

SUPREME COURT OF NEW JERSEY  
DOCKET NO. 091603

JEAN-CLAUDE WRIGHT,  
Plaintiff-Petitioner,  
v.  
NEW JERSEY STATE  
PAROLE BOARD,  
Defendant-Respondent.

: CIVIL ACTION  
:  
: On Petition for Certification from a  
: Judgment of the Superior Court of  
: New Jersey, Appellate Division.  
:  
: Sat Below:  
:  
: Hon. Joseph L. Marczyk, J.A.D.  
: Hon. Avis Bishop-Thompson, J.A.D.  
:  
: Hon. Lisa A. Puglisi, J.A.D.  
:

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MERITS BRIEF ON BEHALF OF PLAINTIFF-PETITIONER

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Filed: May 6, 2026

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**PRELIMINARY STATEMENT**

This case is about whether the Parole Board can extend a defendant’s sentence beyond what the Legislature authorized by inventing a tolling rule that does not exist in statute. The No Early Release Act (NERA), N.J.S.A. 2C:43-7.2, definitively answers the question of when a term of mandatory parole supervision begins: it commences upon the completion of the defendant’s sentence of incarceration unless the defendant is serving another criminal sentence, in which case it commences upon their release from incarceration. There is no third commencement category. There is no exception for civil detention. And there is no provision allowing the Board to delay the start of a NERA parole term until a defendant is released “to the community.”

Yet that is exactly what happened here. After Jean-Claude Wright completed his sentence of incarceration on November 20, 2018, the Board refused to recognize the start of his five-year NERA parole term. Instead, it declared, without statutory support, that Wright’s term of NERA parole was “tolled” while he was held in federal civil immigration detention, and that it did not begin until his release more than three years later. As a result, Wright remains on NERA parole supervision, in state custody, over seven years after he completed his sentence of incarceration and was released from state prison.

This is unlawful. The plain language of N.J.S.A. 2C:43-7.2c shows that Wright's term of NERA parole commenced upon the completion of his sentence of incarceration, which all parties agree occurred on November 20, 2018. Neither N.J.S.A. 2C:43-7.2c nor any other authority establishes a tolling provision for civil detention. And the Board offers no legitimate basis for creating such a novel provision. To the contrary, the Board's statutory interpretation rewrites N.J.S.A. 2C:43-7.2c's carefully drafted language and renders its commencement provision meaningless, in favor of a broad, new extra-textual rule. And the Board's remaining arguments, including those based on the purposes of NERA parole, likewise overlook the plain text of the statute and conflict with other authorities. In short, established law and basic tenets of statutory interpretation compel the conclusion that the commencement of NERA parole is not tolled by civil immigration detention and that the Board acted unlawfully when it delayed Wright's term of parole. Indeed, in doing so, the Board has forced Wright to remain on parole beyond the sentence imposed by the trial court, and without legislative authorization, in violation of his constitutional rights to due process and fundamental fairness.

This Court must therefore reverse the Board's decision declining to correct Wright's parole commencement date. It must hold that Wright's term

of NERA parole commenced when he completed his sentence of incarceration on November 20, 2018. And it must order the Board to immediately communicate that corrected commencement date to the Department of Corrections so that Wright is finally released from state custody.

## **PROCEDURAL HISTORY AND STATEMENT OF FACTS**<sup>1</sup>

### **Wright’s Term of Incarceration and Mandatory Parole Supervision**

In 2010, Jean-Claude Wright was convicted of six offenses, including first-degree robbery, N.J.S.A. 2C:15-1a. (Pa 22)<sup>2</sup> Wright was sentenced to an aggregate term of eleven years in prison, with five years of mandatory parole supervision, pursuant to the No Early Release Act (NERA), N.J.S.A. 2C:43-7.2. (Pa 22-25) Under N.J.S.A. 2C:43-7.2c, NERA parole “commence[s] upon the completion of the sentence of incarceration imposed by the court[.]” There is one enumerated exception, which applies when the defendant is “serving a sentence of incarceration for another crime at the time” he completes his NERA sentence. Ibid. In that case, parole commences upon “release from

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<sup>1</sup> These sections are combined due to their overlapping nature and for clarity.

<sup>2</sup> Pa = Appendix to petitioner’s opening appellate brief  
Pra = Appendix to petitioner’s appellate reply brief  
Ppa = Appendix to petitioner’s petition for certification  
Pb = Petitioner’s opening appellate brief  
Prb = Petitioner’s appellate reply brief  
Db = Respondent’s appellate brief  
Dpr = Respondent’s petition for certification response

incarceration.” Ibid. There is no dispute that exception does not apply here.

Wright completed his NERA sentence of incarceration and was released from state prison on November 20, 2018. (Pa 26-27) Upon release, however, Wright was civilly detained by U.S. Immigration and Customs Enforcement (ICE). (Pa 5) Wright remained in ICE detention until December 1, 2021. Ibid.

