

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
PENNSYLVANIA

Nafese Kelly-Sizer v. Warden of SCI-Forest, et al.

Kelly-Sizer · No. 1:24-cv-201 · Decided April 27, 2026

SUMMARY

The United States District Court for the Western District of Pennsylvania denied Nafese Kelly-Sizer’s 28 U.S.C. § 2254 habeas petition challenging the Pennsylvania Parole Board’s refusal to credit street time and its recalculation of his maximum sentence date. The court held that the claims, including alleged violations of the Ex Post Facto, Due Process, and Eighth Amendment clauses, lacked merit and denied a certificate of appealability.

CASE DETAILS

COURT	United States District Court for the Western District of Pennsylvania
WRITING FOR THE COURT	Richard A. Lanzillo
JURISDICTION	United States District Court for the Western District of Pennsylvania
DECIDED	April 27, 2026
DOCKET	1:24-cv-201
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging the Pennsylvania Board of Probation and Parole's failure to award street-time credit and recalculation of the petitioner's maximum sentence date.
STANDARD OF REVIEW	Under 28 U.S.C. § 2254, habeas relief is available only when the petitioner is in custody in violation of the Constitution, laws, or treaties of the United States. The court may bypass exhaustion and deny a claim on the merits under 28 U.S.C. § 2254(b)(2).
PRECEDENTIAL VALUE	unpublished
PARTIES	Nafese Kelly-Sizer v. Warden of SCI-Forest, et al.

TOPICS

- federal habeas corpus
- exhaustion of remedies
- ex post facto
- due process
- cruel and unusual punishment

PRACTICE AREAS

federal habeas corpus

post-conviction relief

constitutional law

parole

QUESTIONS PRESENTED

1. Whether the court should dismiss the habeas petition for failure to exhaust available state-court remedies.
2. Whether the Pennsylvania Parole Board's denial of street-time credit and recalculation of Petitioner's maximum sentence date violated the Ex Post Facto Clause or Due Process Clause.
3. Whether the Parole Board's actions constituted cruel and unusual punishment under the Eighth Amendment.
4. Whether Petitioner was entitled to a certificate of appealability.

HOLDINGS

1. A federal habeas court may bypass the exhaustion requirement and deny a petition on the merits when the habeas claims plainly fail.
2. The Pennsylvania Parole Board's statutory denial of credit for time spent at liberty on parole and recalculation of the maximum sentence date did not violate the Ex Post Facto Clause, Due Process Clause, or other federal constitutional law.
3. A certificate of appealability should be denied because reasonable jurists would not debate the court's conclusion that Petitioner's claims failed on the merits.

KEY QUOTATIONS

"These claims are not cognizable in a federal habeas action."

"The Petition therefore fails to raise any ground upon which he may be found to be in custody in violation of the Constitution or other federal law"

"Because reasonable jurists would not disagree with the conclusion that Petitioner's claims fail on their merits, a certificate of appealability will be denied with respect to his claims."

FACTUAL BACKGROUND

Petitioner was sentenced in 2010 to six to fifteen years' imprisonment for criminal attempt to commit murder and was later released on parole. After he was convicted in federal court of possessing ammunition as a felon, the Pennsylvania Parole Board recommitted him as a convicted parole violator, denied him credit for time spent at liberty on parole, and extended his maximum sentence date to May 9, 2031. Petitioner claimed that the recalculation violated the Ex Post Facto, Due Process, and Eighth Amendment provisions of the United States Constitution.

PROCEDURAL HISTORY

Petitioner was convicted in the Court of Common Pleas of Delaware County and later released on parole. After a federal ammunition-possession conviction, the Pennsylvania Parole Board recommitted him as a convicted parole violator, denied credit for time spent at liberty on parole, and recalculated his maximum sentence date. After an unsuccessful administrative appeal, Petitioner filed this federal habeas petition; Respondents answered and Petitioner replied. The court denied the petition on the merits without resolving the exhaustion issue and denied a certificate of appealability.

DISPOSITION

dismissed

CASES CITED

- Vickers v. Superintendent Graterford SCI, 858 F.3d 841, 848-49 (3d Cir. 2017)
- Slutzker v. Johnson, 393 F.3d 373, 379 (3d Cir. 2005)
- Defoy v. McCullough, 393 F.3d 439, 445 (3d Cir. 2005)
- Begandy v. Pennsylvania Board of Probation & Parole, 2021 WL 1986415, at *4 (W.D. Pa. May 18, 2021)
- Bradley v. Wingard, 2017 WL 11476608, at *1 (W.D. Pa. Oct. 12, 2017)
- Bradley v. Wingard, 2018 WL 10150909 (W.D. Pa. Sept. 5, 2018)
- Roman v. DiGuglielmo, 675 F.3d 204, 209 (3d Cir. 2012)
- Taylor v. Horn, 504 F.3d 416, 427 (3d Cir. 2007)
- Lee v. Pennsylvania Board of Probation & Parole, 2019 WL 5191968, at *2 (W.D. Pa. Oct. 15, 2019)
- United States ex rel. Heacock v. Myers, 367 F.2d 583 (3d Cir. 1966)
- United States ex rel. Heacock v. Myers, 251 F. Supp. 773, 774 (E.D. Pa. 1966)
- Rivera v. Pennsylvania Board of Probation & Parole, Civ. A. No. 12-1169, 2013 WL 5947728, at *6 (M.D. Pa. Nov. 5, 2013)
- Slack v. McDaniel, 529 U.S. 473, 484 (2000)