Vermont Superior Court
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Washington Unit

VERMONT SUPERIOR COURT
Washington Unit
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CIVIL DIVISION
Case No. 21-CV-01702

Andrew Wood v. Jeffrey Wallin et al

ENTRY REGARDING MOTION

Title: Motion for Summary Judgment; Motion for Summary Judgment ; (Motion: 15; 16)
Filer: Emily R. Wynes; Patrick T. Gaudet
Filed Date: April 13, 2026; April 13, 2026

The motion is GRANTED IN PART and DENIED IN PART.

The present case poses a complicated problem of merging sentences, supervisory authority, and collateral impacts from the Vermont Sex Offender Registry and its statutory reporting mandates. As discussed below, the Court finds that there is no dispute on the material facts of this case, and each party is entitled to partial summary judgment. Petitioner is entitled to end his reporting obligations to report to the Department of Public Safety under 13 V.S.A. § 5407(e) (1996 version), but the Respondent is entitled to keep Petitioner on the Registry for the next year, until his 10-year term under the statute fully runs. For the reasons outlined below, this decision constitutes a full resolution of all outstanding issues in this matter, and the decision constitutes a final order and judgment.

Background

Petitioner Andrew Wood was sentenced on January 6, 1993 as the result of a plea agreement for two separate crimes: (1) sexual assault under 13 V.S.A. § 3252 arising from a 1990 incident, and (2) second degree murder under 13 V.S.A. § 2302 arising from a 1991 incident. Each crime arose from a different set of facts, different locations, and different victims. The resulting sentences were 8 to 10 years for the sexual assault to be served concurrently to the 20 years to life sentence, issued at the same time, for the second-degree murder. Mr. Wood, who was 20 years old at the time of sentencing, was incarcerated from his 1991 arrest until his release on furlough in 2010, until he was eventually paroled in 2017. Mr. Wood remains on parole and

is subject to a number of conditions, most of which have not been challenged and are not presently before the Court.

What is before the Court is Mr. Wood's Rule 75 challenge seeking review of the State's determination to keep him on the Vermont Sex Offender Registry, which is operated by the Vermont Crime Information Center that acts at the behest and direction of the Vermont Department of Public Safety. Mr. Wood contends that he has served his sentence in full for the sexual assault and should be removed from the registry as enough has elapsed between the completion of his sexual assault sentence and his present petition to exhaust his reporting requirements under 13 V.S.A. § 5407(e). The Department disagrees with this position, and it points to the fact that Mr. Wood was sentenced to a merged sentencing process, under 13 V.S.A. § 7032(c)(1), and remains on parole, which would under the plain language of the Registry statute keep him obligated to report and register with the Department.

Both Mr. Wood and the Department of Public Safety have filed cross-motions for summary judgment.

To understand the nature of these issues and the legal significance of both 13 V.S.A. § 5407 and 13 V.S.A. § 7032, the Court is obligated to review some of the procedural history that has led to the present motions.

Sex Offender Registry

In 1996, the State of Vermont created a Sex Offender Registry. 13 V.S.A. §§ 5401–5413. Under this program, the Department of Public Safety and its subdivisions (VCIC) are charged with establishing and maintaining a Sex Offender Registry. 13 V.S.A. § 5402. The Registry contains information about "sex offenders" in the State. 13 V.S.A. § 5403. "Sex offenders" are defined as individuals who have been convicted either in Vermont or any other state or territory of the United States of particular crimes related to sex crimes or sexual abuse. 13 V.S.A. § 5401(10).

Under this definition and relevant to the present matter, a conviction under 13 V.S.A. § 3252 (Sexual Assault), such as Mr. Wood received in 1993, constitutes a qualifying conviction, and entitles the Department to classify him as a "sex offender" under the Registry's provisions. 13 V.S.A. § 5401(10)(A). A conviction for second degree murder under 13 V.S.A. § 2302 is not

a qualifying crime under the definitions and would not, on its own, qualify the individual convicted of second-degree murder as a sex offender. See generally 13 V.S.A. § 5401(10) (listing qualifying convictions and events triggering "sex offender" status).