At some point, the Parole Board determined that Wright’s term of NERA parole supervision commenced on December 1, 2021, the date he was released from ICE custody, rather than on November 20, 2018, the date he completed his term of incarceration. (Pa 5, 11) The Board subsequently communicated this determination to the Department of Corrections (DOC), which is responsible for calculating parole expiration dates. Ibid. The Board’s finding that Wright’s five-year term of NERA parole supervision did not commence until December 1, 2021, led the DOC to determine that Wright would not complete his term of NERA parole until December 1, 2026. Ibid. Had the Board instead found that Wright’s parole supervision started upon the completion of his sentence of incarceration on November 20, 2018, his term of supervision would have been completed on November 20, 2023. (Pa 11)

### **Wright Administratively Challenges His Supervision Commencement Date**

Counsel for Wright became aware of the Board’s determination, and its effect on Wright’s term of parole supervision, in December 2024. (Pa 9)

Counsel then engaged in multiple exchanges with the Board and the DOC about Wright's parole supervision commencement date. (Pa 2-13)

On February 5, 2025, counsel received a letter from the Board confirming it had determined that Wright's NERA parole did not commence until he was released from ICE custody in 2021. (Pa 5) The Board explained "that the Department of Law and Public Safety - Division of Law provided legal advice to the effect that the period of mandatory supervision is to be served in the community[,]" such that its service "remains tolled" if a defendant "remains in custody following the completion of a sentence imposed pursuant to N.J.S.A. 2C:43-7.2[.]" Ibid. The Board further explained that this "tolling" provision applies regardless of whether the defendant's continued custody "is criminal in nature or civil in nature" and that NERA parole only starts to run when "the offender is released to the community." Ibid.

Counsel responded by challenging the Board's interpretation of N.J.S.A. 2C:43-7.2c and by requesting a final agency decision. (Pa 8) In response, the Board for the first time disclaimed jurisdiction and asserted that any additional inquiries "must be directed" to the DOC. (Pa 7) Later communications with the DOC, however, confirmed that the Board "provides [the DOC] with the date [NERA parole] begins" when a defendant "is not immediately released into the community upon their custodial max" and that it was the Board, not the DOC,

that had concluded that Wright's NERA parole did not commence until he was released from ICE custody in 2021. (Pa 11-13) As a result, Wright again requested that the Board conclude that his NERA parole commenced when he completed his sentence of incarceration in November 2018. (Pa 2-4, 6)

On April 2, 2025, the Board issued a final agency decision refusing to change Wright's NERA parole commencement date, without reaching the merits, because it had "no jurisdiction" over the matter. (Pa 1)

### **Wright Appeals and The Appellate Division Remands**

Wright appealed, with the Appellate Division granting his motion to accelerate. (Pa 14-18) In his opening brief, Wright argued that the Board had jurisdiction and that the plain language of N.J.S.A. 2C:43-7.2c indicated that his NERA parole commenced when he completed his sentence of incarceration in 2018. (Pb 7-15) In response, the Board disclaimed jurisdiction (Db 8-10), while also arguing that "the period that Wright spent in custody on the ICE detainer tolled the [NERA parole] term[.]" (Db 19) Central to the Board's argument on the merits was its assertion that NERA parole only commences when the defendant "is released into the community." (Db 11) In his reply, Wright again asserted that his NERA parole commencement was tied to the completion of his sentence of incarceration in 2018, and explained that N.J.S.A. 2C:43-7.2c's discussion of the defendant being in "the community"

solely relates to the defendant’s legal status during his term of supervision, not the commencement of the term of supervision. (Prb 1-13)

During oral argument, the Board conceded that it had jurisdiction “and consented to a remand for consideration on the merits.” (Ppa 18) Wright “objected to a remand and urged [the court] to decide the substantive issue based on the alternative substantive arguments made in the Board’s merits brief.” Ibid. On October 29, the appellate panel issued an unpublished opinion holding that the Board had jurisdiction and remanding “to afford [it] the opportunity to consider Wright’s appeal on the merits.” (Ppa 12, 18) The court retained jurisdiction on remand. (Ppa 18)

### **The Remand and Published Opinion**

About a month later, the Board issued a new decision addressing the merits and declining to change Wright’s parole commencement date. (Ppa 19-22) The Board’s decision mirrored its earlier arguments, concluding that NERA parole “only commences upon the date the offender is actually released from confinement and into the community.” (Ppa 20-21)

On January 14, 2026, the Appellate Division issued a published opinion authored by the Honorable Lisa A. Puglisi, J.A.D, affirming the Board’s decision. Wright v. New Jersey State Parole Board, 483 N.J. Super. 255, 257 (App. Div. 2026). The court, like the Board, emphasized that N.J.S.A. 2C:43-

7.2c indicates that NERA parole commences “upon the defendant’s release from incarceration”<sup>3</sup> and that the defendant “shall remain in release status in the community[.]” Id. at 260. Apparently viewing the “in the community” sentence of the statute as affecting the commencement of NERA parole, and not just the defendant’s legal status, the court went on to find that these statutory provisions are in “tension” when a defendant, like Wright, is “released from incarceration but [is] not in the community.” Ibid. This “ambiguity,” according to the court, allowed it to look beyond the plain text of the statute to discern the legislative intent. Ibid.

In doing so, the court acknowledged that “[t]he objective of [NERA] parole” is “to protect the public” and that this goal is equally satisfied with continued confinement. Id. at 259-262 (quoting State v. Njango, 247 N.J. 533, 549 (2021)). Nevertheless, the court went on to state that “the ultimate purpose of parole is to help [offenders] reintegrate into society[,]” id. at 261-62 (first alteration in original) (quoting J.I. v. N.J. State Parole Bd., 228 N.J. 204, 221 (2017)), and that tolling NERA parole during civil detention is necessary to avoid frustrating this “important goal[.]” because an “[a]n offender in ICE

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<sup>3</sup> As discussed in more detail below, this part of the court’s analysis failed to recognize that Wright’s NERA parole commenced “upon the completion of [his] sentence of incarceration[,]” not upon his “release from incarceration[,]” because he was not “serving a sentence of incarceration for another crime[.]” N.J.S.A. 2C:43-7.2c.

custody” is not in the “community” and cannot be “supervised by the [Board] as if on parole, subject to conditions set by the Board.” Id. at 261-62 (final alteration in original) (quoting N.J.S.A. 2C:43-7.2c). The court also stated that failing to toll NERA parole during civil detention “renders . . . meaningless” the statute’s language about NERA parolees being “in the community.” Ibid. And it further asserted that tolling NERA parole during civil detention would be consistent with how courts treat parole supervision for life (PSL) since, “[w]hile not explicitly provided in . . . statute, an offender’s PSL term is tolled during civil commitment as a sexually violent predator.” Id. at 263.

