

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

	Mullins	918 A.2d 82	3/26/2007	PA	Sentence	Revocation	Superior Court exceeded its authority on probationer's appeal of order revoking his probation in vacating probationer's sentence without remanding for a new violation of probation (VOP) hearing, after concluding that there was insufficient evidence to support revocation; potential for VOP hearing was integral part of probationer's original conditional sentence, the purpose of which was to establish to satisfaction of court that granted probation, that defendant's conduct warranted continuing him as a probationer, and even where VOP hearing record was insufficient to sustain revocation of probation, this purpose should not be frustrated, i.e., court that granted probation should not be precluded from determining whether probation remained the proper course only because the Commonwealth failed to include certain formalities in the record.
	Holder	805 A.2d 499	8/22/2002	PA	Sentence	Revocation	Defendant was entitled to an evidentiary hearing to review the validity of the probation revocation judge's decision that evidence the victim had previously made an allegation of rape was inadmissible in a probation revocation hearing, in prosecution for rape and other crimes.
	Kalichak	943 A.2d 285	1/30/2008	PA Super	Sentence	Revocation	If an original offense was punishable by total confinement, such a penalty is available to a court revoking the sentence of probation, subject to the limitation that the court shall not impose total confinement unless it finds that: (1) the defendant has been convicted of another crime; (2) the defendant's conduct indicates a likelihood of future offenses; or (3) such a sentence is necessary to vindicate the court's authority. 42 Pa.C.S.A. § 9771(c).
	Kalichak	943 A.2d 285	1/30/2008	PA Super	Sentence	Revocation	Total confinement was authorized in probation revocation proceeding; total confinement was available to trial court at time of original sentencing and, since defendant's violation arose from a new conviction, total confinement was also available upon revocation of probation.
	Kalichak	943 A.2d 285	1/30/2008	PA Super	Parole	Revocation	Unlike a probation revocation, a parole revocation does not involve the imposition of a new sentence. There is no authority for a parole-revocation court to impose a new penalty; rather, the only option for a court that decides to revoke parole is to recommit the defendant to serve the already-imposed, original sentence. A court's tasks at parole-revocation hearing are to determine whether the parolee violated parole and, if so, whether parole remains a viable means of rehabilitating the defendant and deterring future antisocial conduct, or whether revocation, and thus recommitment, are in order.

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	Kalichak	943 A.2d 285	1/30/2008	PA Super	Parole	Revocation	Commonwealth must prove the violation by a preponderance of the evidence and, once it does so, the decision to revoke parole is a matter for the court's discretion. Following parole revocation and recommitment, the proper issue on appeal is whether the revocation court erred, as a matter of law, in deciding to revoke parole and, therefore, to recommit the defendant to confinement.
	Perreault	930 A.2d 553	7/17/2007	PA Super	Sentence	Revocation	The Commonwealth establishes a probation violation meriting revocation when it shows, by a preponderance of the evidence, that the probationer's conduct violated the terms and conditions of his probation, and that probation has proven an ineffective rehabilitation tool incapable of deterring probationer from future antisocial conduct.
	Perreault	930 A.2d 553	7/17/2007	PA Super	Sentence	Revocation	Evidence was sufficient to establish that probationer violated probation so as to support revocation of probation; probationer admitted during polygraph session that he had on two occasions in last month watched X-rated movies, first viewing occurred one month before test, second one just days before when probationer said he purchased what he called X-rated movie, masturbated to it at his home, and destroyed movie afterward, and polygraph examiner's testimony was corroborated by probationer's probation officer, who testified that probationer made same admission to him.
	Perreault	930 A.2d 553	7/17/2007	PA Super	Sentence	Revocation	Sex offender program probation condition that probationer not own, possess, or view any obscene materials or materials which depict or describe sexual conduct including, but not limited to, photographs, magazines, movies, DVDs, or videotapes depicting nude men, women, or children, and will not be member of or recipient of any adult movies, catalogues, literature, or advertisement, was not unconstitutionally vague or overbroad; terms of condition were both specific and well-recognized in context of law enforcement against sex offenses, gave defendant clear guidance as to what sex-related content was prohibited, and did not encourage arbitrary enforcement, and condition was directly related to government's legitimate interest in reducing sex offender probationers' likelihood of recidivism.
	Carver	923 A.2d 495	5/1/2007	PA Super	Sentence	Revocation	Trial court could not consider defendant's arrest prior to imposition of his probationary term or his previous juvenile proceedings when determining whether to revoke defendant's probation; statute prohibited the court from considering facts that occurred prior to the imposition of probation when revoking probation. 42 Pa.C.S.A. § 9771.