The initial triggering event for reporting is either the conviction and sentencing of the individual or a report from the Department of Corrections to the Department of Public Safety. 13 V.S.A. § 5403(a) and (c).

When a sex offender is to be released from a correctional facility, the Department of Corrections is charged with notifying the Department of Public Safety and notifying the individual of their duty to report to the Department of Public Safety and register as a sex offender. 13 V.S.A. § 5404. The Department of Corrections' role further includes the duty to notify the individual of their reporting obligations when they enter into probationary or alternative sentencing. 13 V.S.A. § 5406. Finally, the sex offender has a duty to register and provide information to the Department of Public Safety when they either move to Vermont or are newly released from the Department of Corrections' custody. 13 V.S.A. § 5407(a). These obligations require the sex offender to register and report within hours or days of their release, or when their residence/contact information changes. 13 V.S.A. § 5407(a), (b), (c), and (d). If the sex offender fails to comply with their obligations under these statutes, they can be subject to criminal penalties. 13 V.S.A. § 5409.

The September 30, 2022 Trial Court Decision

Petitioner initially filed his appeal for Rule 75 review in June 2021. Following initial motion practice, the parties filed cross-motions for summary judgment. At that time, the trial court granted summary judgment for the Department of Public Safety.

The trial court's analysis began with the plain language of 13 V.S.A. § 5407(e), which states:

> All reporting requirements under this section, except for sexually violent predators, shall cease 10 years after the sex offender is released from prison or discharged from probation or parole, whichever is later. The 10-year period shall not be affected or reduced in any way by the actual duration of the offender's sentence as imposed by the court, nor shall it be reduced by the sex offender's release on parole or ending of probation or other early release.

13 V.S.A. § 5407(e) (1996).[1]

The trial court found that this section established three potential events that would trigger the final 10-year reporting period for the registry. *Wood v. Wallin*, Dckt. No. 21-CV-1702, 2022 WL 12611712, at 2 (Sept. 30, 2022) (Mello, J.). These included: (1) release from prison; (2) discharge from probation; or (3) discharge from parole. The trial court read the statute to mandate that the last of these events occurring in time would be the one to trigger the start of the ten-year period. *Id*. Given that Mr. Wood had not been (and is still not) released from parole, the trial court concluded that the 10-year trigger provision had not begun to run, and that Mr. Wood's petition must be denied as he did not qualify for release from the Registry process.

The trial court admitted that the result was somewhat anomalous because it would effectively keep Mr. Wood permanently on the Sex Offender Registry even though his 8- to 10-year sexual assault sentence, which originally triggered his status to register as a "sex offender," had completed in 2001. Nevertheless, the Court found that the General Assembly's language "expressly disconnects the 'actual duration of the offender's sentence as imposed by the court' from the statutory triggers." *Id*. The Court found that this was likely to address complex situations where an individual's sentence was the result of a complicated multi-charge and multi-conviction scenario. In such cases, the statutory language would offer clarity and consistency even if it mandated a particular individual to report beyond the life span of his or her triggering conviction.[2]

Following the entry of judgment for the Department of Public Safety, Mr. Wood appealed the decision to the Vermont Supreme Court.

The Vermont Supreme Court Appeal

[1] This subsection was amended in 2001 to its current language, which largely parallels the earlier 1996 language. An Act Relating to Sex Offenders, No. 49, 2001 Vt. Acts & Resolves, § 7. Both Mr. Wood and the Department have consistently used the 1996 version for both Section 5407 and the other relevant portions of the Vermont Sex Offender Registry Act (13 V.S.A. §§ 5401, et sec.), and the Vermont Supreme Court ruled that the 1996 version controlled for the purposes of the present matter. *Wood v. Wallin*, 2024 VT 21, ¶ 2, n.1. As such, this Court will use the 1996 version for its analysis and review as the law of the case requires. *Kneebinding, Inc. v. Howell*, 2020 VT 89, ¶ 41.