Wright filed a petition for certification, which this Court granted on March 27, 2026. Wright v. New Jersey State Parole Board, 263 N.J. 299 (2026). This merits brief follows.

**LEGAL ARGUMENT**

**POINT I**

**WRIGHT’S TERM OF NERA PAROLE SUPERVISION COMMENCED WHEN HE COMPLETED HIS SENTENCE OF INCARCERATION IN 2018 AND THE BOARD’S CONTRARY FINDING HAS UNLAWFULLY EXTENDED HIS TIME IN CUSTODY BASED ON AN INVENTED RULE THAT CONTRADICTS THE PLAIN TEXT OF N.J.S.A. 2C:43-7.2.**

Wright was released from state prison on November 20, 2018. (Pa 26-27) Under N.J.S.A. 2C:43-7.2c, Wright’s five-year term of NERA parole supervision immediately commenced on that date because his release from prison coincided with “the completion of the sentence of incarceration imposed by the court[.]” As a result, Wright’s term of parole supervision started on November 20, 2018, and it should have been completed five years later, on November 20, 2023. Over seven years after completing his sentence of incarceration, however, Wright illegally remains on NERA parole.

That is because the Parole Board has unilaterally determined that Wright’s term of NERA parole supervision did not commence upon the completion of his sentence of incarceration, as mandated by N.J.S.A. 2C:43-7.2c, but rather, upon his release from civil immigration detention over three years later. According to the Board, this result was required because NERA parole “remains tolled until the offender is released to the community”

regardless of whether their “continued confinement is criminal in nature or civil in nature[.]” (Pa 5) Thus, under the Board’s view, Wright’s term of NERA parole was “tolled” while he was detained by U.S. Immigration and Customs Enforcement (ICE) and did not commence until “he was released from the custody of [ICE] to the community” on December 1, 2021. (Pa 5)

This interpretation, since adopted by the Appellate Division, is not supported by any authority. It ignores basic tenets of statutory interpretation. It rewrites and renders moot the plain text of N.J.S.A. 2C:43-7.2c. And it has caused Wright and others to remain on parole for longer than their sentences allow, exposing them to extra supervision, hardship, and time “in the legal custody” of the Department of Corrections (DOC), N.J.S.A. 2C:43-7.2c, in violation of their constitutional rights to due process and fundamental fairness. U.S. Const. amend. XIV; N.J. Const. art. I, ¶ 1; Njango, 247 N.J. at 549-51. This Court must reject the Board’s flawed interpretation, hold that Wright’s term of NERA parole supervision commenced upon the completion of his sentence of incarceration on November 20, 2018, and direct the Board to immediately communicate that corrected commencement date to the DOC.

This Court does not owe any deference to the Board’s interpretation of N.J.S.A. 2C:43-7.2c. True, courts “ordinarily employ a deferential standard when reviewing a Parole Board administrative determination in the specialized

area of parole supervision[.]” Williams v. New Jersey State Parole Board, 255 N.J. 36, 46 (2023) (citation omitted). But “in matters of statutory interpretation -- like here -- [this Court’s] review is de novo[.]” Ibid. (citation omitted). This Court must therefore conduct its own independent analysis to determine whether the Legislature intended the commencement of NERA parole to be tolled by a defendant’s civil immigration detention.

The lodestar for that analysis is the text of N.J.S.A. 2C:43-7.2.c, which governs NERA parole. “Discerning ‘the Legislature’s intent is the paramount goal when interpreting a statute and, generally, the best indicator of that intent is the statutory language.’” Williams, 255 N.J. at 46 (quoting DiProspero v. Penn, 183 N.J. 477, 492 (2005)). Courts must “ascribe to the statutory words their ordinary meaning and significance and read them in context with related provisions so as to give sense to the legislation as a whole[.]” DiProspero, 183 N.J. at 492 (citations omitted). “If the language of a statute is clear, a court’s task is complete” and there is no need to consider extrinsic materials. State v. Lopez-Carrera, 245 N.J. 596, 613 (2021) (citations omitted).

“It is not the function of [the courts] to ‘rewrite a plainly-written enactment of the Legislature []or presume that the Legislature intended something other than that expressed by way of the plain language.’” DiProspero, 183 N.J. at 492 (second alteration in original) (quoting O’Connell

v. State, 171 N.J. 484, 488 (2002)). Courts “cannot ‘write in an additional qualification which the Legislature pointedly omitted[,]’” ibid. (quoting Craster v. Bd. of Comm’rs of Newark, 9 N.J. 225, 230 (1952)), or “give the statute any greater effect than its language allows.” In re Freshwater Wetlands Protection Act Rules, 180 N.J. 478, 489 (2004) (quoting In re Valley Rd. Sewerage Co., 154 N.J. 224, 242 (1998) (Garibaldi, J., dissenting)). Courts must also “strive for an interpretation that gives effect to all of the statutory provisions and does not render any language inoperative, superfluous, void or insignificant.” G.S. v. Dep’t of Human Servs., 157 N.J. 161, 172 (1999) (citation omitted).