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	Carver	923 A.2d 495	5/1/2007	PA Super	Sentence	Revocation	Technical violations of probationary terms can support revocation and a sentence of incarceration when such violations are flagrant and indicate an inability to reform. Even when a probation violation is present, revocation is not automatic; rather, the focus must remain on whether probation can still be an effective tool for rehabilitation.
	MacGregor	912 A.2d 315	11/21/2006	PA Super	Sentence	Revocation	Upon sentencing following a revocation of probation, the trial court is limited only by the maximum sentence that it could have imposed originally at the time of the probationary sentence. 42 Pa.C.S.A. § 9771(b).
	Hoover	909 A.2d 321	9/28/2006	PA Super	Sentence	Revocation	Trial court acted within its authority to enter order revoking defendant's probation and imposing sentences of imprisonment, though defendant did not violate the law by becoming intoxicated, as he clearly violated terms of his work release by returning to correctional facility from work release in an intoxicated state, which conduct demonstrated to trial court that he was unworthy of probation and that granting of same would not be in subservience to ends of justice or best interests of public, and, in light of defendant's conduct, extensive history of alcohol abuse and numerous prior convictions for driving under influence of alcohol (DUI), trial court concluded that defendant posed risk to community in that he was likely to commit new crimes. 42 Pa.C.S.A. § 9771(c).
	Malovich	903 A.2d 1247	7/17/2006	PA Super	Sentence	Revocation	Regarding a sentence imposed for a probation violation, a term of total confinement is available if any of the following conditions exist: (1) the defendant is convicted of another crime; or (2) his conduct indicates that it is likely that he will commit another offense; or (3) such a sentence is essential to vindicate the court's authority. 42 Pa.C.S.A. § 9771(c).
	Malovich	903 A.2d 1247	7/17/2006	PA Super	Sentence	Revocation	Trial court sufficiently articulated the grounds upon which it relied when determining sentence of incarceration for defendant who had violated probation by possessing marijuana; trial court stated that it had afforded defendant the opportunity to resolve substance abuse problems in drug court, but defendant failed to do so, that defendant had displayed a noticeable "attitude problem" toward the drug treatment personnel and the court, and that due to defendant's unwillingness to change or to avail himself of assistance, keeping defendant in probation program was no longer appropriate. 42 Pa.C.S.A. § 9721(b).

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	Malovich	903 A.2d 1247	7/17/2006	PA Super	Sentence	Revocation	Trial court did not fail to consider mandatory sentencing factors under statute governing the revocation of probation and total confinement in revoking defendant's probation and issuing sentence of incarceration, even if the court did not quote from the statute or mention it by name; transcript from sentencing hearing showed that defendant was found in possession of marijuana while on probation, that defendant was not only likely to commit another offense but had in fact done so by illegally possessing a controlled substance, and that defendant was not responding to court's authority, making incarceration necessary. 42 Pa.C.S.A. § 9771(c).
	Infante	888 A.2d 783	12/29/2005	PA Super	Sentence	Revocation	Trial court had authority, in a violation of probation (VOP) proceeding, to defer consideration of probationer's alleged new crimes until outcome of trial on those new charges, revoke probation and impose county jail sentence with probation tail based on probationer's technical violations of probation, and then later adjust the sentence to imprisonment at state prison after probationer was convicted on the new charges; trial court could have revoked probation and imposed sentence of total confinement based merely upon fact that probationer had been arrested and charged with new crimes, but trial court, in response to argument forwarded by defense counsel, elected to proceed more cautiously and thereby avoid risk of imposing VOP sentence that would become void if probationer was acquitted of the new charges.
	Yakell	876 A.2d 1040	6/3/2005	PA Super	Sentence	Revocation	Post-conviction court was within its right not to grant defendant any credit for time he spent serving his original sentence for driving while under the influence when re-sentencing him following his parole and probation revocation, as maximum aggregate time for probation violation, when added to original sentence, did not exceed statutory maximum of two-and-a-half to five years. 42 Pa.C.S.A. § 9760(1).
	Heilman	876 A.2d 1021	6/1/2005	PA Super	Sentence	Revocation	Generally, probation is revoked and sentence imposed at the same hearing; however, when sentencing is delayed, absent exceptional circumstances, the defendant's right to appeal the revocation order accrues only after he is sentenced. The trial court's failure to provide defendant with a comprehensive probation revocation hearing, after court determined that the Commonwealth established probable cause to believe that defendant violated conditions of his probation, warranted reversal of defendant's sentence and remand for a proper hearing; there was no evidence that defendant waived the hearing, and the initial hearing did not provide the court with the evidence necessary to determine whether defendant willfully disregarded the terms of his probation.

