

**Pennsylvania Commission on Sentencing
Caselaw Highlights (PA Reporter through May 23, 2008)**

Abraham	DOC	634 A.2d 214 615 A.2d 814	12/20/1993	PA PA Cmwth	Sentence	Aggregation	Supreme Court affirmed per curiam [result only, not necessarily rationale] Commonwealth Court decision: Recommittal is not a sentence; the action on a parole violation is not subject to aggregation. Decision addresses place of confinement, not parole.
Forbes	DOC	931 A.2d 88	7/19/2007	PA Cmwth	Sentence	Aggregation	Once a sentencing court imposes a consecutive sentence, aggregation with other consecutive sentences is automatic and mandatory under the Sentencing Code. 42 Pa.C.S.A. § 9757. Department of Corrections' aggregation of prisoner's sentences, resulting in the rescission of parole on the first sentence and making prisoner remain in prison longer than he expected, did not violate due process; Department did not deliberately mislead prisoner in order to torment him, but instead performed a mandatory duty under Sentencing Code in order to require prisoner to serve the sentence he actually received. U.S.C.A. Const.Amend. 14; 42 Pa.C.S.A. § 9757.
Forbes	DOC	931 A.2d 88	7/19/2007	PA Cmwth	Sentence	Aggregation	Department of Corrections' aggregation of prisoner's consecutive rape sentences, resulting in rescission of parole granted on the first sentence by Board of Probation and Parole, did not violate double jeopardy; Department's action, mandatory under the Sentencing Code, simply corrected Board's erroneous grant of parole based on non-aggregated sentences, and did not alter the original sentence. U.S.C.A. Const.Amend. 5, 42 Pa.C.S.A. § 9757.
Forbes	DOC	931 A.2d 88	7/19/2007	PA Cmwth	Sentence	Aggregation	Board of Probation and Parole's rescission of parole on first of two rape sentences could not be challenged in mandamus proceeding after the Department of Corrections re-calculated prisoner's sentence based on mandatory aggregation of his sentences under the Sentencing Code; grant of parole was outside Board's authority and thus became a nullity once the Department corrected the error. 42 Pa.C.S.A. § 9757. An order granting parole is a nullity where it is beyond the authority of the person issuing the order.
Com. ex rel Smith	DOC	829 A.2d 788	8/5/2003	PA Cmwth	Sentence	Aggregation	Department of Corrections properly aggregated inmate's sentences; although inmate alleged Department unlawfully aggregated separate sentences imposed by two different judges, section of sentencing code governing consecutive sentences of total confinement for multiple offenses, which mandated aggregation once sentencing court imposed consecutive sentence, applied to sentences imposed on different occasions, and defendant's sentence on violation of the Uniform Firearms Act (VUFA) offense was ordered to run consecutively to sentence he was already serving for robbery.

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	Miller	770 A.2d 362	3/9/2001	PA Super	Sentence	Aggregation	Statute and case law require that consecutive sentences be automatically aggregated, even if imposed by different judges, even if imposed by different courts, and even if imposed at different times, and that, where the total aggregate sentence carries a maximum of two years or more, exclusive parole authority lies with the PBPP.
	Harris	620 A.2d 1175	2/19/1993	PA Super	Sentence	Aggregation	Because a minimum sentence may not exceed half of the maximum sentence, 42 Pa.C.S. 9755(b), 9756(b), section 9757... has been interpreted as requiring the aggregation of maximum as well as minimum sentences. Com. v. PBPP (387 A.2d 506).
	Harris	620 A.2d 1175	2/19/1993	PA Super	Sentence	Aggregation	Pennsylvania Board of Probation and Parole had exclusive parole jurisdiction over defendants who received multiple consecutive county sentences which, when aggregated, exceed two years. 61 P.S. 314, 331.7; 42 Pa.C.S. 9757.
	Tilghman	673 A.2d 898 652 A.2d 390	3/29/1996	PA PA Super	Sentence	Aggregation	Parole authority based on aggregate maximum consecutive sentence greater than or equal to 2 years, and is under the authority of the Parole Board. Decision supports the holding in Com. v. Harris (535 Pa 668); result & rationale affirmed by Supreme Court.
Downard	DOC	650 A.2d 1163	11/21/1994	PA Cmwth	Sentence	Aggregation	New charge/P&P violation: Prisoner not entitled to have county incarceration for parole viol. aggregated with state sentence for probation violation. Action on parole viol. is 'recommittal' on original county sentence; action on prob. viol. new sentence.
Abraham	DOC	634 A.2d 214 615 A.2d 814	12/20/1993	PA PA Cmwth	Parole	Aggregation	Supreme Court affirmed per curiam [result only, not necessarily rationale] Commonwealth Court decision: Recommittal is not a sentence; the action on a parole violation is not subject to aggregation. Decision addresses place of confinement, not parole.
Nickson	PBPP	880 A.2d 21	6/3/2005	PA Cmwth	Parole	Aggregation	Petitioner's unsupported contention that aggregation of his sentences violated Eighth Amendment proscription against cruel and unusual punishment represented misunderstanding of applicable law and was insufficient to entitle petitioner to relief in mandamus from rescission of his parole, especially where aggregation of petitioner's sentences was mandatory. U.S.C.A. Const.Amend. 8; 42 Pa.C.S.A. § 9757.
Monroe	PBPP	725 A.2d 223	2/8/1999	PA Cmwth	Parole	Aggregation	Parole Act required that violator's county sentence precede his backtime, and that Sentencing Code does not require aggregation where sentences are consecutive by operation of statute (i.e., new sentence and backtime) rather than by court discretion.
Downard	DOC	650 A.2d 1163	11/21/1994	PA Cmwth	Parole	Aggregation	New charge/P&P violation: Prisoner not entitled to have county incarceration for parole viol. aggregated with state sentence for probation violation. Action on parole viol. is 'recommittal' on original county sentence; action on prob. viol. new sentence.

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	Jamison	652 A.2d 862	1/12/1995	PA Super	Parole	Aggregation	Parole Board has supervision of aggregated incarcerative sentences with a maximum of 2 years or greater.
	Tilghman	673 A.2d 898 652 A.2d 390	3/29/1996	PA PA Super	Parole	Aggregation	Parole authority based on aggregate maximum consecutive sentence greater than or equal to 2 years, and is under the authority of the Parole Board. Decision supports the holding in Com. v. Harris (535 Pa 668); result & rationale affirmed by Supreme Court.
	Hall	652 A.2d 858	1/12/1995	PA Super	Parole	Aggregation	An aggregated maximum consecutive sentence of 2 years or greater is under the supervision of the PA Board of Probation and Parole.