

STATE OF VERMONT

SUPERIOR COURT  
Washington Unit

CIVIL DIVISION  
No. 21-CV-2087

GEORGE WOODS,  
Appellant,

v.

JAMES BAKER, COMMISSIONER,  
VERMONT DEPT' OF CORRECTIONS  
Appellee.

RULING ON THE STATE'S MOTION TO DISMISS

Vermont prisoner and appellant George Woods filed this action seeking Rule 74 review of Department of Corrections case-staffing decisions on May 7, 2020 and March 24, 2021 pursuant to 28 V.S.A. § 724, which permits limited review of certain decisions following a furlough violation. The State has filed a motion to dismiss, arguing that the May 7, 2020 decision predates the effective date of the appeal statute, which thus does not apply. It also argues that Mr. Woods' notice of appeal from the March 24, 2021 decision is untimely and thus also not subject to review.<sup>1</sup>

The record shows that Mr. Woods was on furlough for some time prior to May 2020. He was returned to the facility for assaulting and harassing his longtime victim of domestic violence. In the resulting case staffing, it was determined that furlough would be "interrupted" for one year (following the resolution of criminal charges, if any), and he would need to complete risk reduction programming prior to any future release.<sup>2</sup> Mr. Woods apparently has not completed any such programming. A March 24, 2021 case staffing "update" simply says, "Must complete RRP prior to release." RRP presumably refers to risk reduction programming. Mr. Woods filed his notice of appeal with the DOC on June 28, 2021.

The version of § 724 that grants inmates limited review of certain case staffing decisions first became effective on January 1, 2021. Nothing in the enacting legislation indicates that it operates retroactively in any respect. See 2019, No. 148 (Adj. Sess.). It

---

<sup>1</sup> In the State's reply, it argues for the first time that the March 24 case-staffing decision is not subject to review under 28 V.S.A. § 724 because it was not a direct consequence of the revocation of his furlough. The court declines to address that issue as it was raised for the first time in the reply, depriving Mr. Woods of a fair opportunity to address it. See *Bigelow v. Dept. of Taxes*, 163 Vt. 33, 37–38 (1994).

<sup>2</sup> There presumably were no criminal charges filed.

therefore only had prospective effect on its effective date. 1 V.S.A. § 214(b)(2). No review is available for the May 2020 case staffing.

Otherwise, to trigger review, an inmate must file a notice of appeal within 30 days of the disputed decision. See V.R.C.P. 74(b); V.R.A.P. 4(a)(1). Assuming without deciding that the March 24, 2021 decision otherwise may have been appropriate for § 724 review, Mr. Woods' notice of appeal was filed with the DOC on June 28, 2021, well outside the 30-day appeal period, precluding review.

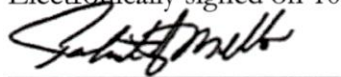
Mr. Woods' opposition to dismissal is largely nonresponsive to the State's dismissal arguments. He explains at length his objections to his initial furlough revocation in May 2020 and argues that he pursued a grievance. The records of his grievance proceedings indicate that he grieved the DOC's 2020 actions, succeeded in getting a new furlough revocation hearing, but did not succeed with his arguments otherwise. These records have no apparent relevance to the timeliness of any review from the March 2021 case staffing decision.

Mr. Woods' appeal from the March 2021 decision was not filed in time to enable review under 28 V.S.A. § 724.

#### Order

For the foregoing reasons, the State's motion to dismiss is granted. The State shall submit a form of judgment. V.R.C.P. 58(d).

Electronically signed on 10/15/2021 11:06 AM, pursuant to V.R.E.F. 9(d)

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

Robert A. Mello  
Superior Judge