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	Fusselman	866 A.2d 1109	12/14/2004	PA Super	Sentence	Revocation	Upon revocation of probation, sentencing court was allowed to consider any sentencing option it had at the initial sentencing, even though three years' intermediate punishment (IP) was imposed pursuant to plea agreement and was to run concurrently with a sentence defendant was serving on unrelated charges; revocation sentence did not transform previously concurrent sentences into consecutive sentences. 42 Pa.C.S.A. § 9771.
	Smith	860 A.2d 142	9/24/2004	PA Super	Sentence	Revocation	Circumstances where filing of allegations of violation of probation by Commonwealth, even after probationary term has expired, is allowable are limited to such instances where: Commonwealth cannot ascertain that it was probationer who committed another offense; Commonwealth cannot show that violation has actually occurred; or violation has occurred so late in probationary term that Commonwealth cannot actually file proper paperwork in time.
	Castro	856 A.2d 178	8/6/2004	PA Super	Sentence	Revocation	A probation violation hearing may be conducted prior to a trial for the criminal charges based on the same activities. Burden of proof for establishing a violation of probation is a preponderance of the evidence. The focus of a probation hearing, even though prompted by a subsequent arrest, is whether the conduct of the probationer indicates that the probation has proven to be an effective vehicle to accomplish rehabilitation and a sufficient deterrent against future anti-social conduct.
	Lehman	851 A.2d 941	5/28/2004	PA Super	Sentence	Revocation	Admission at probation violation hearing of results of random drug test, conducted as part of indeterminate punishment program (I.P.P.), and defendant's statement pertaining to drug usage, did not violate Fourth Amendment to United States Constitution; exclusionary rule for evidence obtained in violation of the Fourth Amendment had been held not to extend to state parole revocation hearings, and constitutional rights of parolee were indistinguishable from those of probationer. U.S.C.A. Const.Amend. 4.
	McAfee	849 A.2d 270	4/27/2004	PA Super	Sentence	Revocation	Once probation has been revoked, a sentence of total confinement may be imposed if any of the following conditions exist: (1) the defendant has been convicted of another crime; or (2) the conduct of the defendant indicates that it is likely that he will commit another crime if he is not imprisoned; or, (3) such a sentence is essential to vindicate the authority of court.

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	Clark	847 A.2d 122	4/6/2004	PA Super	Sentence	Revocation	Delay of more than four years in holding revocation of probation hearing did not warrant dismissal of probation revocation, although delay was unreasonable, where delay was occasioned by more than 25 cancellations of court's writs directing prison officials to bring defendant to his hearing due to unavailability of open beds in county jail; Commonwealth was diligent in its efforts to provide defendant with hearing, and defendant was not prejudiced because of delay because he was not imprisoned longer than he otherwise would have been. Rules Crim.Proc., Rule 708(B), 42 Pa.C.S.A.
	Adebaike	846 A.2d 759	3/31/2004	PA Super	Sentence	Revocation	Where a trial court accepts a guilty plea made pursuant to a negotiated plea bargain for a sentence concurrent with a prior sentence and imposes a concurrent sentence in compliance with the terms of the plea bargain, the trial court has enforced the plea bargain; upon resentencing, following probation revocation, the trial court remains bound to the plea bargain and must impose concurrent sentences.
	Parlante	823 A.2d 927	4/30/2003	PA Super	Sentence	Revocation	The trial court abused its discretion in sentencing defendant to four to eight years in prison for violating probation without considering all relevant factors; although defendant violated her probation seven times, the record reflected that the court failed to consider defendant's age, family history, rehabilitative needs, the pre-sentence report or the fact that all of the offenses were non-violent in nature and four of the violations were purely technical. 42/9771(c).
	Williams	801 A.2d 584	6/10/2002	PA Super	Sentence	Revocation	Sentence of an aggregate of 9-18 years' incarceration imposed by trial court following probation revocation hearing was not illegal or excessive; original plea did not include any reference to concurrent sentences.
	Bowser	783 A.2d 348	9/11/2001	PA Super	Sentence	Revocation	In sentencing proceedings following a revocation of probation, the trial court is limited only by the maximum sentence that it could have imposed originally at the time of the probationary sentence.
	Coolbaugh	770 A.2d 788	3/9/2001	PA Super	Sentence	Revocation	Sentencing Guidelines do not apply to sentences imposed as a result of probation revocations; upon sentencing following a revocation of probation, the trial court is limited only by the maximum sentence that it could have imposed originally at the time of the probationary sentence.
	Sims	770 A.2d 346	3/5/2001	PA Super	Sentence	Revocation	A probationer who waives his preliminary probation revocation hearing does not concede that he is guilty of the charges against him; rather, the defendant agrees to be bound over for trial where evidence is presented before a finding of guilt is rendered.

