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February 5, 2026

VIA ECOURTS

Heather Joy Baker, Clerk  
Supreme Court of New Jersey  
Richard J. Hughes Justice Complex  
25 Market Street  
PO Box 970  
Trenton, New Jersey 08625

Re: Jean-Claude Wright v. New Jersey State Parole Board  
Docket No. 091603  
Appellate Division Docket No. A-2328-24

On Petition for Certification to the Superior Court, 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.

Letter on Behalf of Respondent New Jersey State Parole  
Board in Opposition to Petition for Certification

Dear Ms. Baker:

Please accept this letter on behalf of Respondent, New Jersey State Parole  
Board, in opposition to the petition for certification filed by petitioner Jean-



Claude Wright. The Board relies primarily on its brief filed in the Appellate Division, and adds the following.

Wright seeks certification of the Appellate Division's January 14, 2026 decision affirming the Board's decision finding that the commencement of Wright's mandatory parole supervision (MPS) term, imposed under the No Early Release Act (NERA), N.J.S.A. 2C:43-7.2, was tolled when he was released from incarceration to the custody of Immigration and Customs Enforcement (ICE). (Ppa1-11.)<sup>1</sup>

A petition for certification of a final decision of the Appellate Division will be granted only for special reasons. R. 2:12-4. Certification will be denied where the Appellate Division's decision is essentially an application of settled principles to the facts of a case, does not present a conflict among judicial decisions requiring clarification or calling for supervision by the Supreme Court, and does not raise issues of general importance. See Fox v. Woodbridge Twp. Bd. of Educ., 98 N.J. 513, 515-16 (1985) (O'Hern, J. concurring); In re Route 280 Contract, 89 N.J. 1, 2 (1982).

Wright meets none of these requirements. His petition presents no question of general public importance because this appeal relates solely to the

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<sup>1</sup> "Pc" refers to the petition for certification and "Ppa" refers to the appendix to the petition.

Board's decision in Wright's case based on the unique facts presented. Nor does it conflict with any other decisions of the Court, and the Appellate Division's decision involved an application of settled principles to the facts of the case. Here, the Appellate Division found that the Board correctly determined that the commencement of Wright's MPS term was tolled when he was released from incarceration to ICE custody. (Ppa2; Ppa7-11.) And an ample record supports the Appellate Division's decision.

In his petition, Wright argues that the Court should grant certification "because whether NERA parole is tolled by civil immigration detention is an important but unresolved question, which the published Appellate opinion seriously erred in resolving." (Pc8.) According to Wright, the Appellate Division's decision "misstates the relevant law, ignores binding precedent, and ultimately rewrites the plain language of N.J.S.A. 2C:43-7.2c." (Pc8-9.) These arguments should be rejected because the Appellate Division correctly interpreted the relevant law in affirming the Board's decision.

Regarding the MPS term, NERA provides that:

[t]he term of parole supervision shall commence upon the completion of the sentence of incarceration imposed by the court pursuant to subsection a. of this section 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., in which case the

term of parole supervision shall commence immediately upon the defendant's release from incarceration. 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 . . . 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).

[N.J.S.A. 2C:43-7.2(c).]

As the Appellate Division correctly found, NERA distinguishes between incarceration and “release status in the community,” and is designed to ensure that supervision begins as soon as a person is “released into the community.” (Ppa6.) The court noted, “[t]he tension here arises in reconciling NERA’s requirement MPS commence ‘immediately upon the defendant’s release from incarceration’ with its mandate that ‘[d]uring the term of [MPS,] the defendant shall remain in release status in the community.’” (Ppa6.) (second and third alterations in original.) The court further noted that, “[w]hile these two provisions are typically harmonious, this case creates an ambiguity because, during Wright’s detention, he was released from incarceration but was not in the community.” Ibid. The court found that, because immigration proceedings are civil and not criminal matters, and NERA’s tolling provision only applies where an offender is serving another criminal sentence at the time he completes the NERA sentence, the tolling provision does not apply in Wright’s case. Ibid.