[2] The trial court noted that the Department's position was that the joint sentencing had effectively merged the sentences so that Mr. Wood's parole was for the sexual assault as well as the second-degree murder. *Wallin v. Wood*, Dckt. No. 21-CV-1702, at 3. This was based on the Department's understanding and application of 13 V.S.A. § 7032(c)(1), which governs the merger of sentences. At the time, the Court did not reach this argument as it found the plain meaning of Section 5407(e) controlled and did not require an analysis of the Department's merger argument, which it noted was in tension with the plain language of 13 V.S.A. § 7032(b). *Id*.

On appeal, a divided Supreme Court reversed and remanded the trial court's decision. The majority found that the "heart of the issue on appeal is how plaintiff's concurrent sentence impacts the requirement of the sex-offender registry." *Wood v. Wallin*, 2024 VT 21, ¶ 9. After analyzing the parties' arguments, the Supreme Court rejected the trial court's analysis because the three triggering events listed in 13 V.S.A. § 5407(e) could not be read in isolation from the larger statutory scheme, which included the term "sex offender," which implied "that those triggering events will be connected in some manner to the registrable sex offense." *Id*. at ¶ 13 (citing *State v. Berard*, 2019 VT 65, ¶ 12). Under this in pari materia analysis of the statute, "understanding the full scope of the sex offender's sentence is critical to determining the reporting obligations." *Id*. In short, the issue of parole or release from parole as a triggering event for ending reporting obligations under Section 4507(e) depends on whether the parole is connected to the registrable sex offense. *Id*.

The Supreme Court found that the trial court needed to determine "whether the DOC considered plaintiff's parole connected to his sexual-assault offense and whether the merger provision of § 7032(c) supports that conclusion . . ." *Id*. at ¶ 15. The Supreme Court also indicated that the trial court on remand could consider how much deference was due to the Department of Public Service in interpreting and implementing the Sex Offender Registry statutes. *Id*. (citing *Shires Hous., Inc. v. Brown*, 2017 VT 60, ¶ 9). But the Supreme Court also warned that the trial court was not to blindly apply the agency's position and was still obligated to test the rationality of the decision. *Id*. at ¶ 16 (citing *In re Korrow Real Est., LLC Act 250 Permit Amend. Application*, 2018 VT 39, ¶ 21). In particular, the Court noted that there was little evidence that the Department of Public Safety had "provided general guidance on registration requirements for an individual who fully completes a sentence for a sex offense but remains on parole or under supervision for a wholly unconnected offense." *Id*.

In the final paragraph of the majority decision, the Supreme Court outlined the scope of the present remand. The trial court is obligated to make findings concerning "whether DOC considered plaintiff's parole to be connected to his sex offense." *Id*. at ¶ 17. From this finding, the trial court is then obliged to address the remaining legal questions regarding how to apply 13 V.S.A. § 5407(e) and 13 V.S.A. § 7032(c). *Id*.

The Undisputed Facts from the Parties' Motions for Summary Judgment on Remand

On remand, Mr. Wood and the Department of Public Safety have filed new motions for summary judgment. From these motions, the following facts emerge as undisputed based on the exhibits as analyzed under V.R.C.P. 56(c) and (e).

In July 1990, the Rutland County State's Attorney charged Mr. Wood, who was 17 years old, with two counts of Sexual Assault on a minor under 13 V.S.A. § 3252(3).[3] These charges were filed under Docket No. 1229-7-90 Rdcr. A year later, in July 1991, Mr. Wood pled no contest to two misdemeanors in lieu of the Sexual Assault charges. The record indicates that this was part of a plea deal and would be in lieu of a felony Sexual Assault conviction. Before Mr. Wood could be sentenced, however, he committed a new series of crimes that led to a second set of charges.

