

MAINE SUPREME JUDICIAL COURT

Reporter of Decisions

Decision: 2020 ME 37

Docket: Cum-19-403

Submitted

On Briefs: February 26, 2020

Decided: March 31, 2020

Panel: MEAD, GORMAN, JABAR, HUMPHREY, HORTON, and CONNORS, JJ.

DAVID F. PAQUETTE

v.

DEPARTMENT OF CORRECTIONS

PER CURIAM

[¶1] Because events in the Superior Court have overtaken this appeal, we dismiss it as moot.

[¶2] David F. Paquette, an inmate in the custody of the Maine Department of Corrections, filed an action in the Superior Court (Cumberland County) against the Department. The court (*Warren, J.*) treated the action as a petition for review of agency action. *See* 5 M.R.S. §§ 11001-11008 (2018); M.R. Civ. P. 80C. After the court issued an order requiring Paquette to show cause why his appeal should not be dismissed for failure to serve the Department pursuant to 5 M.R.S. § 11003(1), Paquette filed documents showing unsuccessful attempts to serve the Attorney General but not the Department itself.

[¶3] The court dismissed Paquette’s petition for insufficient service of process. Paquette then filed a document making additional assertions regarding his service efforts. The court treated that filing as an appeal.

[¶4] After the appeal was docketed in the Law Court, Paquette filed in the trial court a motion to serve the Department by mail and documents asserting that the Department had acknowledged receipt of process. We entered an order that suspended M.R. App. P. 3(b) to permit the court to act on Paquette’s assertions. The court revisited the service issue and granted Paquette leave to effect alternate service. *See* M.R. Civ. P. 4(g).

[¶5] The court has thus negated its dismissal of Paquette’s petition, rendering this appeal moot. *Cf. E. Me. Med. Ctr. v. Me. Health Care Fin. Comm’n*, 601 A.2d 99, 101 (Me. 1992).

The entry is:

Appeal dismissed. Remanded for further proceedings consistent with this opinion.

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David F. Paquette, appellant pro se

Aaron M. Frey, Attorney General, and Jillian R. O’Brien, Asst. Atty. Gen., Office of the Attorney General, Augusta, for appellee Department of Corrections