Thus, because of the ambiguity, the court “look[ed] to extrinsic evidence to discern whether the legislative intent supports the tolling of MPS during civil detention.” Ibid. In particular, the court looked to NERA’s legislative history, prior precedent and to the operation of the analogous Parole Supervision for Life statute, N.J.S.A. 2C:43-6.4. (Ppa6-11.)

The legislative history included Governor Whitman’s signing statement, which noted that, “[t]o ensure that violent criminals who complete their sentence are not released into the community without supervision, the bill provides that such criminals receive post-release parole supervision from the [Board].” (Ppa7.) (second alteration in original.) The court further noted the Legislature’s determination that the imposition of MPS was “critical for two reasons: 1) the offender has been convicted of a serious, violent offense, often carrying a substantial prison term; and 2) because of the imposition of an eighty-five percent mandatory minimum term, the offender will likely serve the maximum sentence without becoming eligible for discretionary parole release.” (Ppa7-8.) (citations omitted.)

The court here also relied upon prior precedent in which the Appellate Division held that, “the Legislature has spoken in clear and unambiguous terms that a person convicted of a NERA offense must serve’ the entire MPS term imposed, which may not be reduced by credits.” (Ppa8) (quoting Salvador v.

Dep't of Corr., 378 N.J. Super. 467, 469 (App. Div. 2005).) The court also noted that the purpose of parole “is to help [offenders] reintegrate into society as constructive individuals.” Ibid. (quoting J.I. v. N.J. State Parole Bd., 228 N.J. 204, 221 (2017) (alteration in original) (additional citation omitted)). Referring to Wright, the court found that, “[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.” Ibid. (alteration in original). The court thus rejected Wright’s interpretation of NERA, finding that, “not only does [his] interpretation of NERA frustrate the important goals of the statute, it renders these provisions meaningless.” Ibid. (citation omitted).

Regarding the operation of PSL and its similarity to NERA, the court noted that the PSL statute also requires parole supervision to

“commence immediately upon the defendant’s release from incarceration” unless “the defendant is serving a sentence of incarceration for another offense at the time the defendant completes the custodial portion of the sentence imposed” under PSL, in which case PSL “shall not commence until the defendant is actually released from incarceration for the other offense.”

[Ppa10 (quoting N.J.S.A. 2C:43-6.4(b).]

Like NERA, “an offender subject to PSL remains in the custody of the Commissioner of the DOC and is supervised by the Board, subject to parole conditions.” Ibid. Most significant, the court noted that, “[w]hile not explicitly

provided in the statute, an offender's PSL term is tolled during civil commitment as a sexually violent predator." (Ppa10-11) (citing In re Civ. Commitment of R.F., 217 N.J. 152, 179 (2014).)

The court thus concluded that, "[a] sensible reading of the statute leads us to conclude the Legislature intended a NERA offender to serve the mandatory three- or five-year MPS term while in the community, not in federal detention." (Ppa11.)

Wright argues that the Appellate Division's opinion "conflicts with established law and rewrites N.J.S.A. 2C:43-7.2c." (Pc12.) In fact, the Appellate Division's opinion does neither and is consistent with established law. In making this flawed argument, Wright asserts that his MPS term commenced on the date that his custodial sentence expired, November 20, 2018. (Pc13.) He argues that the term "incarceration" used in NERA only refers to a State prison term, and that NERA only provides for tolling of the MPS term when an offender is serving a sentence of incarceration for another crime at the time he completes the sentence of incarceration imposed under NERA. (Pc13-14.) According to Wright, the MPS term is not tolled during a period of civil detention, including ICE detention, following expiration of the NERA custodial term notwithstanding that he is not on "release status in the community" nor subject

to parole conditions. (Pc14-17.) However, Wright misconstrues the court's holding and overlooks its reasoning in reaching its decision.

As the court noted, 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. (Ppa6.) Thus, the court did not misapply NERA's tolling provision. Rather, the court correctly found that NERA in fact mandates that an offender must serve a period of parole supervision following release from confinement, during which time the defendant "shall remain in release status in the community," shall be supervised by the Board as if on parole, and shall be subject to the conditions of parole. (Ppa6-9.) The court correctly rejected Wright's interpretation of NERA because it "frustrates" NERA's important goals in mandating a period of parole supervision following incarceration, and would render meaningless that mandatory parole requirement. (Ppa8.)