In August 1991, the Rutland County State's Attorney charged Mr. Wood with two counts first-degree murder, under 13 V.S.A. § 2301. These charges were filed under Docket No. 1470-8-91 Rdcr.

In October 1991, the trial court rejected Mr. Wood's plea agreement in Docket No. 1229-7-90 Rdcr that would have reduced the Sexual Assault charges to misdemeanors. Instead, Mr. Wood reached a global resolution with the State and on October 13, 1992, pursuant to a plea agreement, he pled no contest to one charge of Sexual Assault in Docket No. 1229-7-90 Rdcr and one charge of Second-Degree Murder (13 V.S.A. § 2302(b)) in Docket No. 1470-8-91 Rdcr. The second Sexual Assault charge and second Murder charge were dismissed by the State in their respective dockets.

Following a pre-sentencing investigation and report, the trial court sentenced Mr. Wood on January 6, 1993 in both cases. For the Second-Degree murder charge in Docket No. 1470-8-

[3] The Department contends in its briefing that the original charge was Aggravated Sexual Assault, but nothing in the Department's exhibits supports this contention. Exhibit B, the docket sheet for 1229-7-90 Rdcr indicates that Mr. Wood was originally arraigned on two charges of Sexual Assault under 13 V.S.A. § 3252(3). The 1991 plea agreement (that was ultimately rejected by the trial court) would have reduced these felonies to two misdemeanor charges of Lewd Act (13 V.S.A. § 2632) and Contribution to Delinquency (13 V.S.A. § 1301). The second Sexual Assault count, which would have been reduced to a misdemeanor charge of Contributing to Delinquency under the first plea agreement, was ultimately dismissed by the State as part of the second plea agreement. See Respondent's Ex. B. This confusion appears to be due, in part, to the fact that the age of the victim, which might trigger Aggravated Sexual Assault charge, was, in 1990, 10 years or younger, and the victim in this case was 11. This provision was amended 2006 to raise the age triggering a charge of Aggravated Sexual Assault to 13. An Act Relating to Enhancing Sentences for and Preventing Risks Posed by Dangerous Sexual Offenders, No. 192, 2006 Vt. Acts & Resolves, § 10 (amending 13 V.S.A. § 2353).

91 Rdcr, Mr. Wood received a sentence of 20 years to life to serve. For his Sexual Assault charge in Docket No. 1229-7-90 Rdcr, Mr. Wood received a sentence of 8 to 10 years to serve concurrent to Docket No. 1470-8-91. Mr. Wood began serving his sentence with the Vermont Department of Corrections immediately after sentencing.[4] At the time of Mr. Wood's sentencing, Vermont had not adopted the Sex Offender Registry, and there is no indication in the record or the facts that there was any consideration by the State, Mr. Wood's legal team, or the courts regarding any classification or merger issues.

According to the Department of Corrections, Mr. Wood reached his maximum sentence for his sexual assault conviction on August 24, 2001. Mr. Wood remained incarcerated and under Department of Corrections custody on his Second-Degree Murder sentence, which did not reach the 20-year minimum until October 16, 2004.[5]

In September 2010, the Department of Corrections released Mr. Wood on community supervised furlough. At the time, the Department of Corrections informed Mr. Wood of his obligation to enroll with the Sex Offender Registry, and Mr. Wood complied with this obligation. The Department of Corrections also applied a number of sex offender conditions to Mr. Wood's furlough agreement. In March 2011, the Department of Corrections did not recommend Mr. Wood for parole because he had not completed sex offender treatment. Mr. Wood was re-incarcerated in August 2011 and was not returned to community supervised furlough until April 2013. As with his previous furlough, Mr. Wood was obligated to report to the Registry and to comply with sex offender conditions as part of his furlough agreement.[6] Again, the Department of Corrections refused to recommend Mr. Wood for parole in October 2015 because he had still not completed his sex offender treatment program.

