

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

DANTE GRAVES,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. 3:23-258
	)	Judge Nora Barry Fischer
PENNSYLVANIA ATTORNEY GENERAL	)	Magistrate Judge Keith Pesto
MICHELLE HENRY, KLINEFELTER,	)	
Pennsylvania Parole Board Superintendent,	)	
	)	
Respondents.	)	

**MEMORANDUM ORDER**

AND NOW, this 7th day of January, 2025, upon consideration of the Report and Recommendation filed by United States Magistrate Judge Keith A. Pesto on December 8, 2023, (Docket No. 3), recommending that the § 2254 habeas petition filed by Petitioner Dante Graves against Pennsylvania Attorney General Michelle Henry and Klinefelter, Pennsylvania Parole Board Superintendent, wherein he challenges the denial of parole and seeks release from state custody to parole, be denied, without a certificate of appealability, Petitioner’s objections which were timely filed within 14 days as directed by the Magistrate Judge, (Docket No. 4), and the subsequent Report and Recommendation by the Magistrate Judge dated December 18, 2024, recommending that the Petition be dismissed, as moot, given that the Petitioner has been released from state custody and is now on parole, (Docket No. 5), no objections having been filed to this latter Report and Recommendation, this matter having been recently reassigned to the undersigned for prompt disposition of the matter, (Docket No. 6), and upon independent review of the record and de novo consideration of the Magistrate Judge’s Report and Recommendation of December 18, 2024, (Docket No. 5), which is ADOPTED as the opinion of this Court,

IT IS HEREBY ORDERED that Petitioner's Objections (Docket No. 4) are OVERRULED;

IT IS FURTHER ORDERED that the Petition (Docket No. 1) and the initial Report and Recommendation dated December 8, 2023 (Docket No. 3) are DISMISSED, as moot, *see e.g.*, *Malik v. Warden Loretto FCI*, No. 23-2281, 2024 WL 3649570, at \*2 (3d Cir. Aug. 5, 2024) ("Because Malik had been released to prerelease custody, his request for release to such custody was moot."); *Lee v. Superintendent Greene SCI*, No. 15-2412, 2016 WL 11786206, at \*1 (3d Cir. Jan. 13, 2016) (denying certificate of appealability to petitioner regarding habeas petition challenging denial of parole because he was released from custody on parole and did not show any collateral consequences such that his petition was moot); *Fitzgerald v. Pennsylvania Board of Probation and Parole*, 2024 WL 4755397, at \*2 (W.D. Pa. Oct. 31, 2024) ("Fitzgerald is no longer incarcerated. He was granted parole in July 2024 and was released to parole in October 2024. Accordingly, there is no relief that this Court can provide to him and this habeas case is now moot.");

IT IS FURTHER ORDERED that no certificate of appealability shall issue as Petitioner has not made a substantial showing of a denial of a Constitutional right; and,

FINALLY, IT IS ORDERED that the Clerk of Court shall mark this case CLOSED.

*s/Nora Barry Fischer*  
Nora Barry Fischer  
Senior U.S. District Judge

cc/ecf: Magistrate Judge Keith A. Pesto

cc: Dante Graves  
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