N.J.S.A. 2C:43-7.2c is the key statutory provision in this case because it establishes, governs, and defines NERA parole. N.J.S.A. 2C:43-7.2c consists of three sentences. The first establishes NERA parole supervision and sets the mandatory term for first- and second-degree offenses at five and three years, respectively. Ibid. The third sentence addresses the defendant’s “release status” and supervision “[d]uring the term of parole supervision[.]” Ibid. And the second sentence governs when “[t]he term of parole supervision shall commence[.]” Ibid. It is the second sentence, which will be referred to as the “commencement sentence,” that lies at the heart of this case.

The commencement sentence of N.J.S.A. 2C:43-7.2c provides:

The term of parole supervision shall commence upon the completion of the sentence of incarceration imposed by the court pursuant to subsection a. of [N.J.S.A. 2C:43-7.2] unless the defendant is serving a sentence of incarceration for another crime at the time the defendant completes the sentence of incarceration imposed pursuant to subsection a. [of N.J.S.A. 2C:43-7.2], in which case the term of parole supervision shall commence immediately upon the defendant's release from incarceration.

The sentence thus establishes two separate but related timelines for the commencement of NERA parole. The first, presumptive, timeline is that NERA parole “shall commence upon the completion of the sentence of incarceration imposed” for the NERA offense. Ibid. The second timeline is an exception for when “the defendant is serving a sentence of incarceration for another crime at the time the defendant completes the sentence of incarceration” for the NERA offense. Ibid. In that case, “the term of parole supervision shall commence immediately upon the defendant's release from incarceration” rather than upon the completion of the NERA sentence. Ibid.

Here, there is no dispute that the commencement of Wright's term of NERA parole supervision was governed by the first timeline because his ICE detention was not the result of “a sentence of incarceration for another crime[.]” Ibid.; see also I.N.S. v. Lopez-Mendoza, 468 U.S. 1032, 1038 (1984) (noting immigration actions are “purely civil”); Shuhaiber v. Illinois Dep't of Corr., 980 F.3d 1167, 1170 (7th Cir. 2020) (explaining once defendant

“entered [ICE’s] custody on the immigration detainer he ceased being confined for any violation of criminal law”). Wright’s term of NERA parole was thus controlled by the first timeline, as no one disputes, such that it commenced “upon the completion of the sentence of incarceration” for his NERA offense. N.J.S.A. 2C:43-7.2c; see (Dpr 8) (Board noting “NERA’s tolling provision is inapplicable to this case because Wright was not serving another criminal sentence at the time he completed his NERA sentence”); Wright, 483 N.J. Super. at 260 n.2 (noting “[t]here is no dispute th[e] tolling provision” for defendants serving another term of incarceration “is inapplicable here”).

There is also no quarrel about what it means for a defendant to complete their sentence of incarceration. Although the completion of a sentence of incarceration and release from incarceration “are related, for the latter cannot begin until the former expires[,]” those terms have distinct meanings and “are not interchangeable.” United States v. Johnson, 529 U.S. 53, 58-59 (2000). A defendant is released from incarceration “on the day [he] in fact is freed from confinement.” Id. at 58. In contrast, a defendant “complete[s] serving his lawful sentences” when his “term of imprisonment” ends “as a matter of law,” and when he should be released, regardless of whether he is in fact released on that date. Ibid. In other words, a defendant can complete their sentence of incarceration even if they remain in prison or some other form of confinement.

Indeed, the Legislature specifically recognized that a defendant can complete their sentence of incarceration while still confined when it enacted N.J.S.A. 2C:43-7.2c, since, as noted, the statute envisions a situation in which a defendant “completes the sentence of incarceration imposed pursuant to” their NERA offense while still imprisoned pursuant to “a sentence of incarceration for another crime[.]” This Court acknowledged that legal reality in Njango, 247 N.J. at 548, where it held that defendants must receive credit toward their terms of NERA parole for any time spent in prison “beyond the maximum sentence imposed by the trial court.” And it has been acknowledged by the Board and the Appellate Division, which have both recognized that “Wright completed his maximum term of incarceration” before being detained by ICE. (Db 3-4); see also Wright, 483 N.J. Super. at 258 (noting “Wright completed his maximum term of incarceration” before ICE detention).

That a defendant can complete their sentence of incarceration while still in custody has also been recognized by federal courts interpreting the federal supervised release statute, 18 U.S.C. § 3624(e). Unlike NERA, 18 U.S.C. § 3624(e) includes a single commencement timeline under which supervised release only “commences on the day the person is released from

imprisonment[.]”<sup>4</sup> Based on that language, federal courts, including the Supreme Court, have held that a term of supervised release does not commence until the defendant is physically released from prison even if they previously completed their sentence, and thus should have been released, at an earlier time. Johnson, 529 U.S. at 58-59.