Mr. Wood completed his sex offender treatment in September 2016, and the Department of Corrections recommended Mr. Wood for parole in September 2017. In connection with this

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[4] From the docket sheets, the Court understands that Mr. Wood was held for want of bail beginning in September 1991 and was ultimately credited by the Department of Corrections for this pre-trial time spent incarcerated.
[5] The Department notes, and Mr. Wood agrees, that at sentencing Mr. Wood's minimum sentence would have expired on August 22, 2011. The disparity between this date and the Department of Correction's October 2004 date appear to be due to various work camp/good time credits that Mr. Wood earned during his incarceration pursuant to Vermont law. See 28 V.S.A. §§ 811, 818.
[6] This second furlough was interrupted by a six-day re-incarceration in February 2014. Nothing in this re-incarceration or restoration to furlough altered any of the terms or obligations previously applicable to Mr. Wood's furlough, which continued until he was granted parole in 2017.

recommendation, the Department of Corrections included Mr. Wood's sexual offender conditions from his 2013 furlough agreement and recommended adoption as part of the proposed parole plan.[7] Mr. Wood's various risk assessments completed for the parole review determined that he was at a low risk for reoffending as a sex offender.

In November 2017, the parole board granted Mr. Wood parole. The Parole Board did not include "sex" as part of Mr. Wood's criminogenic needs but only identified mental health and financial as the needs.[8] As part of the grant, the parole board adopted the special conditions for sex offenders. While the terms are silent on compliance with the Registry, they do contain 12 different obligations and limitations related to potential risks associated with sex offenders. These include limitations on having pornography, being near children, allowing female passengers to ride in his vehicle, having recording devices, using the internet, submitting to polygraph exams, and working in places where they provide services to persons under the age of 16.[9] Respondent's Ex. M. The Department of Corrections interpreted the agreement and this grant of parole to include Defendant's status as a sex offender, and it classified it as such in the Department of Corrections' Offender Management System. The Department of Corrections has consistently applied this interpretation throughout Mr. Wood's parole, and as of January 7, 2026, the Department of Corrections continued to maintain this position that Mr. Wood's parole included the obligation to supervise him for both his Murder and Sexual Assault convictions (as well as his Possession and Escape convictions).

In May 2021, Mr. Wood sought to be removed from the Registry. At that time, the Department of Public Safety refused, citing the Department of Corrections' classification and on-going supervision under the parole agreement for his Sexual Assault conviction. In December

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[7] The Department contends in its statement of undisputed material facts that the Department of Corrections recommended that Mr. Wood remain on the Registry for life as a condition of his parole. Mr. Wood objects to this fact because he contends that the exhibit is not clear on this issue. Respondent's Ex. I at 310–11. After reviewing the exhibit submitted by the Department in support of this fact, the Court finds that it does not support the contention, and the Court will not include this fact as part of in its determination for the purpose of the present motion. V.R.C.P. 56(e)(4).

[8] In prior summaries, the Board had included "Sex" as one of Mr. Wood's criminogenic needs. Compare Respondent Ex. K, with Ex. L.

[9] The Department also notes that the parole agreement references both the Second-Degree Murder and Sexual Assault convictions, but nothing in the agreement suggests that these references are intended to extend the grant of parole to a specific sentence. In fact, the agreement also references two minor convictions Mr. Wood had also collected for Possession of Stolen Property (Docket No. 856-5-91 Rdcr) and Escape (Docket No. 1685-10-91 Rdcr) whose sentences were not part of the 1993 plea agreement/sentencing, and for which Mr. Wood had already served the maximum (August 1999 for the Escape and July 1993 for the Possession).

2025, Mr. Wood petitioned the Parole Board to modify his parole agreement and remove the sex offender conditions. The Board granted this modification and removed all 12 sex offender conditions from Mr. Wood's parole agreement in January 2026.