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	Sims	770 A.2d 346	3/5/2001	PA Super	Sentence	Revocation	Unlike a criminal trial where the burden is on the commonwealth to establish all of the requisite elements of the offense(s) charged beyond a reasonable doubt, at a revocation hearing the commonwealth need only prove a violation of probation by a preponderance of the evidence.
	Sierra	752 A.2d 910	5/15/2000	PA Super	Sentence	Revocation	Sentencing court did not abuse its discretion in imposing statutory maximum for original aggravated assault conviction upon revocation of probation for technical parole/probation violation, where court gave careful consideration to all relevant factors in sentencing defendant, including her significant criminal record as a juvenile and as an adult.
	Eggers	742 A.2d 174	11/23/1999	PA Super	Sentence	Revocation	Defendant's probation for welfare fraud could not be revoked for failure to complete payment of restitution, absent finding that defendant had resources to pay and willfully failed to make payments. 62 P.S. 481.
	Ware	737 A.2d 251	7/9/1999	PA Super	Sentence	Revocation	Trial court had authority to revoke defendant's probation, despite fact that at the time of revocation of probation the defendant had not yet begun to serve probationary portion of her split sentence and that offense upon which revocation based occurred during parole period and not probationary period.
	Brown	680 A.2d 884	7/15/1996	PA Super	Sentence	Revocation	That defendant was not informed that his entry of guilty plea could result in revocation of probation in unrelated matter did not render plea invalid, because possibility of PV constituted a collateral consequence.
	Smith	669 A.2d 1008	1/10/1996	PA Super	Sentence	Revocation	Sentencing court may impose a sentence which exceeds the sentence originally imposed as a result of a revocation of defendant's probation.
	Holmes	933 A.2d 57	10/16/2007	PA	Parole	Revocation	A court faced with a parole violation must recommit the parolee to serve the remainder of the original sentence of imprisonment, from which the prisoner could be reparaoled. Trial court's order stating "parole is hereby revoked" and sentencing defendant to serve "Not less than three (3) years nor more than six (6) years" contained a patent mistake given that defendant's original sentence entailed a maximum of 23 months of incarceration, and thus trial court had inherent power to correct the mistake despite the absence of traditional jurisdiction; mistake was apparent from a review of the docket without resort to third-party information.

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Prebella	PBPP	942 A.2d 257	2/11/2008	PA Cmwth	Parole	Revocation	Parolee voluntarily, knowingly, and intelligently waived his right to a hearing on alleged parole violations and admitted violations, even though parolee argued that staff of Board of Probation and Parole induced him to waive hearing by promising to return him to a certain program, where parolee signed statements that he had been advised of his constitutional right to a violation hearing, that he waived that right of his own free will without promise, threat, or coercion, and that he knowingly, intelligently, and voluntarily admitted that he was in violation of terms and conditions of his parole, and parolee never sought to withdraw his admissions although advised of his right to do so. 37 Pa.Code § 71.2.
Abrams	PBPP	935 A.2d 604	11/9/2007	PA Cmwth	Parole	Revocation	A recommitment of a parolee is not a second punishment for the original offense; it has no effect on the original judicially imposed sentence. Recommitment of a parolee is an administrative determination that the parolee should be reentered to serve all or part of the unexpired term of his original sentence. 37 Pa.Code §§ 75.1, 75.2.
Abrams	PBPP	935 A.2d 604	11/9/2007	PA Cmwth	Parole	Revocation	Period of recommitment of a parolee set by the Board of Probation and Parole, which may be less than the unexpired term of the parolee's sentence, simply establishes a new parole eligibility date for the parolee; it does not entitle him to release after that period of time. Upon completion of a period of recommitment, a parolee has the right to again apply for parole and have his application considered by the Board of Probation and Parole.
Taylor	PBPP	931 A.2d 114	8/15/2007	PA Cmwth	Parole	Revocation	Where the Board of Probation and Parole has failed to meet the burden of establishing the timeliness of the revocation hearing, the appropriate remedy is dismissal of the parole violation charges with prejudice.
Taylor	PBPP	931 A.2d 114	8/15/2007	PA Cmwth	Parole	Revocation	Regulation that required the Board of Probation and Parole to conduct a parole revocation hearing within 120 days after the Board received official verification of the parolee's conviction did not violate due process, even though defendant argued that the 120-day period should run from the date of the Board's actual or constructive knowledge of the conviction; it was reasonable for a parole agent to wait for official verification. U.S.C.A. Const.Amend. 14; 37 Pa.Code § 71.4(1).

