court. Shortly thereafter, Attorney Crowley filed a petition to withdraw as counsel along with a no-merit letter based on his belief that Inmate's appeal is without merit and lacks support in both law and fact. This matter is now before us for disposition.

II. Petition to Withdraw

Counsel seeking to withdraw as appointed counsel must conduct a zealous review of the case and submit a no-merit letter to this Court detailing the nature and extent of counsel's diligent review of the case, listing the issues the petitioner wants to have reviewed, explaining why and how those issues lack merit, and requesting permission to withdraw.[3] *Commonwealth v. Turner*, 544 A.2d 927, 928 (Pa. 1988); *Hughes v. Pennsylvania Board of Probation and Parole*, 977 A.2d 19, 24-26 (Pa. Cmwlth. 2009) (*en banc*); *Zerby v. Shanon*, 964 A.2d 956, 960 (Pa.

[3] Where there is a constitutional right to counsel, court-appointed counsel seeking to withdraw must submit a brief in accord with *Anders v. California*, 386 U.S. 738 (1967), referred to as an *Anders* brief, that (i) provides a summary of the procedural history and facts, with citations to the record; (ii) refers to anything in the record that counsel believes arguably supports the appeal; (iii) sets forth counsel's conclusion that the appeal is frivolous; and (iv) states counsel's reasons for concluding that the appeal is frivolous. *Commonwealth v. Santiago*, 978 A.2d 349, 361 (Pa. 2009); *Hughes v. Pennsylvania Board of Probation and Parole*, 977 A.2d 19, 25-26 (Pa. Cmwlth. 2009) (*en banc*). Where, as here, the petitioner has only a statutory, rather than a constitutional, right to counsel, appointed counsel may submit a no-merit letter instead of an *Anders* brief. *Hughes*, 977 A.2d at 25-26.

Cmwlth. 2009). The no-merit letter must include "'substantial reasons for concluding that a petitioner's arguments are meritless.'" *Zerby*, 964 A.2d at 962 (quoting *Jefferson v. Pennsylvania Board of Probation and Parole*, 705 A.2d 513, 514 (Pa. Cmwlth. 1998)).

In addition, court-appointed counsel who seeks to withdraw representation must (1) notify the petitioner of the request to withdraw; (2) furnish the petitioner with a copy of a brief or no-merit letter; and (3) advise the petitioner of his right to retain new counsel or raise any new points that he might deem worthy of consideration. *Turner*, 544 A.2d at 928; *Hughes*, 977 A.2d at 22. If counsel satisfies these technical requirements, this Court must then conduct an independent review of the merits of the case. *Turner*, 544 A.2d at 928; *Hughes*, 977 A.2d at 25. If this Court determines the petitioner's claims are without merit, counsel will be permitted to withdraw, and the petitioner will be denied relief. *Turner*, 544 A.2d at 928; *Hughes*, 977 A.2d at 27.

Upon review, Attorney Crowley's no-merit letter satisfies the technical requirements of *Turner*. Attorney Crowley states that he conducted a thorough review of the record, applicable statutes, and case law. He sets forth the issue Inmate raised in the petition for review that the Board erred by not granting credit for time spent at liberty on parole, and the sub-issues fairly encompassed therein. Attorney Crowley provides a thorough analysis as to why this issue lacks merit, and he cites applicable statutes, regulations, case law, and the certified record in support.

Attorney Crowley explains that the Board did not err or abuse its discretion by denying credit for time spent at liberty on parole. Although Inmate's new convictions did not involve a crime of violence, Section 6138(a)(2) of the Prisons and Parole Code (Parole Code), 61 Pa. C.S. §6138(a)(2), gives the Board

discretion to recommit a CPV to serve the unserved balance of his original maximum sentence without credit for time that he spent at liberty on parole. The Board provided a valid reason for declining credit explaining that Inmate absconded while on parole supervision and continues to demonstrate unresolved drug and/or alcohol issues. C.R. at 110.

As for whether the reason was provided contemporaneously with recommitment, Attorney Crowley noted that the hearing examiner and board member presiding over the revocation hearing did not make any decision regarding recommitment or credit at the hearing itself. The Board's decision to recommit and deny credit was mailed on February 21, 2025 -- two weeks after the hearing. Although the Board's decision informed Inmate of reasons for denying credit for street time, it did not state that the decision to deny credit was made "contemporaneous" with the decision to recommit or that it was made by both the hearing examiner and Board member who presided over the hearing. This prompted Attorney Crowley's challenge.

Upon receipt and review of the Certified Record, Attorney Crowley now fully acknowledges that the hearing examiner's report established that the decision to recommit and deny credit was made contemporaneously and by both the hearing examiner and the Board member presiding over the panel revocation hearing. Turner Letter, 7/22/25, at 6; *see* C.R. at 84-96. On this basis, Attorney Crowley contends that there is no factual basis to argue a lack of a contemporaneous decision by the revocation panel before whom he personally appeared or a legal basis to argue that the Board abused its discretion by denying credit for street time.

