STATE OF MICHIGAN

COURT OF CLAIMS

MARK HOELTZEL,

Plaintiff,

v

Case No. 26-000150-MB

Hon. Sima G. Patel

MICHIGAN DEPARTMENT OF CORRECTIONS, HEIDE E. WASHINGTON, in her official capacity as Director, Michigan Department of Corrections, MICHIGAN PAROLE BOARD, and BRIAN SHIPMAN, in his official capacity as Chairperson, Michigan Parole Board,

Defendants.
_____ /

OPINION AND ORDER DENYING PLAINTIFF'S 7/14/26 EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER OR ORDER TO SHOW CAUSE WHY A PRELIMINARY INJUNCTION SHOULD NOT ENTER

Plaintiff will be released on parole from a federal custodial term on July 28, 2026. However, he is still serving a concurrent, state-imposed sentence for which he has yet to be taken into custody in a state correctional facility. Plaintiff seeks to compel defendants to consider his parole eligibility from his state sentence without being taken into state custody. Plaintiff has not established a likelihood of prevailing on the merits. Accordingly, the Court DENIES plaintiff's emergency motion for a temporary restraining order (TRO) and to require defendants to show cause why a preliminary injunction should not enter.

I. LEGAL PRINCIPLES

A party seeking a preliminary injunction bears the burden of demonstrating entitlement to relief based on the following factors:

> (1) the likelihood that the party seeking the injunction will prevail on the merits, (2) the danger that the party seeking the injunction will suffer irreparable harm if the injunction is not issued, (3) the risk that the party seeking the injunction would be harmed more by the absence of an injunction than the opposing party would be by the granting of the relief, and (4) the harm to the public interest if the injunction is issued. [*Davis v Detroit Fin Review Team*, 296 Mich App 568, 613; 821 NW2d 896 (2012) (quotation marks and citations omitted).]

A party seeking a TRO must make a similar showing of "immediate and irreparable injury, loss, or damage" from a delay in relief. MCR 3.310(B)(1).

Both preliminary injunctions and TROs are "an extraordinary and drastic use of judicial power that should be employed sparingly and only with full conviction of its urgent necessity." *Davis*, 296 Mich App at 613 (quotation marks and citations omitted). The goal of both is to maintain the status quo pending a final hearing on the parties' rights. *Slis v State*, 332 Mich App 312, 336-337; 956 NW2d 569 (2020). Courts may grant these "extraordinary remed[ies]" "only when justice requires, there is no adequate remedy at law, and there is a real and imminent danger of irreparable injury." *Janet Travis, Inc v Preka Holdings, LLC*, 306 Mich App 266, 274-275; 856 NW2d 206 (2014). Normally, the grant or denial of a preliminary injunction or TRO is only the first step in a process that requires a separate, expedited review of the substantive issue on the merits. *Detroit Fire Fighters Ass'n, IAFF Loc 344 v Detroit*, 482 Mich 18, 21-22; 753 NW2d 579 (2008).

II. BACKGROUND

Plaintiff was convicted of crimes in both federal and state court for sexual offenses involving minors. On December 13, 2018, he was sentenced in federal court to 10 years' imprisonment, followed by 6 years of supervised release. On February 25, 2019, he was sentenced in Washtenaw Circuit Court to 5-15 years' imprisonment, to be served concurrently with his federal sentence. Plaintiff remained in federal prison until October 29, 2025, when the federal bureau of prisons placed him on home detention. Plaintiff has remained in detention, but has lived with his aunt since that time.

Plaintiff will be released on parole for his federal offenses on July 28, 2026. He accuses the Michigan Parole Board (MPB) of failing to exercise its discretion to consider his parole upon the expiration of his minimum state sentence in 2024. Plaintiff and his attorney have attempted to convince the MPB to exercise its jurisdiction unsuccessfully. Plaintiff asserts that as a result he will likely be taken into state custody upon his release into federal parole supervision. Plaintiff would then have to remain in state prison for several months while his state parole is considered. Plaintiff seeks to prevent this.

III. ANALYSIS

While the MPB's decision whether to grant parole is discretionary, its duty to "exercise and perform [its] powers and duties" is mandatory. MCL 791.231a(5); *Adams v Parole Bd*, 340 Mich App 251, 261-262; 985 NW2d 881 (2022). Mandamus can be used to compel the state to undertake a mandatory duty, while leaving the ultimate discretionary ruling in the hands of that agency. See *Teasel v Dep't of Mental Health*, 419 Mich 390, 409-410; 355 NW2d 75 (1984).

MCL 791.234(1) states:

> [A] prisoner sentenced to an indeterminate sentence and confined in a state correctional facility with a minimum in terms of years other than a prisoner subject to disciplinary time is subject to the jurisdiction of the parole board when the prisoner has served a period of time equal to the minimum sentence imposed by the court for the crime of which he or she was convicted, less good time and disciplinary credits, if applicable.

Plaintiff contends that he was subject to the jurisdiction of the MPB upon the expiration of his 5-year minimum sentence. He states in his complaint: "No statute conditions the [MPB's] jurisdiction, or its duty to consider a parole-eligible prisoner, on that prisoner's physical presence in an MDOC facility." This statement is contrary to the plain and unambiguous language of MCL 791.234(1). To be subject to MPB jurisdiction, a person must not only reach the expiration of his minimum sentence, he must also be "confined in a state correctional facility." See *Adams*, 340 Mich App at 261 ("Once a prisoner is sentenced and placed within a correctional facility, they fall under the jurisdiction of defendant once 'the prisoner has served a period of time equal to the minimum sentence imposed by the court for the crime of which he or she was convicted, less good time and disciplinary credits, if applicable.' MCL 791.234(1)."). Plaintiff has not been confined in "a state correctional facility"; he was confined in a federal correctional facility and federal supervised home detention. Because the MPB has yet to secure jurisdiction over plaintiff, it does not have a clear legal duty to consider plaintiff's parole eligibility. Indeed, it lacks authority to do so.

Plaintiff argues that defendants could have taken him into custody at any time to start this process and failed to do so, artificially extending the necessary period of his imprisonment. However, plaintiff has cited no statute, regulation, policy directive, or caselaw requiring

defendants to take plaintiff into custody before the end of his federal term of imprisonment. Accordingly, plaintiff has not established that he is entitled to any relief.

Because plaintiff has not demonstrated that he is likely to prevail on the merits in this suit, he is not entitled to a TRO or a preliminary injunction to either force the MPB to consider his parole eligibility or the other state defendants to take him into state custody to begin this process. The Court DENIES plaintiff's emergency motion for a TRO or a preliminary injunction.

Defendants are DIRECTED to respond to plaintiff's complaint within 21 days of the entry of this opinion and order. If defendants' first response is a motion for summary disposition, plaintiff will be permitted 14 days to respond. Any reply must be filed within 7 days of plaintiff's response.

This is a not a final order.

Date: July 24, 2026

Sima G. Patel
Judge, Court of Claims