

SUPREME COURT OF VERMONT

Lance Mason v. Department of Corrections

Mason · No. 23-AP-114 · Decided November 13, 2023

SUMMARY

The Vermont Supreme Court affirmed dismissal without prejudice of Lance Mason’s complaint challenging a Department of Corrections furlough interruption. The court held that Vermont Rule of Civil Procedure 74 and 28 V.S.A. § 724 did not provide a basis for review because the interruption resulted from parole revocation rather than a technical furlough violation, and Mason failed to amend his complaint after being given an opportunity to do so.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                               |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Vermont                                                                                                                                                                                                                                                      |
| WRITING FOR THE COURT | Paul L. Reiber, Chief Justice; Harold E. Eaton, Jr., Associate Justice; Nancy J. Waples, Associate Justice                                                                                                                                                                    |
| JURISDICTION          | Vermont                                                                                                                                                                                                                                                                       |
| DECIDED               | November 13, 2023                                                                                                                                                                                                                                                             |
| DOCKET                | 23-AP-114                                                                                                                                                                                                                                                                     |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | Petitioner appealed from the Superior Court's dismissal without prejudice of his Vermont Rule of Civil Procedure 74 complaint seeking review of a Department of Corrections furlough decision.                                                                                |
| STANDARD OF REVIEW    | The Supreme Court reviewed dismissal for failure to state a claim without deference, applying the same standard as the trial court, and would uphold dismissal only if it was beyond doubt that no facts or circumstances existed that would entitle the plaintiff to relief. |
| PRECEDENTIAL VALUE    | Nonprecedential three-justice panel entry order                                                                                                                                                                                                                               |
| PARTIES               | Lance Mason v. Department of Corrections                                                                                                                                                                                                                                      |

TOPICS

- motions to dismiss
- subject matter jurisdiction
- judicial review of agency action
- appellate procedure
- civil procedure

## PRACTICE AREAS

civil procedure

appellate procedure

administrative law

## QUESTIONS PRESENTED

1. Whether Mason's Rule 74 complaint stated a claim for review of the DOC's furlough interruption under 28 V.S.A. § 724.
2. Whether the trial court improperly dismissed the action without providing Mason an adequate opportunity to amend his complaint.
3. Whether dismissal denied Mason access to the courts or otherwise violated applicable judicial-conduct rules.
4. Whether Mason was entitled to judgment as a matter of law.

## HOLDINGS

1. A Rule 74 complaint cannot seek review under 28 V.S.A. § 724 of a furlough interruption based on parole revocation rather than a technical violation of community-supervision furlough status. Because Mason's complaint sought relief outside the scope of Rule 74 and § 724, it failed to state a claim and was properly dismissed under Rule 12(b).
2. The trial court provided Mason an adequate opportunity to amend his complaint, and dismissal was proper after he failed to file an amended complaint.
3. Mason was not entitled to judgment as a matter of law because his complaint did not state a claim for relief or provide a basis for such judgment.

## KEY QUOTATIONS

*“We review a dismissal for failure to state a claim without deference to the trial court using the same standard and will uphold the dismissal “only if it is beyond doubt that there exist no facts or circumstances that would entitle the plaintiff to relief.”” (at 2)*

*“An offender whose community supervision furlough status is revoked or interrupted for 90 days or longer for a technical violation shall have the right to appeal the Department’s determination to the Civil Division of the Superior Court in accordance with Rule 74 of the Vermont Rules of Civil Procedure.” (at 1)*

## FACTUAL BACKGROUND

Mason was in Department of Corrections custody and was released on parole in January 2021. After three significant violations, the Parole Board revoked his parole in May 2022, and a DOC case-staffing team imposed a two-year furlough interruption based on that revocation. The DOC Commission denied Mason's appeal, after which he filed a Rule 74 complaint seeking review of the furlough decision.

## PROCEDURAL HISTORY

Mason filed a Rule 74 complaint challenging the DOC's two-year furlough interruption after the Parole Board revoked his parole. The trial court dismissed the complaint under Rule 12(b) for lack of subject-matter

jurisdiction and failure to state a claim, while allowing Mason an opportunity to amend to pursue any potentially reviewable claim under Rule 75. After Mason failed to file an amended complaint, the court dismissed the action without prejudice. The Vermont Supreme Court affirmed the dismissal.

## DISPOSITION

affirmed

## CASES CITED

- Birchwood Land Co. v. Krizan, 2015 VT 37, ¶ 6, 198 Vt. 420
- Birchwood Land Co. v. Krizan, 2015 VT 37, ¶ 17, 198 Vt. 420
- Huddleston v. University of Vermont, 168 Vt. 249, 255 (1998)

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