

STATE OF MICHIGAN  
COURT OF APPEALS

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KENNETH BROWN,

Plaintiff-Appellee,

v

MICHIGAN PAROLE BOARD,

Defendant-Appellant.

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UNPUBLISHED

September 17, 1999

No. 208361

Kent Circuit Court

LC No. 97-005794 AP

Before: Cavanagh, P.J., and Hoekstra and Gage, JJ.

MEMORANDUM.

Defendant Michigan Parole Board appeals by leave granted the circuit court's order reversing defendant's decision to deny plaintiff parole. We find the issue raised on appeal to be moot.

Plaintiff was imprisoned after being convicted of domestic violence and was reviewed for parole on April 11, 1997. Although plaintiff's score under the parole guidelines suggested that parole should be granted, defendant, citing plaintiff's "assaultive conduct over a long period of time," denied parole. Plaintiff appealed the board's decision to the circuit court. There, the circuit court vacated the decision, claiming that defendant had failed to articulate a substantial and compelling reason for deviating from the guideline's recommendation. The circuit court remanded the matter for further consideration, and defendant appealed the circuit court's order.

However, since being granted leave to appeal, defendant has clarified the reasons for its decision in plaintiff's case, and the trial court has accepted those reasons as an adequate basis for departing from the guidelines. Plaintiff's request for leave to appeal the trial court's second decision was denied by this Court. *Brown v Parole Board*, unpublished order of the Court of Appeals, entered June 15, 1999 (Docket No. 216143). Consequently, this case is moot, and the appeal should be dismissed. As a general rule, appellate courts will not decide a moot issue. *B P 7 v Bureau of State Lottery*, 231 Mich App 356, 359; 586 NW2d 117 (1998). An appeal is moot if we are unable to grant meaningful relief. *Id.* Here, the parole board has already clarified the basis for its decision, the trial court has affirmed its decision, and this Court has refused to grant plaintiff leave to appeal that decision. Nothing we do here will affect plaintiff's current status with respect to this application for parole.

Defendant urges us to decide this issue because it has important public policy implications. We will decide moot issues if they are of public significance and would otherwise tend to evade appellate review. *Hinton v Parole Bd*, 148 Mich App 235, 238-239; 383 NW2d 626 (1986). We are not convinced that this is such a case. First, defendant has not shown that this particular issue, whether a guideline factor can also be a compelling and substantial reason for departing from the guideline's recommendation, arises with any frequency. Rather, defendant has merely shown that many prisoners appeal their parole boards' decisions regarding what constitutes a compelling and substantial reason. Defendant has not shown that any of the cases involve the issue framed here. Second, we are not convinced that the trial court intended to state a bright-line rule when it held that the parole board could not consider a scored factor. We note that defendant's reasons for denying plaintiff parole remained essentially the same after the circuit court's remand order; defendant simply stated its reasons in more detail. The circuit court's ultimate decision, to affirm defendant's decision, suggests that the circuit court was simply requiring the board to state its reasons more explicitly rather than holding that scored factors could never be used to establish compelling and substantial reasons for departing from the guidelines. Third, we are not convinced that this issue, if it is indeed recurrent, will continue to evade appellate review. For example, had the trial court reversed the parole board's decision a second time, this issue would have remained ripe for review. However, because the parole board's decision was ultimately upheld and leave to appeal was denied, the issue before us is moot.

Appeal dismissed.

/s/ Mark J. Cavanagh  
/s/ Joel P. Hoekstra  
/s/ Hilda R. Gage