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Adams	PBPP	885 A.2d 1121	11/1/2005	PA Cmwlth	Parole	Revocation	Parole board retained jurisdiction to recommit parolee even after expiration of parolee's original maximum sentence date on underlying conviction, on basis of parolee's commission of criminal act during parole period. Board of Probation and Parole can recommit and recompute the sentence of a parolee who commits a crime while on parole but is not convicted until after his original sentence expired. 61 P.S. § 331.21a.
Lee	PBPP	885 A.2d 634	10/25/2005	PA Cmwlth	Parole	Revocation	Parolee could not prevail on claim that revocation of parole was in retaliation for his filing of petition for writ of habeas corpus, where petition was filed four months prior to his release on parole and ten months prior to the violation thereof, such that had Board of Probation and Parole wished to retaliate for the filing of petition, it could easily have declined to grant parole.
Lee	PBPP	885 A.2d 634	10/25/2005	PA Cmwlth	Parole	Revocation	Putative parolee is not entitled to counsel to negotiate the terms and conditions of parole. 61 P.S. § 331.22. There is no constitutional right of a parolee who is represented by an attorney in parole revocation proceedings to act as co-counsel and decision as to whether that is to be allowed is in the sound discretion of the trial court.
Lee	PBPP	885 A.2d 634	10/25/2005	PA Cmwlth	Parole	Revocation	Residential treatment program log book was admissible in parole revocation proceedings as exception to hearsay rule for records of regularly conducted activity, and thus log book was admissible evidence of parolee's failure to comply with requirements of residential treatment program; log book was authenticated by treatment program director, who was responsible for the overall operation of the center, including matters of safety, security, accountability, records, and behavior of residents. Rules of Evid., Rule 803(6), 42 Pa.C.S.A.
Vanderpool	PBPP	874 A.2d 1280	5/27/2005	PA Cmwlth	Parole	Revocation	The time for the Board of Probation and Parole to conduct a parole revocation hearing accrued, and the 120-day limitations period began to run, from the date the Board received official verification of parolee's conviction, rather than the date the Board had knowledge of parolee's conviction. When a parolee asserts that the Board of Probation and Parole held a parole revocation hearing beyond the 120-day period, the Board bears the burden of proving by a preponderance of the evidence that the hearing was timely. 37 Pa.Code § 71.4(1).
Smalls	PBPP	823 A.2d 274	5/12/2003	PA Cmwlth	Parole	Revocation	Evidence that parole officer found chilled bottles of alcohol and empty bottles of alcohol in parolee's apartment failed to establish parolee was in constructive possession of alcohol in violation of his parole conditions; parolee's urine specimen was 'clean' and parolee had a guest in apartment who testified that she brought the bottles to the apartment without parolee's knowledge.