Based on his review, Attorney Crowley concludes that Inmate's appeal to this Court is without merit, and he requests permission to withdraw. Attorney

Crowley provided Inmate with a copy of the no-merit letter and his request to withdraw. Attorney Crowley states that he advised Inmate of his right to retain new counsel or proceed by representing himself.[4] As we are satisfied that Attorney Crowley has discharged his responsibility in complying with the technical requirements to withdraw from representation, we shall conduct an independent review to determine whether Inmate's claim that the Board erred or abused its discretion by failing to credit his original sentence with time spent at liberty on parole lacks merit.[5]

III. Independent Review

Section 6138(a)(2) of the Parole Code authorizes the Board to recommit a CPV to serve all or part of the unexpired term of his original sentence had he not been paroled. 61 Pa. C.S. §6138(a)(2). Subsection (2.1) grants the Board discretion to award credit to a CPV for time spent at liberty on parole except where:

> (i) The crime committed during the period of parole or while delinquent on parole is a crime of violence or a crime listed under 42 Pa.C.S. Ch. 97 Subch. H1 (relating to registration of sexual offenders) or I2 (relating to continued registration of sexual offenders).
>
> (ii) The offender was recommitted under section 6143 (relating to early parole of offenders subject to Federal removal order).

[4] Inmate did not retain new counsel or file a brief in support of his petition for review.

[5] 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. Section 704 of the Administrative Agency Law, 2 Pa. C.S. §704; *Miskovitch v. Pennsylvania Board of Probation and Parole*, 77 A.3d 66, 70 n.4 (Pa. Cmwlth. 2013).

61 Pa. C.S. §6138(a)(2.1)(i), (ii); *Pittman v. Pennsylvania Board of Probation and Parole*, 159 A.3d 466, 473 (Pa. 2017).

In the exercise of this discretion, the Board must conduct an "individual assessment of the facts and circumstances surrounding [a parolee's] parole revocation." *Pittman*, 159 A.3d at 474. Further, the Board must "articulate the basis for its decision to grant or deny a CPV credit for time served at liberty on parole." *Id.* "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. Pennsylvania Board of Probation and Parole*, 216 A.3d 1207, 1211 (Pa. Cmwlth. 2019) (*citing Pittman*). The Board's explanation does not need to be extensive -- "a single sentence [ ] is likely sufficient in most instances." *Pittman*, 159 A.3d at 475 n.12. "This allows the appellate court reviewing the matter to have a method to assess the Board's exercise of discretion." *Plummer*, 216 A.3d at 1211. Where the Board fails to provide a contemporaneous statement of reasons as to why it denied credit for time spent at liberty on parole, this Court will remand for the Board to set forth its reasons. *Smoak v. Talaber*, 193 A.3d 1160, 1164 (Pa. Cmwlth. 2018).

Here, Inmate was not convicted of a crime of violence, did not commit a crime requiring sex offender registration, and was not subject to a federal removal order. *See* 61 Pa. C.S. §6138(a)(2.1)(i) and (ii). As a result, the Board had discretion to grant or deny credit for time spent at liberty on parole. 61 Pa. C.S. §6138(a)(2.1); *Pittman*, 159 A.3d at 474. The Board chose to deny credit explaining that Inmate absconded while on parole supervision and continues to demonstrate unresolved drug and/or alcohol issues. C.R. at 110. The Board's explanation constitutes sufficient articulation for denying credit. *See Smoak*, 193 A.3d at 1165 (holding that

the Board's asserted reason of 'unresolved drug and alcohol issues' was a sufficient explanation for denying credit).

As for the timing of this reason, the hearing examiner's report established that the decision to recommit and deny credit was made contemporaneously and by both the hearing examiner and the Board member presiding over the panel revocation hearing as indicated by their signatures. *See* C.R. at 84-96. We, therefore, conclude that the Board did not err or abuse its discretion by denying credit for time spent at liberty on parole.

IV. Conclusion

Upon review, we agree with Attorney Crowley that Inmate's claims are without merit. Accordingly, we grant Attorney Crowley's petition to withdraw as counsel, and we affirm the order of the Board denying Inmate's administrative appeal.

MICHAEL H. WOJCIK, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Curtis E. Scharer,	:	
	:	
Petitioner	:	
	:	
v.	:	No. 586 C.D. 2025
	:	
Pennsylvania Parole Board,	:	
	:	
Respondent	:	

O R D E R

AND NOW, this 21st day of August, 2026, the Application to Withdraw as Counsel filed by David Crowley, Esq., is GRANTED, and the decision of the Pennsylvania Parole Board, dated April 22, 2025, is AFFIRMED. The Prothonotary is directed to send a copy of this opinion and order to Petitioner Curtis E. Scharer.

_____

MICHAEL H. WOJCIK, Judge