

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Keith Jones, :
 :
 Petitioner :
 :
 v. : No. 2351 C.D. 2008
 : Submitted: January 22, 2010
 Pennsylvania Board of Probation and :
 Parole, :
 Respondent :

BEFORE: HONORABLE RENÉE COHN JUBELIRER, Judge
HONORABLE MARY HANNAH LEAVITT, Judge
HONORABLE ROCHELLE S. FRIEDMAN, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY SENIOR JUDGE FRIEDMAN FILED: March 12, 2010

Keith Jones (Jones) petitions for review of the November 21, 2008, decision of the Pennsylvania Board of Probation and Parole (Board), which denied his petition for administrative relief challenging the Board's calculation of his parole violation maximum date at May 19, 2019. We affirm.

On June 27, 2006, Jones was paroled from a sentence at tracking number BM7994 (Sentence 1) to a state detainer sentence at tracking number GR9325 (Sentence 2).¹ (C.R. at 27, 30.) The maximum sentence expiration date for Sentence 1 was August 12, 2018, and the maximum date for Sentence 2 was April 14, 2008. (C.R. at 24, 34.)

¹ Sentence 1 was eight years to twenty-six years for burglary. (C.R. at 1.) Sentence 2 was one year to two years for theft. (C.R. at 39.)

On January 12, 2007, the Board decided to parole Jones from Sentence 2 on or after April 14, 2007, provided that he had no misconducts in the interim. (C.R. at 30.) However, Jones was found guilty of a misconduct, and the Board rescinded its decision to parole Jones from Sentence 2. (C.R. at 34, 36.) In addition, because the misconduct violated a special condition of Jones' parole from Sentence 1, the Board issued a detainer on July 9, 2007, and scheduled a violation hearing. (C.R. at 35-36.)

Immediately after the violation hearing, the Board issued an order recommitting Jones as a technical parole violator, when available, to serve three months backtime on Sentence 1.² (C.R. at 98.) The Board determined that Jones was not yet available to begin serving his backtime because Jones was still serving Sentence 2. (C.R. at 99.) Thus, the Board stated that Jones' maximum date for Sentence 1 remained August 12, 2018, subject to change. (C.R. at 98.)

On April 15, 2008, one day after the maximum date for Sentence 2 expired, the Board issued a decision setting the maximum date for Sentence 1 at May 19, 2019. (C.R. at 107.) Jones sought administrative review of the Board's decision, but the Board affirmed.

Jones filed a petition for review with this court, arguing that the Board failed to credit him with time served solely under the Board's detainer. Appointed

² Jones sought administrative review of the Board's decision, but he did not prevail. *See Jones v. Pennsylvania Board of Probation and Parole*, 952 A.2d 710 (Pa. Cmwlth.), *appeal denied*, 599 Pa. 712, 962 A.2d 1198 (2008).

counsel filed an application for leave to withdraw, which this court denied without prejudice. *Jones v. Pennsylvania Board of Probation and Parole*, (Pa. Cmwlth., No. 2351 C.D. 2008, filed July 15, 2009). Appointed counsel then filed an amended application, which this court also denied without prejudice. *Jones v. Pennsylvania Board of Probation and Parole*, (Pa. Cmwlth., No. 2351 C.D. 2008, filed September 16, 2009).

Appointed counsel now has filed a brief, arguing that the Board failed to give Jones credit for the time he served from October 14, 2003, to April 14, 2006. However, those dates are not relevant here because they precede the date Jones was last released on parole, which was June 27, 2006. The issue here is whether, in calculating the new maximum date at May 19, 2019, the Board gave Jones all due credit for time he served **following** his last release on parole. If Jones believed that he failed to receive credit for time served prior to June 27, 2006, he needed to raise the issue when the Board previously recommitted him and set his maximum date at August 12, 2018.

Accordingly, we affirm.

ROCHELLE S. FRIEDMAN, Senior Judge

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Keith Jones,		:
	Petitioner	:
		:
v.		:
		:
		:
Pennsylvania Board of Probation and		:
Parole,		:
	Respondent	:

No. 2351 C.D. 2008

ORDER

AND NOW, this 12th day of March, 2010, the order of the Pennsylvania Board of Probation and Parole, dated November 21, 2008, is hereby affirmed.

ROCHELLE S. FRIEDMAN, Senior Judge