

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2021-154

JULY TERM, 2021

State of Vermont v. Brian Jackson\*                    } APPEALED FROM:  
  }  
  } Superior Court, Rutland Unit  
  } Criminal Division  
  }  
  } DOCKET NO. 20-CR-02105

In the above-entitled cause, the Clerk will enter:

A July 28, 2021 order dismissing this matter erroneously indicated that defendant did not timely file a response to the Court’s show-cause order of July 16, 2021. Defendant, through counsel, timely filed such a response. Unfortunately, as the result of a technical issue, it did not come to the Court’s attention until after the dismissal order issued.

However, having reviewed defendant’s response, our disposition of this matter remains unchanged. As set forth in greater detail in our prior order, because the notice of appeal from the order holding defendant without bail was filed nearly six months beyond the time in which to do so, see V.R.A.P. 4(a)(1), and because the arguments raised therein regarding his conditions of release cannot be addressed on the basis of a stale record, see 13 V.S.A. § 7554(b), we construed his notice of appeal as a request to review the decision holding him without bail. Such a request must be directed to the discretion of the trial court in the first instance. See State v. White, 2020 VT 62, ¶ 12, \_\_ Vt. \_\_, 237 A.3d 1235 (mem.) (explaining that trial court has discretion to grant motion to review order holding defendant without bail).

BY THE COURT:

\_\_\_\_\_  
Beth Robinson, Associate Justice

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Harold E. Eaton, Jr., Associate Justice

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Karen R. Carroll, Associate Justice

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William D. Cohen, Associate Justice