As of the time of the parties' filings, Mr. Wood remains on parole and in good standing. Due to the life sentence for his Murder conviction, Mr. Wood may remain on parole for the rest of his life. See 28 V.S.A. § 506(a) ("If warranted by the conduct of the parolee and the ends of justice, the Board may terminate the period of parole supervision and discharge the parolee from parole supervision. Supervision of a parolee serving a life sentence may be terminated only after 15 years measured from the date of first confinement."). Since the Department of Corrections interprets the parole order to include the Sexual Assault conviction, it has communicated to the Vermont Department of Public Safety that Mr. Wood remains on parole for his Sexual Assault conviction, which means that the Department of Public Safety has kept him on the Registry and required him to comply with the reporting requirements of 13 V.S.A. § 4507.

Standard of Review

Vermont Rule of Civil Procedure 56 governs motions for summary judgment. "The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." V.R.C.P. 56(a). See *Gross v. Turner*, 2018 VT 80, ¶ 8, 208 Vt. 112; *Gilman v. Maine Mut. Fire Ins. Co.*, 2003 VT 55, ¶ 7, 175 Vt. 554. The moving party must support its factual assertions with numbered paragraphs with references to materials in the record. V.R.C.P. 56(c)(1). The nonmoving party must show that the material facts are in dispute. *Boyd v. State*, 2022 VT 12, ¶ 19, 216 Vt. 272. The nonmoving party does this through introducing their own admissible evidence. *Gross*, 2018 VT 80, ¶ 8. Additionally, the court gives the nonmoving party the benefit of reasonable doubts and inferences. *Brousseau v. Brousseau*, 2007 VT 77, ¶ 5, 182 Vt. 533. If the court determines there are no genuine issues of material fact, the court will grant summary judgment. V.R.C.P. 56(a).

In this case, there is little dispute over the facts as recited above. Both Mr. Wood and the Department generally agree with the extensive record tracking Mr. Wood's 1990–91 criminal charges, through his conviction and sentencing, to his incarceration, furlough, and eventual

parole. There is also little dispute as to the actions of the Department of Public Safety, the Department of Corrections, and the Parole Board.

The dispute in this matter lies with the intent, legal meaning, and relevancy of these facts. As the Supreme Court indicated in its decision, the question is both how the Department of Corrections classified Mr. Wood for purposes of parole and reference to the registry, and whether that opinion is grounded in the legal foundation of 13 V.S.A. §§ 4507(e) and 7032(c).

DOC Determination: Legal and Factual Impact

The undisputed facts of this case demonstrate that the Department of Corrections has consistently classified Mr. Wood as a sex offender as a result of his Sexual Assault conviction. Although not drafted by the Department of Corrections, the June 18, 2021 email from Defendant Jeffrey Wallin, Director of the Vermont Crime Information Center, to Mr. Wood's attorney accurately reflects and encapsulates the Department of Corrections' position:

> Mr. Wood was sentenced to 8-10 years in 1993 for sexual assault in docket 1229-7-90 Rdcr. Mr. Wood was sentenced at the same time to 20 years-life for murder in docket 1470-8-91 Rdcr. This sentence was imposed concurrent to the sexual assault sentence. The sexual assault sentence became part of his overall effective sentence for both offenses pursuant to 13 V.S.A. § 7032(c)(1). See *In re Lafayette*, 2006 VT 73, ¶ 3. Accordingly, DOC informed us that Mr. Wood is still under supervision (parole) for the sexual assault in docket 1229-7-90 Rdcr under his total effective sentence.

Respondent Ex. F.

It is also undisputed that the sole basis for the Department of Corrections' ongoing supervision arises from Mr. Wood's parole status, which as of 2017 was due entirely to his Second-Degree Murder conviction and sentence of 20 to life as he has served his maximum sentence for his other three other convictions of Sexual Assault, Escape, and Possession. 28 V.S.A. §§ 501, 506. In her deposition, Department of Corrections Computation Supervisor Kimberlee Bevins confirmed this fact.

