

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, THIRD DEPARTMENT

Matter of Copeland v. Towns

2025 NY Slip Op 07358 (Appellate Division of the Supreme Court of the State of New York Third Department 2025) · No. CV-24-1892 · Decided December 31, 2025

SUMMARY

The New York Appellate Division, Third Department, affirmed dismissal of a CPLR article 78 petition challenging the denial of parole and the Board of Parole's imposition of a 24-month hold. The court held that the Board properly considered the required statutory factors and acted within its discretion, and that the petitioner failed to show retaliatory or irrational conduct.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	McShan, J.; Reynolds Fitzgerald, J.P.; Ceresia, J.; Fisher, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	December 31, 2025
DOCKET	CV-24-1892
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment of Supreme Court, Albany County, dismissing a CPLR article 78 petition challenging the Board of Parole's denial of parole release and imposition of a 24-month hold.
STANDARD OF REVIEW	The Board of Parole's determination is not disturbed absent a showing of irrationality bordering on impropriety; administrative actions are presumed regular, and the petitioner bears the burden of rebutting that presumption.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	Phillip Copeland v. Darryl C. Towns, as Chair of the Board of Parole

TOPICS

- judicial review of agency action
- administrative law
- appellate procedure
- standard of review
- procedural due process

PRACTICE AREAS

administrative law

prisoner and parole law

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether the Board of Parole could impose a 24-month reconsideration hold after the prior parole determination had been vacated and remitted for a de novo hearing, rather than continuing the prior 18-month hold.
2. Whether the longer hold was impermissibly retaliatory or otherwise irrational because it followed Copeland's successful administrative appeal.

HOLDINGS

1. The Board acted within its discretion in scheduling the reconsideration hearing 24 months after the November 2022 hearing because the governing statute imposed a 24-month maximum and did not require continuation of the prior 18-month hold.
2. The petitioner failed to rebut the presumption of regularity or establish irrationality bordering on impropriety, so the court would not disturb the Board's determination.
3. No due-process-based presumption of vindictiveness applied because there is no constitutional or inherent right to conditional release before expiration of a valid sentence, and Copeland received the statutorily required reconsideration hearing within 24 months.

KEY QUOTATIONS

"Actions undertaken by an administrative entity are cloaked with a presumption of regularity," (at 2)

"a showing of irrationality bordering on impropriety," (at 2)

"There is no constitutional or inherent right of a convicted person to be conditionally released before the expiration of a valid sentence" (Footnote 2)

FACTUAL BACKGROUND

Copeland is serving a 25-years-to-life sentence for second-degree murder and second-degree criminal possession of a weapon arising from his participation in the execution of a police officer in 1988. After repeated parole denials, the Board's November 2022 denial and 18-month hold were vacated on administrative appeal because the Board had not explained its departure from his low COMPAS risk-assessment scores. At the subsequent de novo hearing before different Board members, the Board considered the statutory parole factors, including the seriousness of the crimes, Copeland's positive programming and vocational accomplishments, disciplinary record, postrelease plans, community support and opposition, and low COMPAS score, denied parole, and imposed a 24-month hold.

PROCEDURAL HISTORY

The Board of Parole denied Copeland parole in November 2022 and imposed an 18-month hold. After an administrative appeal, that determination was vacated and remitted for a de novo hearing because the Board had

failed to explain its departure from Copeland's low COMPAS risk-assessment scores. Following a September 2023 de novo hearing, the Board again denied parole and imposed a 24-month hold measured from the November 2022 hearing; the administrative determination was upheld, Supreme Court dismissed Copeland's article 78 petition, and the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Copeland, 197 A.D.2d 629 (2d Dep't 1993), lv. denied, 82 N.Y.2d 848 (1993)
- Matter of Applewhite v. New York State Bd. of Parole, 167 A.D.3d 1380, 1382 (3d Dep't 2018), appeal dismissed, 32 N.Y.3d 1219 (2019)
- Matter of Mills v. New York State Bd. of Parole, 224 A.D.3d 1025, 1028-1029 (3d Dep't 2024), lv. dismissed & denied, 41 N.Y.3d 1015 (2024)
- Matter of Tatta v. State of N.Y. Div. of Parole, 290 A.D.2d 907, 908 (3d Dep't 2002), lv. denied, 98 N.Y.2d 604 (2002)
- Matter of Thompson v. New York State Bd. of Parole, 120 A.D.3d 1518, 1519 (3d Dep't 2014)
- Matter of Padilla v. New York State Bd. of Parole, 284 A.D.2d 685, 685 (3d Dep't 2001), appeal dismissed & lv. denied, 97 N.Y.2d 649 (2001)
- Matter of Georgian Motel Corp. v. New York State Liquor Auth., 206 A.D.2d 761, 762 (3d Dep't 1994), lv. denied, 84 N.Y.2d 811 (1994)
- Matter of Russo v. New York State Bd. of Parole, 50 N.Y.2d 69, 77 (1980)
- People v. Martinez, 26 N.Y.3d 196, 199 (2015)
- Matter of Avery v. Rechter, 71 A.D.2d 500, 503 (3d Dep't 1979)
- Greenholtz v. Inmates of Neb. Penal & Corr. Complex, 442 U.S. 1, 7 (1979)
- People ex rel. Johnson v. Superintendent, Adirondack Corr. Facility, 36 N.Y.3d 187, 199 (2020)