

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2021-018

JANUARY TERM, 2021

State of Vermont v. Travis C. Collins, Sr.*	}	APPEALED FROM:
	}	
	}	Superior Court, Franklin Unit,
	}	Criminal Division
	}	
	}	DOCKET NO. 796-6-17 Frcr

Trial Judge: Howard E. Van Benthuisen

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

Defendant appeals a January 8, 2021 hold-without-bail order. Because the court issued a subsequent hold-without-bail order on January 26, defendant's appeal is now moot. The Court therefore dismisses the appeal.

The record indicates the following. In January 2018, defendant pled guilty to first-degree unlawful restraint, 13 V.S.A. § 2407(a)(1). Defendant was sentenced to serve one to five years, which was all suspended except for one year, and was placed on probation under standard and special conditions. On January 8, 2021, the State filed a violation of probation complaint (VOP) against defendant, alleging that he violated Condition L, which provided that he "shall not buy, have, or use any regulated drugs unless they are prescribed by a doctor." The VOP specifically alleged that on three occasions in October 2020, defendant sold crack cocaine to an undercover informant working with local law enforcement.

The court issued a hold-without-bail order because defendant's underlying conviction for first-degree unlawful restraint is a violent felony. See 13 V.S.A. § 5301(7)(T) (identifying first-degree unlawful restraint as violent felony); 28 V.S.A. § 301(4) (providing that "[p]ending arraignment for any charge of violation, the probationer shall be detained at a correctional facility" and there is no right to release for a probationer on probation for a violent felony). At the hearing, defendant was also arraigned in a separate docket on three new felony charges for selling crack cocaine, 18 V.S.A. § 4231(b). In that docket, the court imposed \$5000 bail and several other conditions, including that defendant not leave the state without the court's permission.

On January 11, defendant moved to review the hold-without-bail order under 13 V.S.A. § 7554(d). See 28 V.S.A. § 301(4), (5)(A) (providing that after arraignment, court may release probationer convicted of a violent felony pursuant to 13 V.S.A. § 7554). On January 21, the trial court scheduled a motion hearing for January 26. That same day, prior to receiving notice of the scheduled hearing, defendant appealed the January 8 hold-without-bail order. In the notice of appeal, defendant explained that although he filed a motion for bail review on January 8, he continued to be held without bail. He requested this Court to reverse the January 8 order and release him on conditions.

As scheduled, the court held a motion hearing on January 26 via Webex. Defendant argued that he should be released on the same bail and conditions that were imposed on the new felony charges and offered his girlfriend, who testified on his behalf, as a custodian. He argued that these conditions were sufficient to mitigate any risk of flight because he has lived in Vermont for twenty-

seven years, currently lives with his teenage children only a few hundred feet from the courthouse, and has a job waiting for him upon release. Due to COVID-19 protocols, defendant also expressed concern that he would not receive a VOP merits hearing within a reasonable time. The State opposed defendant's release, arguing that he posed a threat to public safety based on the facts surrounding his underlying conviction.

In a written order issued on January 26, the court concluded that the hold-without-bail order should be left in place. It explained that it was reasonable to be concerned that defendant would pose a public-safety risk if released given that his underlying conviction was based on terrorizing a suspected police informant and the new felony charges allege that defendant made cocaine sales to a police informant. Furthermore, the court concluded that defendant's girlfriend was not an appropriate custodian because she does not live with defendant and would be unavailable to supervise him while she was at work. To provide defendant with a timely merits hearing, the court directed the clerk to schedule a hearing within the next forty-five days.

Given the court's January 26 decision, defendant's appeal of the January 8 order is now moot. "The mootness doctrine derives its force from the Vermont Constitution, which, like its federal counterpart, limits the authority of the courts to the determination of actual, live controversies between adverse litigants." Houston v. Town of Waitsfield, 2007 VT 135, ¶ 5, 183 Vt. 543, 944 A.2d 260 (mem.) (quotation omitted). "A case is moot if the reviewing court can no longer grant effective relief." In re Moriarty, 156 Vt. 160, 163, 588 A.2d 1063, 1064 (1991). "Importantly, even if a case was not moot when it was first filed, intervening events since its filing can render it moot." Paige v. State, 2017 VT 54, ¶ 7, 205 Vt. 287, 171 A.3d 1011.

Here, defendant's notice of appeal expressly asks this Court to reverse the trial court's January 8 hold-without-bail order. While defendant was being held pursuant to this order when he filed his appeal, "intervening events"—namely, the trial court's January 26 decision denying defendant's motion for bail review made after an evidentiary hearing—have rendered moot any appeal of the January 8 decision. See Paige, 2017 VT 54, ¶ 7. The January 8 order has no effect on defendant's current bail status. Cf. In re P.S., 167 Vt. 63, 67, 702 A.2d 98, 100 (1997) (concluding that plaintiff's appeal was moot because "the order she appeals no longer has any effect on her commitment status or residence").

Defendant's appeal is hereby dismissed as moot.

FOR THE COURT:

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Karen R. Carroll, Associate Justice