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Smalls	PBPP	823 A.2d 274	5/12/2003	PA Cmwlth	Parole	Revocation	Constructive possession of object alleged to violate conditions of parole occurs when a person does not have actual possession but instead knowingly has the power and intention at a given time to exercise dominion and control over the object, either directly or through others.
Fetter	PBPP	808 A.2d 611	10/10/2002	PA Cmwlth	Parole	Revocation	Having violated condition of parole, parolee's right to counsel was not compromised when he decided to waive the panel hearing based on his conversation with parole agent; though parolee had right to counsel at time he made decision to waive hearing, that right was not violated simply because he made decision without consulting an attorney.
Brown	PBPP	806 A.2d 984	9/12/2002	PA Cmwlth	Parole	Revocation	Revocation of defendant's parole based on alleged violation of the parole condition that defendant refrain from engaging in any assaultive behavior was an abuse of discretion where wife recanted her allegation.
Bolden	PBPP	794 A.2d 440	3/18/2002	PA Cmwlth	Parole	Revocation	While laboratory reports are hearsay evidence, they may be admitted in parole revocation hearings when there is no objection by offender or over offender's objection if reports are qualified as either business record or upon specific finding of good cause; under good cause exception to hearsay rule, report must contain necessary indicia of reliability and regularity, that is, report must be printed on official laboratory letterhead and must contain signature of known and responsible member of staff or some other mark of reliability. 37 Pa.Code 71.5(b).
McPherson	PBPP	785 A.2d 1079	10/30/2001	PA Cmwlth	Parole	Revocation	Revocation of parole, based on parolee's violation of special condition of parole by being unsuccessfully discharged from drug & alcohol out-patient therapy program, was warranted, where parolee acted under his free will in failing to complete the program's orientation sessions, even if parolee mistakenly believed he could discontinue the orientation sessions because his insurance coverage made him ineligible for program.
Miller	PBPP	784 A.2d 246	9/28/2001	PA Cmwlth	Parole	Revocation	Where a technical violation of parole arises because of failure to pay for treatment, then the burden is on the parolee to demonstrate his inability to pay; upon proof of this inability, the burden then shifts to PBPP to prove that the parolee was somewhat at fault by failing to take sufficient bona fide efforts to acquire or save the necessary resources to pay for treatment.
Price	PBPP	781 A.2d 212	7/23/2001	PA Cmwlth	Parole	Revocation	Laboratory report indicating that parolee's urine tested positive for cocaine was admissible at parole revocation hearing, given parole agent's testimony that PBPP had certified that particular laboratory for testing urine samples. 42/6109.

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Thompson	PBPP	760 A.2d 77	9/28/2000	PA Cmwth	Parole	Revocation	Realistically looking water gun, or toy gun, possessed by parolee, which gave parolee the apparent ability to exert deadly force on another, constituted an offensive 'weapon' for purposed of parole violation.
DeMarco	PBPP	758 A.2d 746	8/29/2000	PA Cmwth	Parole	Revocation	Error was harmless in admitting urinalysis report at parole revocation hearing without a good cause finding that would allow it into the record over counsel's hearsay objection, where PBPP based its revocation decision on parolee's admission that his urine test would be positive for cocaine.
Shivers	PBPP	758 A.2d 282	8/24/2000	PA Cmwth	Parole	Revocation	Delaying a parole revocation hearing beyond 120-day requirement just so an inmate may serve an unspecified amount of time on his new sentence, without further justification, does not equate with holding a hearing within a reasonable time or comport with due process.
Williams	PBPP	757 A.2d 439	8/10/2000	PA Cmwth	Parole	Revocation	Where PBPP has fashioned a condition of parole over which parolee does not have control, Board must show that the parolee was somewhat at fault in order to prove a violation.
Williams	PBPP	757 A.2d 436	8/10/2000	PA Cmwth	Parole	Revocation	PBPP decision delaying parole revocation hearing beyond 120-day requirement just so inmate could serve an unspecified amount of time on his new sentence, without any further justification, did not equate with holding hearing in a reasonable time or comport with due process for purposes of regulation requiring good cause for delay.
Edwards	PBPP	751 A.2d 717	5/1/2000	PA Cmwth	Parole	Revocation	Federal detainee's waiver of right to full panel parole revocation hearing did not trigger 120-day period within which parole revocation hearing must be held (37/71.4, 71.5).
Williams	PBPP	751 A.2d 703	4/10/2000	PA Cmwth	Parole	Revocation	That parole revocation hearing was not held within 120 days after the Board received verification of conviction upon which revocation was based did not violate due process, where parolee was in prison serving time for the offense that constituted the parole violation.
Gustis	PBPP	737 A.2d 822	9/2/1999	PA Cmwth	Parole	Revocation	Parolee was required to serve the remainder of his unexpired sentence before serving sentence imposed for crimes committed while on parole and thus was entitled to have time he spent in custody credited against his original sentence first.
Johnson	PBPP	706 A.2d 903	2/4/1998	PA Cmwth	Parole	Revocation	"Substantial evidence' required to support agency's findings is such evidence that reasonable mind might accept as adequate to support conclusion; statement cited did not constitute assaultive behavior.
Brooks	PBPP	704 A.2d 721	12/16/1997	PA Cmwth	Parole	Revocation	Statutory 120-day period for parole revocation hearing does not begin to run until board of probation and parole acquires jurisdiction over parolee; period for parole revocation hearing begins to run from date of availability.
Williams	PBPP	701 A.2d 279	10/7/1997	PA Cmwth	Parole	Revocation	Parole board can aggregate recommitment period for parolee's violation of special condition of parole along with multiple violations of general conditions of parole.

