

STATE OF VERMONT

SUPERIOR COURT
Washington Unit

CIVIL DIVISION
No. 21-CV-3942

SAMUEL BLATT,
Appellant,

v.

VERMONT DEP'T OF CORRECTIONS
Appellee.

RULING ON THE STATE'S MOTION TO DISMISS

Appellant Samuel Blatt seeks review under 28 V.S.A. § 724 of a case staffing decision dated December 1, 2021. The State has filed a motion to dismiss, arguing that the court lacks subject matter jurisdiction because the case staffing did not arise out of a technical violation of furlough conditions, focusing on the nature of his conduct in the community. As the court has ruled in numerous cases, review is not available under § 724 for nontechnical violations, those violations for which the underlying conduct amounts to a new crime. Mr. Blatt has filed no opposition to dismissal.

Section 724 provides review in the case of technical violations of *community supervision furlough*. A technical violation is one for which the underlying conduct “does not constitute a new crime.” 28 V.S.A. § 724(d)(1). A nontechnical violation thus is one for which the underlying conduct is a new crime.

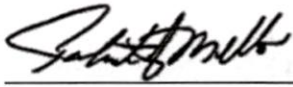
There is evidence in the record to the effect that Mr. Blatt committed new crimes while in the community. More importantly for § 724 purposes, however, the record appears clear that he was in the community on *parole*, which was then revoked by the parole board, leading to his case staffing. He was not on 28 V.S.A. § 723 community supervision furlough, and there is no record of any furlough suspension hearing. Section 724 review is available for case staffings following the suspension of community supervision furlough only, not revocations of parole by the parole board. There is no basis for § 724 review in this case.

Because neither party expressly briefed the determinative issue, the court will permit Mr. Blatt to file a motion showing why dismissal is not warranted within 14 days. If no such motion is filed, this dismissal order will automatically take effect.

Order

Subject to such a motion, the State's motion to dismiss is granted. Once dismissal takes effect, the State shall submit a form of judgment. V.R.C.P. 58(d).

SO ORDERED this 20th day of January, 2022

A handwritten signature in black ink, appearing to read "Robert A. Mello", written over a horizontal line.

Robert A. Mello
Superior Judge