

COMMONWEALTH COURT OF PENNSYLVANIA

Jason Davies v. Pennsylvania Board of Probation and Parole

No. 282 M.D. 2023 (Commonwealth Court of Pennsylvania 2026) · No. 282 M.D. 2023 · Decided June 18, 2026

SUMMARY

The Commonwealth Court of Pennsylvania sustained the Pennsylvania Parole Board’s preliminary objections and dismissed Jason Davies’s petition for a writ of mandamus with prejudice. The court held that applying 61 Pa.C.S. § 6139(a)(3.3), which requires triennial rather than annual parole consideration for certain offenses, did not violate the ex post facto clauses of the United States or Pennsylvania Constitutions. The court concluded that Davies failed to establish a clear legal right to mandamus relief.

CASE DETAILS

COURT	Commonwealth Court of Pennsylvania
WRITING FOR THE COURT	Matthew S. Wolf; Michael H. Wojcik; Bonnie Brigance Leadbetter
JURISDICTION	Commonwealth Court of Pennsylvania
DECIDED	June 18, 2026
DOCKET	282 M.D. 2023
DISPOSITION	dismissed
PROCEDURAL POSTURE	Original-jurisdiction petition for review treated as a petition for a writ of mandamus; the Pennsylvania Parole Board filed preliminary objections in the nature of a demurrer.
STANDARD OF REVIEW	On preliminary objections in the nature of a demurrer, the court accepts as true all well-pleaded material allegations and reasonable inferences, but not legal conclusions, unwarranted inferences, argumentative allegations, or opinions. The demurrer is sustained only when it appears with certainty that the law will not permit recovery; the court confines its analysis to the pleading.
PRECEDENTIAL VALUE	Published Commonwealth Court of Pennsylvania opinion; precedential under Pennsylvania law.
PARTIES	Jason Davies v. Pennsylvania Board of Probation and Parole

TOPICS

ex post facto

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether applying 61 Pa.C.S. § 6139(a)(3.3), which changes parole-review frequency for inmates convicted of certain offenses from annual to triennial review, violated the Ex Post Facto Clauses of the United States and Pennsylvania Constitutions.
2. Whether Davies sufficiently pleaded a mandamus claim based on the Board's failure to consider his 2022 parole application.

HOLDINGS

1. Applying section 6139(a)(3.3) to Davies was retroactive, but Davies failed to plead that the amendment disadvantaged him by imposing a new or greater punishment or creating a nonspeculative significant risk of prolonged incarceration. The amendment changes only the frequency of parole consideration, does not extend the sentence or alter parole-eligibility standards, and therefore does not violate the federal or Pennsylvania Ex Post Facto Clauses.
2. Davies failed to plead a legally sufficient mandamus claim because the absence of an ex post facto violation meant he lacked a clear legal right to immediate and annual parole review.

KEY QUOTATIONS

“A preliminary objection in the nature of a demurrer admits every well-pleaded fact in the [PFR] and all inferences reasonably deducible therefrom.” (6)

“Mandamus is an extraordinary remedy that compels the official performance of a ministerial act or a mandatory duty.” (7)

“Two critical elements must be present for a criminal or penal law to be violative of the ex post facto clause” (8)

FACTUAL BACKGROUND

Davies was convicted of rape under 18 Pa.C.S. § 3121(a)(1) and was serving a six-to-twelve-year sentence. When he was convicted, Pennsylvania law generally required annual consideration of parole applications, but a 2020 amendment required triennial consideration for inmates convicted of violating section 3121. After the Board denied Davies parole in April 2021, it stated that his next review would occur in or after March 2024 and did not consider his 2022 parole application. Davies alleged that he had addressed the concerns identified in the 2021 denial and that delaying review created a significant risk of prolonging his incarceration.

PROCEDURAL HISTORY

Davies, an inmate serving a six-to-twelve-year sentence for rape, challenged the Board's failure to consider his parole application one year after a prior denial. He alleged that applying the 2020 amendment requiring triennial review for certain sex-offense convictions violated the federal and Pennsylvania Ex Post Facto Clauses. The Commonwealth Court sustained the Board's preliminary objections and dismissed the petition with prejudice.

DISPOSITION

dismissed

CASES CITED

- Leonardo v. Pennsylvania Board of Probation & Parole, 2023 WL 2544272 (Pa. Cmwlth. Mar. 17, 2023)
- Moore v. Pennsylvania Parole Board, 345 A.3d 629 (Pa. 2025)
- Torres v. Beard, 997 A.2d 1242, 1245 (Pa. Cmwlth. 2010)
- Weaver v. Pennsylvania Board of Probation & Parole, 688 A.2d 766, 770 (Pa. Cmwlth. 1997)
- Nickson v. Board of Probation & Parole, 880 A.2d 21, 23 (Pa. Cmwlth. 2005)
- McGriff v. Pennsylvania Board of Probation and Parole, 809 A.2d 455 (Pa. Cmwlth. 2002), aff'd, 838 A.2d 564 (Pa. 2003)
- Pennsylvania Dental Association v. Insurance Department, 516 A.2d 647, 652 (Pa. 1986)
- Coady v. Vaughn, 770 A.2d 287, 290 (Pa. 2001)
- Toland v. Pennsylvania Board of Probation & Parole, 263 A.3d 1220, 1235 (Pa. Cmwlth. 2021)
- Garner v. Jones, 529 U.S. 244, 245, 255-57 (2000)
- Collins v. Youngblood, 497 U.S. 37, 42 (1990)
- Weaver v. Graham, 450 U.S. 24, 29, 32 (1981)
- Cimaszewski v. Pennsylvania Board of Probation & Parole, 868 A.2d 416, 423 (Pa. 2005)
- Hudson v. Pennsylvania Board of Probation and Parole, 204 A.3d 392, 396 (Pa. 2019)
- California Department of Corrections v. Morales, 514 U.S. 499, 507-11 (1995)