VERMONT SUPREME COURT

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ENTRY ORDER

FEBRUARY TERM, 2022

In re J.H., Juvenile*

- APPEALED FROM:
- Superior Court, Franklin Unit; Family Division
- CASE NO. 194-11-20 Frjv; 195-11-20 Frjv

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

Before the Court is appellant J.H.'s motion for permission to appeal the trial court's denial of youthful-offender status. The family division denied J.H.'s motion for youthful-offender status in October 2021. It reasoned that further hearings would be necessary to resolve pending charges against J.H., J.H. would be turning 22 years old in less than a week, and the family division would lose jurisdiction over J.H. upon his 22nd birthday. J.H. filed a notice of appeal to this Court to challenge the denial of youthful-offender status. We dismissed that interlocutory appeal because J.H. had failed to adhere to Vermont Rule of Appellate Procedure 5.1 and seek permission from the trial court in the first instance.

J.H. then filed a motion with the family division, seeking permission to appeal the youthful-offender determination and to stay his transfer to the criminal division. In a November 2021 order, the family division denied permission to appeal and the request to stay, concluding that it no longer had jurisdiction over J.H. J.H. subsequently filed a motion in this Court seeking permission to appeal.

On February 1, 2022, this Court issued an order directing J.H. to show cause why this matter should not be dismissed as moot, in light of the family division's limited jurisdiction under 33 V.S.A. § 5103(c)(2)(D) and J.H. having reached the age of 22. We ordered J.H. to file a memorandum of law on this issue by February 14, 2022. We also stayed the trial court's order denying J.H.'s request for youthful-offender status and directing that the matter be set for a hearing in the criminal division, pending this Court's resolution of J.H.'s motion for permission to appeal. J.H. did not file a memorandum of law on the mootness issue as ordered by this Court.

We do not reach the question of whether to accept the interlocutory appeal because we conclude that, in any event, J.H.'s appeal is moot. The family division is a court of limited jurisdiction, the scope of which is defined strictly by statute. In re C.L.S., 2021 VT 25, ¶ 10. The relevant jurisdictional statute provides that "[j]urisdiction over a youthful-offender shall not extend beyond the youth's 22nd birthday." 33 V.S.A. § 5103(c)(2)(D); see also 33 V.S.A. § 5286(d) ("If the court finds that it is in the best interests of the youth and consistent with community safety to continue the case past 18 years of age, it shall make an order continuing the court's jurisdiction up to 22 years of age."). These statutes provide no basis for the family division to retain jurisdiction over a defendant who reaches the age of 22, and J.H. has offered no legal argument in support of the notion that the family division retains jurisdiction over him.

"A case becomes moot—and this Court loses jurisdiction—when there no longer is an actual controversy or the litigants no longer have a legally cognizable interest in the outcome of the case." Paige v. State, 2017 VT 54, ¶ 7, 205 Vt. 287. Because the family division now lacks jurisdiction, this Court can no longer grant J.H. the relief that he seeks—to be treated as a youthful offender. Therefore, we do not reach the question of whether to grant permission to appeal and we dismiss the appeal as moot. The temporary stay of the trial court's order dated October 14, 2021 denying J.H.'s request for youthful-offender status and directing that the matter be set for a hearing in the criminal division is lifted.

BY THE COURT:
Paul L. Reiber, Chief Justice
Harold E. Eaton, Jr., Associate Justice
Karen R. Carroll, Associate Justice
William D. Cohen, Associate Justice