IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Joseph Parker,	:	
	:	
Petitioner	:	
	:	
v.	:	No. 612 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: November 19, 2026

Joseph Parker (Parolee) petitions for review of the Pennsylvania Parole Board's (Board) decision mailed April 14, 2025, which affirmed its earlier January 8, 2025 action rescinding Parolee's automatic reparole date. We affirm.

The Certified Record (C.R.) shows that Parolee had been serving a 9- to 18-year sentence for robbery and was paroled on September 15, 2023. C.R. at 1. He was declared delinquent effective October 25, 2024, which is reflected in the Board's administrative action recorded October 28, 2024. *Id.* at 18.

After Parolee was detained, the Board issued a decision on December 5, 2024, recommitting him as a technical parole violator (TPV) for up to six months based on multiple violations of parole conditions, including changing residence without permission and failing to report as required. The same decision established an automatic reparole date not to exceed May 11, 2025, conditioned on successful program completion and Parolee remaining in good standing. The Board also made

clear that reparole could not take effect until Parolee signed his release documentation, Forms PBPP-10 and PBPP-11, and that until such signing, he remained under the jurisdiction of the Department of Corrections (DOC). *See id.* at 22 ("The decision announced by this Board Action ([Form] PBPP-15) will not take effect until you have signed the conditions ([Form] PBPP-11), and the Release Orders ([Form] PBPP-10) have been issued. You remain under the jurisdiction and control of the [DOC] until you have signed the [Form] PBPP-11, and the [Form] PBPP-10 has been issued.").

The events underlying this rescission occurred shortly before the Board's December 5, 2024 decision. On November 24, 2024, while confined at the State Correctional Institution (SCI) at Smithfield, Parolee engaged in a confrontation with a correctional officer. The misconduct report, *see* C.R. at 26, and the hearing examiner's decision, *see id.* at 27, establish that Parolee refused several direct orders to return to his cell, causing staff to draw pepper spray. After eventually returning to his cell, Parolee threatened the officer, telling him, "I'm going to f**k you up and your family when I get out of here." *Id.* at 26. The hearing examiner found Parolee guilty of three Class I misconducts—threatening an employee, using abusive or obscene language, and refusing an order—and sanctioned him to 30 days of disciplinary custody with loss of his institutional job.

DOC did not notify the Board about this misconduct until December 31, 2024. That notification appears in the DOC memorandum at C.R. 31, accompanied by a formal request to rescind Parolee's automatic reparole pursuant

to Section 6138(d)(3)[1] and (5)(i) of the Prisons and Parole Code (Code),[2] due to his assaultive behavior. The Board's Automatic Reparole Rescission Report, executed on January 7, 2025, *see* C.R. at 32-35, shows that the Board reviewed the misconduct and relied upon it as documentary evidence supporting rescission.

At the time DOC notified the Board, Parolee had already been transferred on December 30, 2024, to Progress Community Corrections Center (CCC), which the record expressly describes as a "secure facility" within SCI-Greene. C.R. at 50. The Board's January 8, 2025 action rescinded Parolee's automatic reparole on the basis that he had committed an assaultive disciplinary infraction while incarcerated. The decision, *see id.* at 36-37, explains that Parolee would remain eligible for reparole consideration at a future review date in December 2025.

On February 7, 2025, Parolee filed an Administrative Remedies Form alleging that the Board's action violated his due process rights as "[a]ny misconduct occurred before the initial hearing, the 12/9/2024 decision, [and] before his release on parole." *See* C.R. at 38-48. The Board denied relief on April 14, 2025, *see id.* at 49-50,[3] and Parolee then filed the instant petition for review.

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[1] 61 Pa. C.S. §6138(d)(3). Section 6138(d)(3) states, in pertinent part: "Except as set forth in paragraph (4) or (5), the offender shall be recommitted for one of the following periods, at which time the offender shall automatically be reparoled without further action by the [B]oard[.]"

[2] 61 Pa. C.S. §6138(d)(5)(i). Section 6138(d)(5)(i) states, in relevant part: "The time limit under paragraph (3) shall not be applicable to an offender who [. . .] committed a disciplinary infraction involving assaultive behavior, sexual assault, a weapon or controlled substances[.]"

[3] In relevant part, the Board explained:

> [Section 6138(d)(5) of the Prisons and Parole Code (Code)] provides that automatic reparole does not apply to [TPVs] who

(Footnote continued on next page…)

On appeal,[4] Parolee claims that the Board erred in determining that his transfer from an SCI to a CCC, contained within an SCI, did not create a sufficiently significant liberty interest so as to require the Board to provide him greater due process rights than those afforded him herein. We do not agree.

Here, the record shows that Parolee was never "at liberty on parole" at the time that the Board rescinded his automatic reparole. Indeed, as this Court has recently explained:

> [The parolee] repeatedly references that the Board violated his due process rights by rescinding his parole without a

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> commit disciplinary infractions involving assaultive behavior. 61 Pa. C.S. §6138(d)(5). Because he incurred a qualifying misconduct under the statute, the Board acted within its authority by rescinding automatic reparole in this case. In this incident, [Parolee] threatened staff by yelling, "I'm going to f[**]k you up and your family when I get out of here." The Board acted within its discretion by taking this action without conducting an additional evidentiary hearing because he was already afforded due process to challenge the misconducts at issue in the hearing held at the SCI[-]Smithfield. There is no reason for the Board to re-litigate those facts.
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> Additionally, [Parolee] was never reparoled as you assert in your correspondence. He was transferred to a secure facility (Progress CCC) on December 30, 2024[,] to complete his programming while awaiting automatic reparole. Also, even though the misconduct occurred before the recommitment Board decision was issued, it still occurred during the six-month TPV recommitment period in question. Notification of the misconduct was not made to the Board until after the original TPV recommitment decision was issued.