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Person	PBPP	701 A.2d 1381	10/3/1997	PA Cmwth	Parole	Revocation	Regulation addressing procedures to be followed when violation of parole conditions is alleged does not limit Board's authority to recharge parolee after parolee prevailed at preliminary hearing. Parolee is not entitled to same rights as unconvicted citi
McCabe	PBPP	700 A.2d 597	9/16/1997	PA Cmwth	Parole	Revocation	Good cause existed in parole revocation hearing to allow objected-to hearsay testimony by alleged victim of sexual assault, where unobjected-to letter from state hospital's psychiatric advisor stated that alleged victim was not medically stable enough to
Calloway	PBPP	692 A.2d 641	4/15/1997	PA Cmwth	Parole	Revocation	Board was authorized by regulation to file detainer warrant against parolee who was in federal penitentiary on bank robbery conviction without holding parole revocation hearing within time otherwise required for parolees not confined to federal custody.
Hill	PBPP	683 A.2d 699	9/20/1996	PA Cmwth	Parole	Revocation	Sentence of backtime on original sentence to be computed from date of parole revocation by board, not conviction date for crime committed on parole, where board had recommitted a violator to serve balance of original sentence before beginning new term.
Kyte	PBPP	680 A.2d 14	7/1/1996	PA Cmwth	Parole	Revocation	[En banc] Because exclusionary rule does not apply to revocation hearings, evidence which parolee's agent found as a result of a warrantless search was admissible and properly formed the basis for charging parolee with a technical violation.
Cromartie	PBPP	680 A.2d 1191	7/1/1996	PA Cmwth	Parole	Revocation	There was no error in PBPP admission of officer's testimony, although flawed due to unlawful search, as it provided evidence for its finding that parolee had violated parole condition 5(b) by possessing a weapon.
Delgado	PBPP	679 A.2d 268	6/21/1996	PA Cmwth	Parole	Revocation	A parolee who spanked his fiancée's child was properly recommitted for violating the conditions of his parole as a sex offender because such behavior constituted 'assaultive behavior,' where he was neither parent nor guardian.
Shaffer	PBPP	675 A.2d 784	5/1/1996	PA Cmwth	Parole	Revocation	PBPP not required to set a reparole date for a parolee who was recommitted as a convicted parole violator.
Johnson	PBPP	676 A.2d 1242	4/18/1996	PA Cmwth	Parole	Revocation	Where the actual terms of a revocation decision stated that a parolee was immediately eligible for parole, the parolee was served notice that his new parole eligibility date was, at the latest, the date of the revocation decision.
McDonald	PBPP	673 A.2d 27	3/12/1996	PA Cmwth	Parole	Revocation	A revocation hearing must be held within 120 days of the official verification of the return of the parolee to a state correctional facility, absent any waiver by the parolee of his/her right to such a hearing.
Shaw	PBPP	671 A.2d 290	2/7/1996	PA Cmwth	Parole	Revocation	When a prisoner is ordered to serve backtime as a parole violator, he loses status as parolee and has no right to be automatically released upon expiration of backtime established by Board. Parole order setting eligibility date is NOT actual parole date.

