

IN THE SUPREME COURT OF THE STATE OF DELAWARE

STEVEN A. WHITE,	§
	§ No. 379, 2012
Plaintiff Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
DELAWARE BOARD OF	§ C.A. No. N11M-12-080
PAROLE,	§
	§
Defendant Below-	§
Appellee.	§

Submitted: January 3, 2013
Decided: February 5, 2013

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices

ORDER

This 5th day of February 2013, it appears to the Court that:

(1) This is an appeal from the Superior Court’s June 28, 2012 order dismissing the petition of the plaintiff-appellant, Steven A. White, for a writ of mandamus. The writ requested the Superior Court to compel the defendant-appellee, the Delaware Board of Parole (the “Board”), to consider his request for parole, which the Board had determined was premature under Del. Code Ann. tit. §4347(a).

(2) On July 30, 2012, White filed a motion to stay the appeal pending the filing of a second request for parole, this time in accordance

with the Board's instructions. White acknowledged in his motion that, if his request for parole was granted, his appeal would be moot. On July 31, 2012, this Court granted White's request for a stay pending the filing of a second request for parole. In its Order granting the request, the Court stated that, "[i]f the Board grants White's application, the instant appeal will be moot."

(3) On December 12, 2012, the Court received a letter from the Board reflecting that White's request for parole was heard on December 11, 2012 and was granted. On December 13, 2012, the Clerk of the Court issued a notice to White to show cause why his appeal should not be dismissed as moot in light of the Board's grant of his request for parole.

(4) On December 20, 2012, the Court received White's response to the notice to show cause. In the response, White states that his appeal should not be dismissed because, in refusing his initial request for parole, the Board did not act in accordance with Del. Code Ann. tit. 11, §4347(a). White states that, even though he has been released on parole, the Board's failure to follow the statutory language will affect other individuals who apply for parole in the future.

(5) This Court may dismiss an appeal for mootness under Supreme Court Rule 29(b).¹ Under the mootness doctrine, although there may have

¹ *Stotland v. GAF Corp.*, 469 A.2d 421, 423 (Del. 1983).

been a justiciable controversy at the time the litigation commenced, the action will be dismissed if that controversy ceases to exist.² In the instant case, once the Board granted White's request for parole, a justiciable controversy no longer existed and, therefore, the appeal became moot. Moreover, this case does not fall within the exception to the mootness doctrine for cases involving the public interest that are capable of repetition yet evading review.³ While the factual circumstances presented in this case are capable of repetition, there is no impediment to future review by this Court of the issue raised by White. We, therefore, conclude that White's appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED that this appeal is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland
Justice

² *General Motors Corp. v. New Castle County*, 701 A.2d 819, 823 (Del. 1997).

³ *Radulski v. Del. State Hosp.*, 541 A.2d 562, 566 (Del. 1988).