In doing so, these courts have repeatedly acknowledged that a defendant’s “‘term of imprisonment’ refers to the sentence imposed by the sentencing judge” and that a defendant can legally complete their term of imprisonment before being “released from the Bureau of Prisons’ custody[.]” United States v. Turner, 689 F.3d 1117, 1120 (9th Cir. 2012); see Johnson, 529 U.S. at 58 (holding defendant’s supervised release did not commence until he was released from prison even though “he completed serving his lawful sentences” years earlier); United States v. Maranda, 761 F.3d 689, 694 (7th Cir. 2014) (rejecting argument supervised release “began on the day

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<sup>4</sup> Another important distinction, although not especially pertinent here, is that 18 U.S.C. § 3624(e) does not define the term “imprisonment,” leading some courts to conclude that a term of supervised release does not commence if a person remains imprisoned for even a non-criminal purpose. See, e.g., United States v. Maranda, 761 F.3d 689, 694-99 (7th Cir. 2014) (holding supervised release did not commence when defendant remained imprisoned based on a civil stay of release to conduct a civil-commitment evaluation). N.J.S.A. 2C:43-7.2c, in contrast, only delays the commencement of NERA parole until the defendant’s “release from incarceration” if the defendant “is serving a sentence of incarceration for another crime[.]”

[defendant's] prison sentence expired, rather than on the day he was physically released from custody"); United States v. Neuhauser, 745 F.3d 125, 125-26 (4th Cir. 2014) (rejecting argument supervised release "began when [defendant's] term of imprisonment ended" rather than upon "his release from prison" years later); United States v. Mosby, 719 F.3d 925, 928-29 (5th Cir. 2013) (rejecting argument supervised release began when defendant's "prison term ended" rather than when he was "released" from prison years later); United States v. Joseph, 109 F.3d 34, 36 (1st Cir. 1997) (rejecting argument defendant's supervised release began "[a]fter completing service of the terms of imprisonment" rather than when he was released after "thirty-nine additional months in prison"). And the Supreme Court in particular has indicated that a term of supervised release could commence before a defendant's release from incarceration, if, like N.J.S.A. 2C:43-7.2c, the statute indicated that it commences upon completion of the sentence of incarceration or when the defendant "should have been released" from prison, rather than upon their actual, physical release from prison. Johnson, 529 U.S. at 57.

Thus, the plain text of N.J.S.A. 2C:43-7.2c, combined with established law and the Board's own concessions, establish the following. First, N.J.S.A. 2C:43-7.2c provides that a term of NERA parole generally commences upon the completion of the sentence of incarceration. Second, Wright's NERA

parole was required to commence upon the completion of his sentence of incarceration because he was not serving a sentence of incarceration for another crime. Third, defendants can and do legally complete their sentence of incarceration while still confined. And fourth, Wright completed his sentence of incarceration on November 20, 2018, the day he was released from state prison to ICE custody. See (Db 18) (Board noting Wright “remained confined” by ICE “following the expiration of his custodial term in November 2018”); (Dpr 7) (Board noting Wright’s “custodial sentence expired” on November 20, 2018); Wright, 483 N.J. Super. at 258 (“On November 20, 2018, Wright completed his maximum term of incarceration and was released from the DOC to the custody of ICE.”). Accordingly, under the plain text of N.J.S.A. 2C:43-7.2c, Wright began serving his term of NERA parole supervision when he completed his sentence of incarceration on November 20, 2018.

In arguing to the contrary, the Board and the Appellate Division have advanced an interpretation that is not only unsupported by N.J.S.A. 2C:43-7.2c, but which directly contradicts its plain language and other authority. Essentially, the Board and the court assert that NERA parole commences not upon a defendant’s completion of their sentence of incarceration, or even their release from prison, as N.J.S.A. 2C:43-7.2.c provides, but only upon their release “to the community.” (Db 19); Wright, 483 N.J. Super. at 263. But as

discussed, N.J.S.A. 2C:43-7.2c includes only two commencement timelines, neither of which is tied to the defendant's "release to the community."

If the Legislature wanted NERA parole to only commence upon a defendant's release to the community, it would have said so. That the Legislature chose not to include such language, and instead explicitly tied NERA parole to the legal completion of the sentence of incarceration, while carving out a single exception for defendants serving another term of incarceration, "is a legislative choice, and not one the courts" or the Board is "free to override under the guise of avoiding an allegedly undesirable or unexpected outcome." State v. Cromedy, 261 N.J. 421, 434 (2025); see also Johnson, 539 U.S. at 58 ("When Congress provides exceptions in a statute, it does not follow that courts have authority to create others. The proper inference, and the one we adopt here, is that Congress considered the issue of exceptions and, in the end, limited the statute to the ones set forth.").

Indeed, this interpretation would add a new, much broader, commencement provision and would render superfluous the entirety of N.J.S.A. 2C:43-7.2c's actual commencement sentence. Assume NERA parole is tolled whenever a defendant is out of the community, whether due to civil or criminal confinement. If that were the case, there would have been no need for the Legislature to state that NERA parole is tolled whenever a defendant is

“serving a sentence of incarceration for another crime[.]” as such individuals are always out of “the community.” Ibid. There would have been no reason to tie the commencement of NERA parole to a defendant’s “release from incarceration[.]” as occurs when a defendant is serving another sentence of incarceration. Ibid. And there certainly would have been no need to state that NERA parole generally commences “upon the completion of the sentence of incarceration” if the actual commencement always depended on being in the community. Ibid. The Board’s interpretation must therefore be rejected not only because it is unsupported but also because it would read-out the entire statutory sentence explicitly governing when a “term of parole supervision shall commence[.]” Ibid.; see State v. Reynolds, 124 N.J. 559, 564 (1991) (citation omitted) (“A construction that will render any part of a statute inoperative, superfluous, or meaningless, is to be avoided.”).

Beyond misreading and attempting to negate the plain text of the commencement sentence, the Board and the Appellate Division are also wrong in claiming support from other authorities outside that provision. Specifically, the Board and the Appellate Division have relied on three claimed sources of authority: (1) the third sentence of N.J.S.A. 2C:43-7.2c; (2) the purported purposes of NERA parole; and (3) an analogy between NERA parole and parole supervision for life. The Board and the court are wrong on all counts.

