

*Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2002-018

JUNE TERM, 2002

James Millett, Jr.

v.

John Gorczyk

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APPEALED FROM:

Orleans Superior Court

DOCKET NO. 239-9-01 Oscv

Trial Judge: Stephen B. Martin

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

On May 31, 2002, appellee moved to dismiss this matter on mootness grounds because appellant, who was seeking habeas corpus relief, served his maximum sentence and was released from the custody of the Commissioner of the Vermont Department of Corrections on May 16, 2002. Appellant did not file a response opposing the motion.

A case becomes moot when the issues presented for review "are no longer 'live' or the parties lack a legally cognizable interest in the outcome." In re P.S., 167 Vt. 63, 67 (1997). The controversy between the parties must exist at all times during the pendency of the matter, not solely when the case is filed. Id. In this case, appellant sought credit on his sentence for the time he was on probation. Because he served his maximum sentence and is no longer in the custody of the Department of Corrections, a live controversy between the parties no longer exists. Moreover, appellant's question on appeal - whether he was entitled to credit while on probation - is not one that falls within the narrow exceptions to the mootness doctrine, namely that the question is capable of repetition yet will evade review, or negative collateral consequences flow from the order on review. See id. at 67. Accordingly, the appeal is dismissed as moot.

BY THE COURT:

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John A. Dooley, Associate Justice

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James L. Morse, Associate Justice

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Marilyn S. Skoglund, Associate Justice