

COMMONWEALTH COURT OF PENNSYLVANIA

Kashawn S. Deas v. Board of Probation and Parole, Secretary John J. Talaber, Esq., and John Rivello

Deas · No. 755 C.D. 2020 · Decided April 27, 2021

SUMMARY

The Pennsylvania Commonwealth Court affirmed the Pennsylvania Board of Probation and Parole's order recommitting Kashawn S. Deas as a convicted parole violator to serve 21 months of backtime and denying credit for time spent at liberty on parole. The court held that the Board did not improperly extend Deas's judicially imposed sentence, that his parole-condition arguments lacked merit, and that the recommitment term fell within the applicable presumptive range.

CASE DETAILS

COURT	Commonwealth Court of Pennsylvania
WRITING FOR THE COURT	Renée Cohn Jubelirer; Anne E. Covey; Ellen Ceisler
JURISDICTION	Pennsylvania
DECIDED	April 27, 2021
DOCKET	755 C.D. 2020
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for review of the Pennsylvania Board of Probation and Parole's order affirming its decision to recommit Deas as a convicted parole violator, deny credit for street time, and recalculate his maximum sentence date; appointed counsel sought permission to withdraw after filing a no-merit letter.
STANDARD OF REVIEW	In parole revocation cases, review is limited to whether the Board committed a constitutional violation or error of law and whether its findings are supported by substantial evidence.
PRECEDENTIAL VALUE	Unreported memorandum opinion; nonprecedential
PARTIES	Kashawn S. Deas v. Board of Probation and Parole, Secretary John J. Talaber, Esq., John Rivello, Facility Manager/SCI-Mahanoy

TOPICS

judicial review of agency action

standard of review

appellate procedure

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PRACTICE AREAS

administrative law

parole and probation

appellate procedure

constitutional law

QUESTIONS PRESENTED

1. Whether the Board improperly extended Deas's judicially imposed sentence by recalculating his maximum sentence date without credit for street time.
2. Whether the Board's recommitment decision violated constitutional protections against double jeopardy or cruel and unusual punishment.
3. Whether the Board's recommitment was improperly based on allegedly illegal contractual parole conditions.
4. Whether the Board abused its discretion by imposing 21 months of backtime outside the applicable presumptive recommitment range.
5. Whether appointed counsel satisfied the procedural requirements for withdrawal under the Turner no-merit procedure.

HOLDINGS

1. Appointed counsel satisfied the procedural requirements for withdrawal by describing the record review, addressing the issues raised, explaining why the petition lacked merit, serving the required documents, and advising Deas of his right to proceed with new counsel or pro se.
2. The Board did not impose an additional sentence or improperly extend Deas's judicially imposed sentence; it properly recalculated the maximum sentence date to account for the remaining balance of the original sentence without credit for street time.
3. The Board's recommitment was authorized by statute and did not depend on parole conditions as an illegal contract. Parole conditions are lawful restrictions imposed under the Board's statutory authority.
4. The Board did not abuse its discretion by imposing 21 months of backtime because the term fell within the 18-to-24-month presumptive range for carrying a firearm without a license.

KEY QUOTATIONS

“the Board did not impose an additional sentence on [Deas], but, rather, directed [Deas] to complete the original judicially[]mandated sentence.” (9)

“The essence of parole is release from prison, before the completion of sentence, on the condition that the prisoner abide by certain rules during the balance of the sentence.” (10)

“Upon completion of the Board-imposed backtime, the parolee has a right to again apply for parole and have the Board consider that application.” (12)

FACTUAL BACKGROUND

Deas was paroled in February 2015 while serving consecutive state sentences. After later criminal charges and a conviction for carrying a firearm without a license, the Board recommitted him as a convicted parole violator to serve 21 months of backtime. The Board denied credit for his street time based on the firearms conviction and reported domestic-violence issues and recalculated his maximum sentence date to September 26, 2024. Deas challenged the recalculation, the recommitment, his parole conditions, the presumptive-range calculation, and alleged constitutional violations.

PROCEDURAL HISTORY

The Board recommitted Deas as a convicted parole violator to serve 21 months of backtime, denied him credit for time spent at liberty on parole, and recalculated his maximum sentence date. Deas sought administrative relief, which the Board denied. He then filed a pro se petition for writ of habeas corpus that the Commonwealth Court treated as a petition for review. The court granted appointed counsel's application to withdraw under the Turner no-merit procedure and affirmed the Board's order.

DISPOSITION

affirmed

CASES CITED

- Chesson v. Pennsylvania Board of Probation and Parole, 47 A.3d 875, 878 (Pa. Cmwlth. 2012)
- Commonwealth v. Turner, 544 A.2d 927, 928 (Pa. 1988)
- Hughes v. Pennsylvania Board of Probation and Parole, 977 A.2d 19, 25 (Pa. Cmwlth. 2009)
- Hughes v. Pennsylvania Board of Probation and Parole, 179 A.3d 117, 120-121 (Pa. Cmwlth. 2018)
- Zerby v. Shanon, 964 A.2d 956, 960 (Pa. Cmwlth. 2009)
- Lee v. Pennsylvania Board of Probation and Parole, 885 A.2d 634, 637 (Pa. Cmwlth. 2005)
- Staton v. Pennsylvania Board of Probation and Parole, 171 A.3d 363, 367 (Pa. Cmwlth. 2017)
- Monroe v. Pennsylvania Board of Probation and Parole, 555 A.2d 295, 296 (Pa. Cmwlth. 1989)
- Hubler v. Pennsylvania Board of Probation and Parole, 971 A.2d 535, 537 (Pa. Cmwlth. 2009)
- Currie v. Pennsylvania Board of Probation and Parole, No. 206 C.D. 2019, slip op. at 8-9 (Pa. Cmwlth. Aug. 16, 2019)
- Smith v. Pennsylvania Board of Probation and Parole, 574 A.2d 558, 560 (Pa. 1990)
- Krantz v. Pennsylvania Board of Probation and Parole, 483 A.2d 1044, 1047-48 (Pa. Cmwlth. 1984)
- Savage v. Pennsylvania Board of Probation and Parole, 761 A.2d 643, 645 (Pa. Cmwlth. 2000)

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