

SUPREME COURT OF NORTH DAKOTA

Rodriguez v. North Dakota State Penitentiary

Rodriguez, 2014 ND 49 (N.D. 2014) · No. 20130335 · Decided March 11, 2014

SUMMARY

Ricky James Rodriguez appealed the denial of his petition for a writ of mandamus seeking recalculation of his parole eligibility based on credit for time previously served. The North Dakota Supreme Court held the issue was moot because Rodriguez became eligible for parole before the appeal was decided. The court dismissed the appeal without reaching the merits.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Lisa Fair McEvers; Daniel J. Crothers; Dale V. Sandstrom; Carol Ronning Kapsner; Gerald W. VandeWalle, Chief Justice
JURISDICTION	North Dakota
DECIDED	March 11, 2014
DOCKET	20130335
DISPOSITION	dismissed
PROCEDURAL POSTURE	Rodriguez appealed the district court's denial of his petition for a writ of mandamus seeking recalculation of his parole eligibility based on credit for time previously served.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion
PARTIES	Ricky James Rodriguez v. North Dakota State Penitentiary, Donald Redmann, Interim Warden

TOPICS

- mootness
- appellate procedure
- post-conviction relief
- parole
- statutory interpretation

PRACTICE AREAS

- Appellate procedure
- Criminal procedure
- Post-conviction relief
- Parole

QUESTIONS PRESENTED

1. Whether Rodriguez's appeal concerning the calculation of his parole eligibility was moot after he became eligible for parole.
2. Whether an exception to the mootness doctrine applied because the issue was capable of repetition yet evading review or involved a question of great public interest and the authority of public officials.

HOLDINGS

1. The appeal was moot because Rodriguez's parole eligibility had occurred, making it impossible for the Court to grant him effective relief.
2. The capable-of-repetition-yet-evading-review exception did not apply because any future occurrence of the issue could be reviewed without evading judicial review.
3. The great-public-interest exception did not apply because Rodriguez did not argue or demonstrate that the controversy was one of great public concern.

KEY QUOTATIONS

"When it becomes impossible for the Court to issue relief, no controversy exists and the issue is moot." (¶ 6)

"We do not render advisory opinions and will dismiss an appeal if the issue becomes moot." (¶ 6)

"We hold this appeal is moot, and we dismiss Rodriguez's appeal." (¶ 8)

FACTUAL BACKGROUND

Rodriguez pleaded guilty to aggravated assault in 2008 and received a five-year sentence with two years suspended, followed by probation. After his probation was revoked in 2012, he was resentenced to five years in custody with credit for three years previously served and thirty-nine additional days. He challenged the Department of Corrections and Rehabilitation's calculation of the eighty-five-percent confinement requirement for parole eligibility, but he became eligible for parole on February 13, 2014, while his appeal was pending.

PROCEDURAL HISTORY

Rodriguez pleaded guilty to aggravated assault and was sentenced to five years' custody, with two years suspended and supervised probation. After his probation was revoked, he was resentenced and sought mandamus relief requiring the North Dakota Department of Corrections and Rehabilitation to calculate his parole eligibility using credit for three years and thirty-nine days rather than the time actually served. The district court denied the petition, concluding he had not established a clear legal right to earlier release. While the appeal was pending, Rodriguez became eligible for parole, and the Supreme Court dismissed the appeal as moot.

DISPOSITION

dismissed

CASES CITED

- State v. Grager, 2006 ND 102, ¶ 11, 713 N.W.2d 531

- State v. Patten, 366 N.W.2d 459, 460 (N.D. 1985)
- State v. Hansen, 2006 ND 139, ¶¶ 7-9, 717 N.W.2d 541

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