To start, the third sentence of N.J.S.A. 2C:43-7.2c does not relate to the commencement of NERA parole supervision, let alone support the Board's and the Appellate Division's interpretation. That sentence provides:

During the term of parole supervision the defendant shall remain in release status in the community in the legal custody of the Commissioner of the Department of Corrections and shall be supervised by the State Parole Board as if on parole and shall be subject to the provisions and conditions of section 3 of P.L.1997, c. 117 (C.30:4-123.51b).

[Ibid.]

According to the Board and the Appellate Division, this sentence dictates that NERA parole cannot commence until the defendant is, in fact, physically “in the community,” or it at least creates an “ambiguity” that inevitably leads to that conclusion. Wright, 483 N.J. Super. at 260-63. That is not the case.

By its plain terms, the third sentence has nothing to do with when a term of NERA parole commences, but rather outlines the defendant's legal status and supervision “[d]uring the term of parole supervision[,]” N.J.S.A. 2C:43-7.2c (emphasis added), as the Board itself has acknowledged. See (Db 11) (noting sentence “specifies that the defendant's status” during period of supervision “is one of ‘release status in the community’”); (Dpr 8) (acknowledging sentence indicates defendant's status “during” “period of parole supervision”); see also N.J.S.A. 30:4-123.51b(a) (explaining NERA parolees “remain on release status in the community” and that the Board may

“revoke the person’s release status”); Hobson v. New Jersey State Parole Bd., 435 N.J. Super. 377, 382 (App. Div. 2014) (explaining protections for people on NERA parole “facing revocation of release status”). The third sentence is therefore only concerned with the defendant’s status and supervision during their term of supervision and has no effect on when the term commences.

This is further illustrated by United States Supreme Court’s recent decision in Rico v. United States, 146 S. Ct. 947 (2026). The question there was whether a defendant’s term of federal supervised release is automatically extended if they fail to report to their probation officer. Id. at 952-53. In support, the government did not point to any statutory language that allowed for such an automatic extension. Id. at 953-54. Instead, it relied on language indicting that “a defendant on supervised release ‘shall, during the term imposed, be supervised by a probation officer.’” Id. at 954 (quoting 18 U.S.C. § 3601). According to the government, this language called for an automatic extension of supervised release when a defendant fails to report to their probation officer because supervised release requires “observation and direction” by a probation officer and because a defendant who fails to report to their probation officer necessarily receives no supervision. Ibid.

The Court rejected this argument based on several “underlying flaws.” Ibid. First, the Court emphasized that the cited provisions “do not outline

anything like the [government’s] automatic extension rule” and instead “merely describe the individual responsible for supervising the defendant—the probation officer—along with some of his duties.” Ibid. Additionally, the Court noted that “to the extent these provisions speak about the length of supervised release at all, they indicate that a probation officer shall supervise a defendant only ‘during the term imposed’ by the sentencing court.” Ibid. (emphasis added). This temporal limitation, the Court explained, “would seem to do more to hurt than help the government’s cause.” Id. at 954-54

As already discussed, the argument that the third N.J.S.A. 2C:43-7.2c sentence prevents NERA parole from commencing until a defendant is released to the community is affected by similar flaws and should be similarly rejected. As in Rico, 146 S. Ct. at 954, that sentence does “not outline anything like” the Board’s claimed commencement rule and instead “merely describe[s] the [entity] responsible for supervising the defendant” as well as their legal status. And “to the extent [its] provisions speak about the length of [NERA parole] at all, they indicate that [the Board] shall supervise a defendant only ‘during the term imposed’ by the sentencing court[,]” rather than suggesting the term must be tolled if the defendant is not in the community. Ibid. The third sentence therefore has no bearing and cannot support delaying NERA parole until a defendant is released to the community.

The Board and the court fare no better in asserting that NERA parole must be tolled during civil detention based on the purposes of NERA parole. To start, there is no need to consider extrinsic evidence about the goals of NERA parole because the statute is not ambiguous. A court’s “purpose” is “to give life to the statutory language, not to ‘rewrite a plainly-written enactment of the Legislature.’” Zabilowicz v. Kelsey, 200 N.J. 507, 513 (2009) (quoting DiProspero v. Penn, 183 N.J. 477, 492 (2005)). Courts must “presume that the Legislature intended the outcome dictated by the clear language of the statute[,]” ibid. (citation omitted), and “cannot rewrite or ignore clear and unambiguous legislative language in order to effectuate a conjectured but unexpressed intent.” Hogg v. Employees Retirement System of Essex County, 56 N.J. Super. 130, 134 (App. Div. 1959). It is “[o]nly if the words of the enactment are shrouded in ambiguity” that a court may “turn to other sources in search of legislative intent.” Zabilowicz, 200 N.J. at 513 (citation omitted); see also Cromedy, 261 N.J. at 430 (alteration in original) (quoting In re Est. of Jones, 259 N.J. 584, 595 (2025)) (explaining courts will “turn ‘to extrinsic evidence only when . . . ambiguity in the statutory language’ allows for ‘more than one plausible interpretation’”).

Here, there is no ambiguity.<sup>5</sup> N.J.S.A. 2C:43-7.2c includes a single sentence outlining two discrete timelines for the commencement of NERA parole. No one disputes that the relevant timeline in this case was tied to the completion of Wright’s sentence of incarceration. No one disputes that Wright completed his sentence of incarceration on November 20, 2018. And there is no statutory authority for tolling that commencement based on a defendant’s release to the community or their civil detention. Because the statute is unambiguous, this Court must adhere to its plain language and conclude that Wright’s term of NERA parole commenced when he completed his sentence of incarceration, without considering extrinsic evidence.