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Scott	PBPP	668 A.2d 590	11/30/1995	PA Cmwth	Parole	Revocation	Parole agent's warrantless search of parolee's approved residence without owner's consent violated parolee's limited 4th Amendment rights; search requires consent of owner or statutory/regulatory framework that satisfies reasonableness requirement of 4th.
Harris	PBPP	666 A.2d 1151	10/27/1995	PA Cmwth	Parole	Revocation	A parolee whose hearing on the revocation of his parole was timely held within 90 days after he returned to the jurisdiction of the state dept. of corrections was denied administrative relief.
Fulton	PBPP	663 A.2d 865	8/16/1995	PA Cmwth	Parole	Revocation	14 day period between detention and preliminary hearing on revocation is tolled until parolee returned to state custody; 19 day delay in Board's return of parolee to PA not unreasonable with respect to 120 day period for revocation hearing.
Hartage	PBPP	662 A.2d 1157	7/18/1995	PA Cmwth	Parole	Revocation	The 120 day period within which a revocation hearing must take place begins on the date is returned from county prison into state custody, not date of conviction on new charges.
Smith	PBPP	661 A.2d 902	6/15/1995	PA Cmwth	Parole	Revocation	En banc Court dismissed parolee's pro se appeal of parole revocation decision on grounds it was untimely filed; cash slip receipt without docket number or other verifier insufficient to preserve filing date.
Moroz	PBPP	660 A.2d 131	5/30/1995	PA Cmwth	Parole	Revocation	Board was within its discretion to insist on strict compliance with conditions of parole and to order a period of incarceration in excess of the presumptive range for the fourth technical violation.
Williams	PBPP	654 A.2d 235	1/27/1995	PA Cmwth	Parole	Revocation	Board's failure to lodge detainer prior to max date did not prevent it from revoking parole if unaware of violations before expiration; no requirement for detention hearing after conviction on PV.
Mack	PBPP	654 A.2d 129	1/12/1995	PA Cmwth	Parole	Revocation	Board acquired jurisdiction upon county incarceration based solely on Board's detainer; thus, failure to conduct parole revocation hearing within 120 days required dismissal of parole violation charges with prejudice.
Major	PBPP	647 A.2d 284	8/17/1994	PA Cmwth	Parole	Revocation	The 120 day period within which to hold revocation hearing for parolee, who was arrested while on parole (new charges) and pleaded guilty for which he was incarcerated in county prison, began to run upon receipt of official verification of guilty plea.
Houser	PBPP	675 A.2d 787 682 A.2d 1365	9/26/1996	PA Cmwth PA Cmwth	Parole	Revocation	Questioning the merit to an issue on appeal, the court stated that section 21.1(b) of Parole Act mandated credit for time spent on parole in good standing against max.sentence for technical violators.
	MacGregor	912 A.2d 315	11/21/2006	PA Super	Parole	Revocation	Parolee's probationary sentence for rape could not be revoked on basis of his violation of a parole condition, rather than a probation condition, issued by parole agent rather than the court. 42 Pa.C.S.A. § 9771(b).

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	Wisor	902 A.2d 1245	6/28/2006	PA Super	Parole	Revocation	The existence of a conflict affecting the district attorney's office at the time that defendant was originally convicted of delivery of a controlled substance, abuse of corpse, and tampering with or fabricating physical evidence did not preclude the previously conflicted district attorney's office from prosecuting charges of parole violation that arose against defendant at a time when an actual conflict no longer existed, where prosecution was initially referred to attorney general because victim was the son of a district attorney employee, but a new district attorney had been elected, and victim's parent was no longer employed by the district attorney's office. 35 P.S. § 780- 113(a)(30); 18 Pa.C.S.A. §§ 4910(1), 5510; 71 P.S. § 732-205(a)(3).
	Galletta	864 A.2d 532	12/7/2004	PA Super	Parole	Revocation	The trial court's revocation of defendant's parole, and its order requiring defendant to serve the balance of his sentence previously imposed consecutive to his new sentence, was not an abuse of discretion; defendant was convicted of a new offense, the new offense violated the conditions of defendant's parole and provided a sufficient basis for the revocation of parole, and the trial court did not re-sentence defendant at the parole revocation hearing.
	Shimonvich	858 A.2d 132	9/1/2004	PA Super	Parole	Revocation	Three new drug offenses provided a sufficient basis to revoke defendant's parole from sentences for forgery and conspiracy, although defendant alleged that she made efforts to change her life.
	Scott	850 A.2d 762	5/24/2004	PA Super	Parole	Revocation	Evidence supported finding that defendant consumed and possessed alcohol while under parole supervision; police officer testified that beer was found in a car near defendant's property, and that the car was the same car in which defendant had been arrested in a few years earlier, and the car was parked in an alley adjacent to defendant's property. A parole violation need only be proven by a preponderance of the evidence.
	Ortiz	745 A.2d 662	1/19/2000	PA Super	Parole	Revocation	Requirement that parolees serve back time for original sentence consecutive to the sentence imposed for the offense upon which the parole revocation is based is equally applicable to county parolees as to state parolees.
	Sharpe	665 A.2d 1194	9/22/1995	PA Super	Parole	Revocation	Trial court may not revoke parole and then recommit defendant to jail for a period which exceeded original sentence; such a revocation is double jeopardy in that it enlarges the punishment initially imposed.