

STATE OF VERMONT

SUPERIOR COURT
Washington Unit

CIVIL DIVISION
No. 21-CV-3496

JASMINE KLEIN,
Appellant,

v.

RUTLAND PROBATION AND PAROLE
FIELD OFFICE
Appellee.

RULING ON THE STATE'S MOTION TO DISMISS

Vermont prisoner and appellant Jasmine Klein filed this action seeking Rule 74 review of a Department of Corrections case staffing decision from 2017 pursuant to 28 V.S.A. § 724, which permits limited review of certain decisions following a furlough violation. The State has filed a motion to dismiss. It argues that the 2017 decision is not subject to review under § 724 because § 724 does not apply retrospectively to such decisions. Ms. Klein opposes dismissal, but her arguments are not responsive to the State's motion.

The version of § 724 that grants inmates limited review of certain case staffing decisions first became effective on January 1, 2021. Nothing in the language of the statute or the enacting legislation indicates that it was intended to operate retroactively in any respect. See 2019, No. 148 (Adj. Sess.). It therefore only had prospective effect on its effective date. 1 V.S.A. § 214(b)(2). Thus, no review ever has been available under § 724 for case staffing decisions prior to January 1, 2021.

Otherwise, to trigger review, an inmate must file a notice of appeal within 30 days of the disputed decision. See V.R.C.P. 74(b); V.R.A.P. 4(a)(1). Even if § 724 did apply retroactively, Ms. Klein's appeal comes well outside the 30-day appeal period.

Order

For the foregoing reasons, the State's motion to dismiss is granted. The State shall submit a form of judgment. V.R.C.P. 58(d).

SO ORDERED this 20th day of January, 2022



Robert A. Mello, Superior Judge