VERMONT SUPREME COURT
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Case No. 26-AP-281

Note: In the case title, an asterisk (*) indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

NOVEMBER TERM, 2026

State of Vermont v. Jeffrey Rivard* } APPEALED FROM:
} Superior Court, Windham Unit;
} Criminal Division
} CASE NOS. 20-CR-00471 & 21-CR-04101
Trial Judge: Michael R. Kainen

In the above-entitled cause, the Clerk will enter:

Defendant, self-represented, appeals from the trial court's order denying his post-verdict motion. We affirm.

Defendant was charged with numerous crimes in the cases involved in this appeal (Case Numbers 20-CR-00471 and 21-CR-04101), including leaving the scene of an accident, reckless endangerment, grossly negligent operation, disorderly conduct and two violations of conditions of release (VCRs). In March 2024, defendant pled guilty to the two VCR counts pursuant to a plea agreement and the State dismissed the remaining charges. The condition of release at issue was imposed in State v. Rivard, Case No. 1370-11-19 Wmcr, and it prohibited defendant from knowingly placing himself or remaining "within 300 feet of person(s) named in condition 14, their residence, place of employment or vehicle if possessed." The State included in its charging documents in the instant cases a copy of the conditions issued in Case No. 1370-11-19 Wmcr. Defendant acknowledged violating the condition at issue on two occasions and acknowledged that by pleading guilty, he relinquished his right to appeal.

In April 2025, defendant sought to have his VCR convictions expunged, arguing that the offense was "no longer criminalized and no longer unlawful." See State v. Rivard, Case No. 25-AP-186 (Sept. 5, 2025) (three-Justice panel mem.), https://www.vtcourts.gov/sites/default/files/

documents/eo25-186_0.pdf, at *2 (quotation omitted). The trial court rejected that argument and we upheld its decision on appeal. See id.

In January 2026, defendant filed a "motion to vacate void judgment" into Case Numbers 20-CR-00471 and 21-CR-04101, essentially arguing that his convictions were void because the conditions of release he violated were imposed in a different criminal case, Case No. 1370-11-19 Wmcr.

The court denied each motion in a separate ruling. Essentially, the court explained that there was no mechanism in the criminal rules for what defendant was seeking, and that Vermont Rule of Criminal Procedure 35(a) did not apply. Rule 35(a) states in relevant part that "[t]he court may correct an illegal sentence at any time and may correct a sentence imposed in an illegal manner within the time provided herein for the reduction of sentence." The court found that defendant was well outside the ninety-day sentence-reconsideration window. Additionally, defendant sought to attack his conviction, not his sentence, which was not allowed under Rule 35. See State v. Rosenfield, 2016 VT 27, ¶¶ 5-6, 201 Vt. 383 (explaining that Rule 35 "is intended to correct ambiguous sentences and arithmetical, technical, or other clear errors in sentences" and the rule "is focused on sentences, not on convictions"). Defendant filed a motion to reconsider, which was denied. This appeal followed.

Defendant reiterates his assertion on appeal that the State or the court had to "reimpose" his conditions of release in these cases before he could be convicted of the VCRs at issue here. Putting aside other flaws, we reject the premise of defendant's argument. Assuming for the purposes of argument that the trial court has inherent authority to vacate a criminal conviction at any time, defendant fails to show that the State was required to file its VCR charge into the same docket where the conditions were originally imposed, or that it was required to reimpose or incorporate those conditions into the instant case.

Under 13 V.S.A. § 7559(a) (formerly 13 V.S.A. § 7559(e)), "[t]he State's Attorney may commence a prosecution for criminal contempt under Rule 42 of the Vermont Rules of Criminal Procedure against a person who violates a condition of release imposed under section 7554 of this title." Section 7554 addresses the imposition of pretrial conditions of release. Criminal Rule 42(b) sets forth the notice and hearing requirements for criminal contempt. See generally In re Morse, 98 Vt. 85, 90-91 (1924) (recognizing "that a criminal contempt is one committed directly against the authority of the court," and "punishment of such an offense is solely for the vindication of public authority and the majesty of the law" (quotation omitted)). Defendant admitted to twice violating a condition of release imposed by a court order. The conditions were validly issued. Contrary to defendant's assertion, neither § 7559 nor Criminal Rule 42 requires that VCRs be filed into the case where the condition was initially imposed. Defendant provides no pinpoint citations to any specific language in our case law providing otherwise, and the cases he cites are inapposite.

None of defendant's arguments persuade us otherwise. Contrary to defendant's assertion, the trial court considered his motion, the basis of the trial court's decision is apparent, and any alleged misconstruction of defendant's motion as requesting relief under Criminal Rule 35(a) is harmless, as is any alleged error in failing to liberally construe a filing by a self-represented

litigant. We consider defendant's remaining arguments, including his contention about his plea agreement premised on the argument rejected above, equally without merit. The court did not err in denying defendant's motion to vacate his VCR convictions.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

Nancy J. Waples, Associate Justice

Christina E. Nolan, Associate Justice