That said, even if there was some ambiguity, the court and the Board would still be mistaken in claiming that the purposes of NERA parole would call for tolling the commencement of such parole based on a defendant’s civil detention. This is first because the court and the Board misconstrue the

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<sup>5</sup> Notably, the Board has never argued that N.J.S.A. 2C:43-7.2c is ambiguous. And although the Appellate Division found ambiguity, it did so by both misconstruing the third sentence to relate to when NERA parole commences, as discussed above, and by inaccurately asserting that NERA parole only commences upon release from incarceration. See Wright, 483 N.J. Super. at 260 (second alteration in original) (finding “ambiguity” in “reconciling NERA’s requirement [NERA parole] commence ‘immediately upon the defendant’s release from incarceration’ with its mandate that ‘[d]uring the term of [NERA parole,] the defendant shall remain in release status in the community’” because Wright “was released from incarceration but was not in the community”).

purpose of NERA parole. As they tell it, the “ultimate purpose” of NERA parole “is to help [offenders] reintegrate into society as constructive individuals.” Wright, 483 N.J. Super. at 261 (alteration in original) (quoting J.I. v. N.J. State Parole Bd., 228 N.J. 204, 221 (2017)); see also (Db 19) (citation omitted) (asserting “key purpose[.]” of NERA parole “is to help individuals as they transition into the community”). But this is incorrect.

NERA parole is “radically different” from non-NERA parole. State v. Freudenberger, 358 N.J. Super. 162, 169 (App. Div. 2003). Unlike normal parole, NERA parole extends the defendant’s time in custody and was enacted as part of a larger scheme to “increase prison time[.]” State v. Friedman, 209 N.J. 102, 119-20 (2012) (quoting S. Law & Pub. Safety Comm., Statement to S. No. 855 (Apr. 24, 1996)). To that end, NERA parole is primarily meant to “protect the public[.]” not assist with rehabilitation. Ibid. And as this Court has already held, the public-safety goal of NERA parole is “serve[d] precisely the same” way by NERA parole as it is by confinement, such that it can be served while a defendant remains incarcerated. Njango, 247 N.J. at 549-50.<sup>6</sup> Running NERA parole during a period of immigration detention is thus consistent with,

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<sup>6</sup> Specifically, this Court held in Njango that a term of NERA parole must be reduced with credit for any extra time that a defendant spends in prison. 247 N.J. at 549-51. The Appellate Division seemingly overlooked this holding when it stated that a term of NERA parole “may not be reduced by credits.” Wright, 483 N.J. Super. at 261 (citation omitted).

and indeed serves, the goals of NERA parole because such confinement protects the public as effectively as time spent in the community on NERA parole does. See also United States v. Estrada-Mederos, 784 F.3d 1086, 1091, 1091 n.1 (7th Cir. 2015) (noting that the similarities between civil immigration custody and criminal incarceration “are too strong to ignore” and that “many immigration detainees are housed in county jails alongside state criminal detainees and subject to the same conditions of confinement”).

Beyond that, the Board and the Appellate Division are also wrong in claiming that any rehabilitative purpose would require tolling NERA parole during civil detention. Essentially, they assert that NERA parole must be tolled during civil immigration detention because “[a]n offender in ICE custody is neither ‘in release status in the community,’ nor being ‘supervised by the [Board] as if on parole,’ subject to conditions set by the Board.” Id. at 262 (second alteration in original) (quoting N.J.S.A. 2C:43-7.2c). But a NERA parolee in civil detention would be “subject to conditions” of parole, just like any other parolee. N.J.A.C. 10A:71-6.4(a). They could be supervised by the Board to the extent it deems “appropriate[,]” N.J.A.C. 10A:72-2.2, including through telephonic or remote check-ins. N.J.A.C. 10A:71-6.4(a)(2). And they would face the same consequences for violating the conditions of their parole,

such as if they commit a new offense, as any other NERA parolee would, including possible reincarceration. Friedman, 209 N.J. at 116.

It is significant, moreover, that federal supervised release is not tolled by a defendant's civil immigration detention even though supervised release, unlike NERA parole, "fulfills rehabilitative ends, distinct from those served by incarceration." Johnson, 529 U.S. at 59. Rather, courts have held that supervised release commences "the moment [a defendant is] transferred from BOP custody to ICE custody to await deportation[.]" despite its rehabilitative ends. United States v. Garcia-Rodriguez, 640 F.3d 129, 133-34 (5th Cir. 2011); see also United States v. Perez, 251 Fed.Appx. 523, 524 (10th Cir. 2007) (Pratt) (noting defendant's "supervised release began to run as soon as he was transferred to ICE custody"). And the federal probation office has established procedures for probation officers to adequately monitor defendants on supervised release while in immigration detention, including by "initiat[ing] and maintain[ing] contact with ICE" and regularly checking for "new criminal conduct[.]" Administrative Office of the United States Courts, Overview of Probation and Supervised Release Conditions 81-82 (2024), [https://www.uscourts.gov/sites/default/files/overview\\_of\\_probation\\_and\\_supervised\\_release\\_conditions\\_0.pdf](https://www.uscourts.gov/sites/default/files/overview_of_probation_and_supervised_release_conditions_0.pdf); see also Garcia-Rodriguez, 640 F.3d at 133

(noting defendant could be subject to “‘inactive’ supervision while he was in ICE custody”). As noted, similar procedures could be followed in New Jersey.

