

VERMONT SUPERIOR COURT  
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CIVIL DIVISION  
Case No. 21-CV-01992

**JAKE DESJADON V. JAMES BAKER, VERMONT DOC**

**RULING ON THE MERITS**

This is a Rule 74 appeal from a decision of the Department of Corrections (DOC) to interrupt Mr. Desjadon's furlough for more than 90 days. 28 V.S.A. § 724 provides for court review of such decisions. A remote hearing took place on February 14, at which Mr. Desjadon testified. He is represented by Emily Tredeau, Esq. and DOC is represented by Timothy Connors, Esq.

**Findings of Fact**

Desjadon was released on furlough in December 2019. At the time of his release, he signed the furlough agreement, which required him to stay in touch with his parole officer and not leave Vermont. After his release, he went to drug rehab. He held jobs as a tow truck driver and then as a mechanic and a construction worker. He had phone check-ins with his parole officer every few weeks. In May of 2021 his parole officer asked him to come in for an in-person meeting. Desjadon assumed he was going to be put back in jail, because someone had claimed that he stole a four-wheeler. His daughter had just come back into his life, which was extremely important to him, and he feared losing that relationship if he was jailed again. He had also relapsed and was getting high again, so his judgment was impacted. He therefore failed to show up for the meeting.

DOC records reflect that after failing to show for the appointment with his parole officer, Desjadon was charged with violating furlough by leaving Vermont, and was picked up on a warrant on June 2, 2021 in New York State. Combined Agency Record (Record) at DOC002. He waived his right to a furlough violation hearing on that charge, thereby admitting it. Record at DOC004.

In deciding the penalty for the furlough violation, DOC considered—among other things—the facts that Desjadon had violated furlough by “escaping” twice before, that he had quit his job, that he had relapsed on cocaine and quit his medication-assisted treatment program, and that he had served six months on one of the earlier violations. Record at DOC002. They also noted that a risk assessment done in June 2021 found that he had “needs for all domains (education, employment, substance abuse, housing, peer associations, and criminal attitudes and behaviors).” A one year sentence on the violation was recommended by the parole officer because it was his “third escape from furlough and he was detained in Madison County, NY,” because the earlier penalties for violations had not had the desired impact, and because he had “a long history of non-compliance and evading supervision and police.” DOC003. The case staffing group approved that recommendation, “based on number of violations and risk scores.” Id.

Desjadon is now on Suboxone and has a strong community support system. He is on good terms with his daughter’s mother and has developed some sober friends. He appears to have a much better chance of maintaining sobriety in the community than in the past. He also has a place to live when released. He was never charged with theft of the four-wheeler and denies any responsibility for that. He offers to wear a GPS monitor if released.

### Conclusions of Law

The statute at issue provides for review of any furlough interrupt over 90 days. The court has previously ruled that the scope of review is for abuse of discretion. *See* Ruling on Scope of Hearing (Nov. 30, 2021).

The statute defines what constitutes an abuse of discretion: revoking furlough for more than 90 days for a technical violation without evidence that (1) “the offender’s risk to reoffend can no longer be adequately controlled in the community, and no other method to control noncompliance is suitable,” or (2) “the violation or pattern of violations indicate the offender poses a threat to abscond or escape from furlough.” 28 V.S.A. § 724(d)(2). A technical violation is defined as one “that does not constitute a new crime.” *Id.* §724(d)(1). The parties agree this was a technical violation.<sup>1</sup> The question, then, is whether DOC had grounds to conclude that Desjadon’s behavior could not be controlled in the community, or that he was at risk of “escaping” from furlough again.

DOC’s decision to impose a one-year sentence on the violation was based on, among other things, the fact that it was his third “escape” from furlough,<sup>2</sup> he had quit his job and his substance abuse treatment and was using cocaine, and his last penalty for a similar violation had been six months. All of those were reasonable considerations in determining the appropriate penalty. Using drugs clouds judgment, as Desjadon acknowledged, and it was not unreasonable for DOC to believe that given the relapse and quitting treatment, Desjadon was at risk of additional criminal behavior. There was certainly reason to believe he was at risk of

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<sup>1</sup> It is not entirely clear to the court that this is correct, as the law regarding when absconding from furlough is a crime has been in flux and appears to have recriminalized such conduct as of January 2021 as long as there is evidence of intent. *See State v. Turner*, 2021 VT 30, ¶ 6 and n. 1; 13 V.S.A. § 1501(b)(3). However, the court accepts the parties’ position on the issue for purposes of this petition.

<sup>2</sup> DOC appears to use the word “escape” interchangeably with “abscond.” *See* 28 V.S.A. § 808e.

“escape” from furlough again, as this was the third time he had done so. Although there are certainly arguments that could be made for a different approach, it is not unreasonable to impose a more severe sentence when the penalty imposed before did not seem to be sufficient to deter similar conduct. The court cannot say that DOC abused its discretion in imposing a one year penalty for the violation.

Desjadon appears to have made progress since he was reincarcerated, and now has more supports in the community. The court has every hope that he has come to a point where he will stop making bad choices, will prioritize his own sobriety and his relationship with his daughter, and will never have to see the inside of a jail again. However, those facts do not change the reasonableness of DOC’s decision back in June of 2021.

Order

The appeal is denied. DOC’s decision is affirmed.

Electronically signed on March 3, 2022 pursuant to V.R.E.F. 9(d).



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Helen M. Toor  
Superior Court Judge