C.R. at 49-50.

[4] "This Court's review of an automatic reparole rescission action 'is limited to determining whether the findings were supported by substantial evidence, whether constitutional rights were violated, or whether the Board committed an error of law.'" *Anderson v. Pennsylvania Parole Board*, 266 A.3d 106, 108 n.3 (Pa. Cmwlth. 2021) (citations omitted).

> hearing. However, "[i]t is well[ ]settled that[,] under Pennsylvania law[,] a grant of parole by itself does not vest a prisoner with any protected liberty interest in that parole." *Johnson v. P*[*ennsylvania*] *B*[*oard*] *of Prob*[*ation and*] *Parole*, [532 A.2d 50, 52 (Pa. Cmwlth.] 1987). Thus, in order to determine whether the Board violated [the parolee's] due process rights,
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> > it is necessary to determine his status at the time the Board rescinded its prior grant of parole. There is no question that a "parolee" has a vested liberty interest in the limited liberty offered by parole that cannot be taken away without affording the parolee minimal due process guarantees of prior notice and an opportunity to be heard.
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> *Johnson*, 532 A.2d at 52. However, "a prisoner does not attain the status of a 'parolee' until the grant of parole is actually executed[,]" which is when the inmate signs the acknowledgement of his parole conditions and the Board issues the release order. *Id.*; *see also Gruff v. P*[*ennsylvania*] *B*[*oard*] *of Prob*[*ation and*] *Parole*, 986 A.2d 953 (Pa. Cmwlth. 2009). Therefore, parole revocation, where a parolee's liberty is at stake, carries with it a constitutionally guaranteed right to a hearing, while parole rescission, where the inmate is still confined, does not. *See Gruff*; *see also Johnson*. Specifically, a Board's parole rescission decision due to prison misconduct is not subject to a hearing. *See Lockett* [*v. Pennsylvania Board of Probation and Parole*, 141 A.3d 613 (Pa. Cmwlth. 2016)]; *Johnson*.

Anderson, 266 A.3d at 110 n.7.

It is clear, then, that a parolee acquires a liberty interest only once he signs the Form PBPP-11 and the Board issues a Form PBPP-10. Because Parolee had not signed either document herein, and remained under DOC jurisdiction in a "secure facility," he never attained the liberty interest that would trigger the procedural protections associated with parole revocation. Thus, the more robust

hearing requirements recognized in Parolee's cited case law do not apply to the automatic rescission herein.

As indicated, the statutory basis for rescission is found in Section 6138(d)(5)(i) of the Code, which prohibits automatic reparole where a TPV commits a disciplinary infraction involving assaultive behavior while incarcerated. The misconduct established in this record meets this standard: Parolee threatened a staff member with bodily harm and escalated the confrontation with additional statements such as, "I'm going to take this block over." The Board's rescission report, *see* C.R. at 33-35, identifies assaultive behavior as the justification for rescission. Under *Anderson*, *Dunkleberger v. Pennsylvania Board of Probation and Parole*, 573 A.2d 1173 (Pa. Cmwlth. 1990), and *Moore v. Pennsylvania Board of Probation and Parole*, 505 A.2d 1366 (Pa. Cmwlth. 1986), such threatening communications qualify as assaultive behavior even absent physical contact.

Furthermore, DOC afforded Parolee all the process constitutionally required for inmate discipline. The DOC misconduct hearing establishes notice, an opportunity to present a written version, consideration of video evidence, and a reasoned adjudication. *See* C.R. at 27. Under *Hill v. Department of Corrections*, 64 A.3d 1159 (Pa. Cmwlth. 2013), this satisfies Parolee's due process requirements; and *Feliciano v. Department of Corrections*, 250 A.3d 1269 (Pa. Cmwlth. 2021), confirms that misconduct decisions are internal prison-management actions not subject to judicial re-litigation.

Within this framework, the Board was entitled to rely exclusively on DOC's established findings. As *Anderson* makes clear, DOC disciplinary findings constitute substantial evidence supporting rescission of automatic reparole, and the Board need not conduct a duplicative evidentiary hearing. The record shows the

Board followed that approach here. Moreover, because Parolee never attained a liberty interest; because his misconduct involved assaultive behavior; because DOC afforded due process; and because the Board acted squarely within its statutory authority, we discern no constitutional violation, legal error, or lack of substantial evidence supporting the rescission of his automatic reparole.

Accordingly, we affirm the Board's decision.

MICHAEL H. WOJCIK, Judge

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O R D E R

AND NOW, this 19th day of November, 2026, the decision of the Pennsylvania Parole Board dated April 14, 2025, is AFFIRMED.

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MICHAEL H. WOJCIK, Judge