Finally, there is also no support for the Appellate Division’s argument, since adopted by the Board, that NERA parole should be tolled during civil detention because terms of parole supervision for life (PSL) are “tolled during civil commitment as a sexually violent predator.” Wright, 483 N.J. Super. at 263; (Dpr 5) This assertion is off base for multiple reasons. And at end of the day, it only helps prove the opposite point: that when the Legislature wants a term of parole to commence based upon a defendant’s release, it says so.

First, as a more general matter, the treatment of PSL is not informative because, contrary to the Appellate Division’s claims, the PSL governing statute is not a “corollary” to N.J.S.A. 2C:43-7.2c and does not contain “similar” commencement provisions. Wright, 483 N.J. Super. at 263. To the contrary, PSL, unlike NERA parole, only commences “upon the defendant’s release from incarceration[,]” N.J.S.A. 2C:43-6.4b, rather than the legal completion of the sentence of incarceration. N.J.S.A. 2C:43-7.2c. And PSL, unlike NERA parole, has explicit rehabilitative ends that are distinct from NERA parole’s goal of protecting the public. See N.J.S.A. 2C:43-6.4b (stating defendants on PSL “shall be subject to conditions appropriate to protect the public and foster rehabilitation”). The PSL statute is thus dissimilar from

N.J.S.A. 2C:43-7.2c and does not assist with resolving this appeal, other to further demonstrate that the Legislature knows how to articulate when a term of parole commences.

On top of that, the Appellate Division also appears to be mistaken in asserting that PSL is tolled during civil commitment. As the court itself acknowledged, there is no such tolling provision in N.J.S.A. 2C:43-6.4b. Wright, 483 N.J. Super. at 263. The sole case cited by the court or the Board, In re Civil Commitment of R.F., 217 N.J. 152, 179 (2014), says nothing about PSL being tolled by civil commitment. No other cases seem to have recognized such a tolling provision. And there is a strong argument that PSL is not tolled by civil detention, including civil commitment under N.J.S.A. 30:4-27.32, given that the statute explicitly ties the commencement of PSL to “the defendant’s release from incarceration” for their offense, and only tolls that commencement “[i]f the defendant is serving a sentence of incarceration for another offense[.]” N.J.S.A. 2C:43-6.4b; see also State v. Schubert, 212 N.J. 295, 314 (2012) (noting “individuals committed for treatment as sexually violent predators” are “not in the custody” of the DOC) Federal courts, moreover, have held that supervised release is not tolled by similar forms of civil commitment. See United States v. Turner, 689 F.3d 1117, 1121-22 (9th Cir. 2012) (holding supervised release “could run while civilly detained”); see

also United States v. Neuhauser, 745 F.3d 125, 131 n.5 (4th Cir. 2014) (noting there “may be reasons” to hold supervised release is not tolled during “civil commitment” because “[r]eleasing a prisoner” to civil commitment “may suffice to end his imprisonment”). The PSL statute thus does not support the Board’s interpretation both because it is dissimilar to N.J.S.A. 2C:43-7.2c and because it does not even appear that PSL is tolled by civil commitment.

In sum, this Court must reject the Board’s and the Appellate Division’s arguments and hold that Wright’s term of NERA parole commenced when he completed his sentence of incarceration on November 20, 2018. This conclusion is required by the plain text of the statute. It is in line with the Legislature’s intent. And it is the only outcome that will ensure that people subject to civil immigration detention, including Wright, are not unlawfully held in custody and exposed to the hardships of parole supervision beyond the sentence imposed by the trial court.

Simply put, Wright’s five-year term of parole supervision commenced when he completed his sentence of incarceration in 2018 and should have expired in 2023. But due to the Board’s erroneous interpretation, Wright remains on parole supervision over seven years later. As a result, Wright has been subjected to over two extra years of supervision, reporting requirements, and reduced expectations of privacy. See N.J.A.C. 10A:71-6.4(a) (requiring

parolees to, among other things, “[s]ubmit to drug or alcohol testing[,]” notify the Board of any changes in employment or housing, and “[s]ubmit” to warrantless searches). He has had over two extra years in which he faced the risk of additional parole requirements, N.J.A.C. 10A:72-2.4(b), lost credit, N.J.S.A. 30:4-123.60a(2), and reincarceration. N.J.S.A. 30:4-123.60b. He has had two extra years of parole supervision potentially interfering with his immigration status. See 8 C.F.R. § 316.10(c)(1) (stating citizenship applications “will not be approved” if an individual is on parole). And, perhaps most fundamentally, Wright has spent over two extra years in DOC custody, in violation of his constitutional rights to due process and fundamental fairness. Njango, 247 N.J. at 548-51. While this harm can never be fully remedied for Wright, reversing the Board’s decision will ensure that he can finally move on with his life, and will prevent the Board from subjecting other individuals facing immigration detention to similar, unwarranted, deprivations.

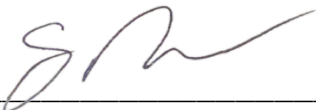
**CONCLUSION**

The Board's rule tolling the commencement of NERA parole supervision until the defendant's release to the community has no basis in text, structure, or precedent. It should be rejected, and Wright's sentence should be restored to what the law actually allows. This Court must reverse the Board's final agency decision, hold that Wright's term of NERA parole supervision commenced on November 20, 2018, and instruct the Board to immediately communicate that corrected commencement date to the DOC.

Respectfully submitted,

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