With this petition, Wright further argues that the term "release status in the community" only refers to an offender's legal custody during the MPS term, and has no bearing on the commencement of the MPS term. (Pc16-17.) However, as discussed above, an offender who is in ICE detention is clearly not in the community and is also not on parole nor subject to conditions of parole, both of which are mandated under NERA. N.J.S.A. 2C:43-7.2(c). Thus, the

court properly rejected Wright's argument that his MPS term was not tolled while he was in ICE detention. (Ppa11.)

Wright also disputes the court's finding that tolling the MPS term during civil detention is necessary to serve the rehabilitative purposes of NERA. (Pc18-19.) In so doing, he claims that "the court overlooked that NERA parolees in civil detention would be 'subject to conditions' of parole . . . and could be supervised as is deemed 'appropriate' by the Board . . . including through telephonic or remote check-ins." (Pc18.) In fact, the court did not overlook this erroneous claim. Rather, the court correctly recognized that the purpose of parole, including "NERA parole," is to help offenders "reintegrate into society as constructive individuals" (Ppa8), and that a parolee serves a parole term while in the community and subject to conditions of parole. Ibid. Obviously, an offender in ICE custody is not on parole status in the community, and is not subject to the numerous parole conditions under N.J.S.A. 30:4-123.51b. The notion that an offender in ICE custody could conceivably have "telephonic or remote check-ins," as suggested by Wright, would not satisfy NERA's mandatory parole requirements. (Ppa11.)

Finally, Wright argues that the court "erred in finding that NERA parole is primarily rehabilitative," and asserts that NERA parole is "punishment" which is primarily meant to protect the public. (Pc19.) This is a blatant

mischaracterization of a primary purpose of NERA. As discussed above, NERA mandates that, upon completion of the custodial portion of the sentence, an offender is required to serve a period of parole supervision, shall be supervised by the Board “as if on parole and shall be subject to the provisions and conditions of [N.J.S.A. 30:4-123.51b].” N.J.S.A. 2C:43-7.2(c).

Wright relies upon this court’s decision in State v. Njango, 247 N.J. 533 (2021), to argue that his MPS term was not tolled during the time he spent confined on the ICE detainer, as he equates his time spent in ICE detention with “excess time” spent serving his prison sentence. (Pc19.) But, Njango is clearly distinguishable from this case and does not support Wright’s argument.

In Njango, the offender served an excess of one year and seven months in State custody beyond his proper custodial sentence due to an error by the New Jersey sentencing court in not awarding his prior service credits. Id. at 546. The Court, based on the common law doctrine of fundamental fairness, found that the excess time that Njango served in prison should be credited towards the remaining period of his MPS term. Id. at 550-51. The Court relied on the fact that Njango should have been serving his mandatory-supervision term during the excess period of detainment, but had been unable to do so because of what the Court concluded had been “inequitable and arbitrary decision-making,” referring to the sentencing court’s error. Id. at 550. The Court relied solely

upon New Jersey common law and the doctrine of fundamental fairness in finding that excess time spent in prison due to an error by the sentencing court in not awarding his prior service credits should be credited against the MPS term. Ibid. Thus, the Appellate Division correctly found that, “Wright was not subject to incarceration beyond his maximum term because of arbitrary state government decisionmaking. Rather, he was detained and eventually released by federal immigration authorities. Because the fundamental fairness concerns implicated in Njango are not present here, its holding does not control the outcome.” (Ppa10.) The parole requirement under NERA is clearly rehabilitative, and, as the court correctly found, would be frustrated if the MPS term was not tolled and was not subject to parole upon release into the community. (Ppa8.)

In sum, because Wright's petition presents no question of general public importance, does not conflict with any other decisions of the Court, and the Appellate Division's decision simply involved an application of settled principles to the facts of the case, Wright's petition for certification should be denied.

Respectfully submitted,

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