

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVID WONTAE FITZGERALD,	)	
	)	
Petitioner,	)	Civil Action No. 22-181
	)	Magistrate Judge Maureen P. Kelly
v.	)	
	)	Re: ECF No. 8
PENNSYLVANIA PAROLE BOARD, and	)	
WARDEN JOE DEMORE,	)	
	)	
	)	
Respondents.	)	
	)	
	)	

**MEMORANDUM OPINION**

Pending before the Court is the Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus filed by David Wontae Fitzgerald (“Petitioner”), a state prisoner currently incarcerated at the State Correctional Institution at Somerset. ECF No. 8.

For the reasons stated herein, the Petition will be dismissed, and a certificate of appealability will be denied.<sup>1</sup>

**I. PROCEDURAL BACKGROUND**

Petitioner initiated the present matter by filing the Petition on January 27, 2022. ECF No. 8 at 15. See also Burns v. Morton, 134 F.3d 109, 113 (3d Cir. 1998) (“we hold that a pro se prisoner’s habeas petition is deemed filed at the moment he delivers it to prison officials for mailing to the district court.”). Respondents filed a Response. ECF No. 14. The Petition is ripe

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<sup>1</sup> Pursuant to 28 U.S.C. § 636(c), the parties have consented to the jurisdiction of a United States Magistrate Judge to conduct all proceedings, including trial and entry of final judgment, with direct review by the United States Court of Appeals for the Third Circuit if an appeal is filed. ECF Nos. 2, 25.

for review.

## II. ANALYSIS

Petitioner asserts that, on May 26, 2021, while he was released on state parole, a state parole detainer was lodged against him due to the filing of federal criminal charges filed against him. ECF No. 8 at 8. Although he sets forth four grounds for relief, all of these grounds have the same basis: the federal charges are duplicative of state charges previously brought against him for which his parole was revoked for a term of six months. *Id.* at 5-10. In this proceeding, he seeks to have the state parole detainer removed. *Id.* at 15.

Subsequent to the filing of this petition, Petitioner entered a guilty plea to the federal criminal charges in question on April 18, 2024, and was sentenced on that same date. U.S. v. Fitzgerald, Case No. 2:21-cr-225-DSC, ECF Nos. 96, 99. As part of his plea agreement, he waived “any former jeopardy or double jeopardy claims [he] may have in or as a result of any related civil or administrative actions.” *Id.*, ECF No. 95 at 2.

Article III of the U.S. Constitution requires that there be a case and controversy in order for a federal court to exercise jurisdiction. Already, LLC v. Nike, Inc., 568 U.S. 85, 90 (2013). This requirement must exist at the beginning of litigation and remain throughout all stages of litigation. *Id.* at 90-91. If during the course of the litigation, events that transpire which eliminate the ability of the court to grant any effectual relief, the case is moot and must therefore be dismissed. Knox v. Service Employees Intern. Union, Local 1000, 567 U.S. 298, 307 (2012).

Assuming *arguendo* that Petitioner had a cognizable federal habeas claim against Respondents at the time he filed the instant petition,<sup>2</sup> events have transpired during the course of

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<sup>2</sup> Respondents set forth colorable arguments that, *inter alia*, Petitioner’s claims are unexhausted, meritless, and misdirected. ECF No. 14 at 4-10.

this litigation which eliminate the Court's ability to grant the relief he seeks. Petitioner is no longer subject to the 2021 parole detainer lodged pending outcome of the federal charges. He is now imprisoned as a technical parole violator. ECF No. 26-1 at 1-2. Thus, there is no state parole detainer to be removed and this case is moot. Accordingly, the Petition will be dismissed.

### III. CERTIFICATE OF APPEALABILITY

A certificate of appealability will be denied, as Petitioner has failed to make "a substantial showing of the denial of a constitutional right." See 28 U.S.C. § 2253(c)(2). See also Slack v. McDaniel, 529 U.S. 473, 484-85 (2000).

An appropriate Order follows.

Dated: March 5, 2025

BY THE COURT:

  
MAUREEN P. KELLY  
UNITED STATES MAGISTRATE JUDGE

cc: David Wontae Fitzgerald  
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SCI Somerset  
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