

STATE OF MICHIGAN
COURT OF APPEALS

MAN LEWIS, JR.,

Plaintiff-Appellant,

v

DEPARTMENT OF CORRECTIONS,

Defendant-Appellee.

UNPUBLISHED

April 20, 2010

No. 290338

Ingham Circuit Court

LC No. 08-001235-AW

Before: SAAD, P.J., and HOEKSTRA and MURRAY, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the Ingham Circuit Court's orders granting defendant's motion summary disposition and dismissing plaintiff's complaint for mandamus, and denying reconsideration. We dismiss this case as moot.

Plaintiff, at the time a prisoner in defendant's custody, commenced this action seeking a writ of mandamus to compel defendant to recognize a discharge date for him consistent with his own calculations and understanding of the pertinent authorities. The trial court granted summary disposition to defendant and dismissed the action, and denied a motion for reconsideration, on the ground that plaintiff's remedy, if any, was to be had in connection with earlier litigation in Montcalm Circuit Court (No. 07-M09843-AH), then pending appeal.

In that earlier litigation, plaintiff sought a writ of habeas corpus for the same reason that he seeks mandamus in this case. The Montcalm Circuit Court denied the writ, and plaintiff's appeal by right in this Court was dismissed for a filing defect. *Man v Dep't of Corrections*, unpublished order of the Court of Appeals entered February 20, 2008 (Docket No. 283344). Our Supreme Court in turn declined to accept his application for leave to appeal in light of outstanding fees.

This case is now moot. The Department of Corrections released plaintiff and discharged all his sentences on December 14, 2009. "As a general rule, an appellate court will not decide moot issues." *B P 7 v Bureau of State Lottery*, 231 Mich App 356, 359; 586 NW2d 117 (1998). "An issue is deemed moot when an event occurs that renders it impossible for a reviewing court

to grant relief.” *Id.* Because the Department of Corrections has discharged plaintiff’s sentences, his arguments concerning what his discharge date should be are now moot. *Kaufman v Carter*, 952 F Supp 520, 533 (WD Mich, 1996). Because we can fashion no remedy in the matter, we decline to address it further.¹

Appeal dismissed.

/s/ Henry William Saad

/s/ Joel P. Hoekstra

/s/ Christopher M. Murray

¹ The doctrine of res judicata would otherwise operate to bar relitigation of this issue. “Under the doctrine of res judicata, ‘a final judgment rendered by a court of competent jurisdiction on the merits is conclusive as to the rights of the parties and their privies, and, as to them, constitutes an absolute bar to a subsequent action involving the same claim, demand or cause of action.’” *Wayne Co v Detroit*, 233 Mich App 275, 277; 590 NW2d 619 (1998), quoting Black’s Law Dictionary (6th ed, 1990), p 1305. The doctrine applies “to every point which properly belonged to the subject of litigation, and which the parties, exercising reasonable diligence, might have brought forward at the time.” *Peterson Novelties, Inc v City of Berkley*, 259 Mich App 1, 11; 672 NW2d 351 (2003) (internal quotation marks and citations omitted). The prior Montcalm County case addressed this same issue and was between the same parties.