

VERMONT SUPERIOR COURT  
Orleans Unit  
247 Main Street  
Newport VT 05855  
802-334-3305  
www.vermontjudiciary.org



CIVIL DIVISION  
Case No. 22-CV-02408

Michael Abel v State of Vermont

## ENTRY ORDER

Petitioner Michael Abel seeks Habeas Corpus review of the Department of Corrections' revocation of his community supervision furlough status and re-incarceration. Petitioner's filing indicates that the Department of Corrections found him to be in violation of "SC 22" and "SC 23" under the conditions of his furlough release. Petitioner strongly disagrees with the Department's determination and states several reasons why he believes the alleged violations to be without merit.

Petitioner also states that he believes he was improperly removed from the Judd House, a transitional housing program where he was residing, without the benefit of an eviction process.

The Court has conducted a review of the Petition in accordance with the requirements of V.R.C.P. 80.4 to determine if there are any grounds for which Petitioner may be entitled to immediate relief. The Court finds no such grounds. Neither Petitioner's first nor second issues fall into the scope of a Habeas Corpus petition and are not eligible for the emergency relief sought.

Petitioner's revocation of furlough is covered under 28 V.S.A. § 724, which sets out that the Department of Corrections has the authority to interrupt or revoke community supervision furloughs for violations of conditions that the Department has determined have occurred. A decision by the Department to revoke for more than 90 days is reviewable under V.R.C.P. 74. 28 V.S.A. § 724(c). If Petitioner's revocation is for less than 90 days, then it is reviewable under V.R.C.P. 75.

As the Vermont Supreme Court has noted, "habeas relief does not generally provide a substitute for appellate review." *Davey v. Baker*, 2021 VT 94, ¶ 14 (quoting *Shuttle v. Patrissi*, 158 Vt. 127, 131 (1992)). When there is appellate review and relief available, habeas is generally not available. *Id.* In this case, it appears that Petitioner's remedy lies with either Rule 74 or Rule 75, depending on the length and extent of the furlough revocation.

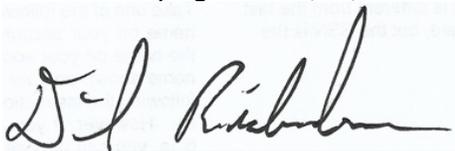
As for the second issue, it appears to lie outside the scope of habeas entirely. See 12 V.S.A. § 3952 (prisoners entitled to writ of habeas corpus). The allegedly wrongful termination of Petitioner's

housing is not on its face an imprisonment or restraint of liberty, which are the traditional bases for habeas relief. It is also not clear if the State of Vermont owns or controls the housing or has the authority to act either to preserve or end such housing. Finally, Petitioner's statement that eviction is mandatory is belied by 9 V.S.A. § 4452, which excludes certain types of housing—particularly temporary housing—from the obligations of notice and eviction.

**ORDER**

Based on this, the Court finds no grounds for habeas relief and finds no basis to set this matter for emergency notice and hearing under V.R.C.P. 80.4. The Court will forward a copy of Petition to the Prisoner's Rights Office and to the Department of Corrections. Upon receiving a response from these agencies, the Court will set the matter for an initial status conference as to whether to amend, dismiss or convert the matter into a Rule 74 or 75 appeal.

Electronically signed on 7/13/2022 4:26 PM pursuant to V.R.E.F. 9(d)

A handwritten signature in black ink, appearing to read "D. Richardson", is written over a light blue rectangular background. The signature is cursive and somewhat stylized.

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Daniel Richardson  
Superior Court Judge