Ms. Bevins also contended that his parole necessarily involved Mr. Wood's other sentences, but this reasoning, as noted above, centered exclusively on the effective merger of sentences under 13 V.S.A. § 7032(c)(1). The record supports this understanding as there is no evidence that the Department of Corrections had any ongoing issues with Mr. Wood's behavior

or post-sentencing incidents. It also did not suggest that Mr. Wood has not fulfilled his minimum or maximum sentence under the original 1993 sentencing for the Sexual Assault charge. Finally, neither the Department of Corrections nor the Department of Public Service has suggested that the Department of Corrections has promulgated any regulations, rules, or policies concerning the effects of merger on sentences or used its administrative authority to carve out policies on how certain sentences involving crimes with post-sentence obligations, such sex offenders, are to be treated differently than other individuals who have reached the maximum of their sentence.

In short, the uncontested evidence is that the Department of Public Safety has relied on the Department of Corrections, and the Department of Corrections has relied on its understanding of the implications of 13 V.S.A. § 7032(c)(1) to conclude that it has on-going authority over Mr. Wood to require his enrollment in the Vermont Sex Offender Registry.

The Effect of 13 V.S.A. § 7032's Merger Provisions

Given the Department of Corrections' reliance on section 7032(c)(1), the Court is obligated to examine this statutory provision and determine its applicability to the present matter. The review, however, is necessarily nondeferential and plenary. *Doyle v. City of Burlington Police Department*, 2019 VT 66, ¶ 5 (noting the standard for reviewing an agency's interpretation of statute).

In examining and interpreting Section 7032, the goal, as the Vermont Supreme Court has long noted, "is to effectuate the Legislature's intent." *State v. Stamper*, 2011 VT 18, ¶ 3 (mem.) (quotation omitted). "In assessing a statute's meaning, we first look at the language 'because we presume the Legislature intended the plain, ordinary meaning of the language.'" *Wood*, 2024 VT 21, ¶ 9 (quoting *Stamper*, 2011 VT 18, ¶ 3). Only if the statute proves ambiguous does the Court move to other sources or interpretations. *Wood*, 2024 VT 21, at ¶¶ 13, 15.

Under Vermont law, an individual who is convicted of multiple crimes may either serve their terms consecutively or concurrently as determined by the trial court at the time of sentencing. 13 V.S.A. § 7032(b). This reasoning extends to prior sentences as well so long as the sentence has been imposed and the individual has not been discharged. *Id*. at 7032(a), (b); see also *In re Hough*, 143 Vt. 15, 19–20 (1983) (explaining how an inmate is "discharged from

sentence" for purposes of 13 V.S.A. § 7032(a) sentence calculations). When such overlapping occurs, Section 7032(c) dictates how the concurrent or consecutive sentences are treated:

> [T]he term or terms of imprisonment under those sentences shall be determined in accordance with the following definitions:
>
> (1) When the terms run concurrently, the shorter minimum terms merge in and are satisfied by serving the longest minimum and the shorter maximum terms merger in and are satisfied by discharge of the longest maximum term.
>
> (2) When terms run consecutively, the minimum terms are added to arrive at an aggregate minimum to be served equal to the sum of all minimum terms and the maximum terms are added to arrive at an aggregate maximum equal to the sum of all maximum terms. A person shall serve no more time on consecutive minimum sentences than the sum of the minimum terms, regardless of whether the sentences are imposed on the same or different dates. If a person has served a minimum term and subsequently incurs another criminal charge, the time the person spends in custody awaiting disposition of the new charge shall count toward the minimum term of the new sentence, if one is imposed. This subdivision shall not require the Department of Corrections to release a person from incarceration to community supervision at the person's minimum term.

13 V.S.A. § 7032(c).

Section 7032 as a whole concerns the "term or terms of imprisonment" and how to calculate such sentences. See, e.g., *State v. Aubuchon*, 2014 VT 12, ¶ 4 (describing the aggregation of consecutive sentences); *In re. Lafayette*, 2017 VT 73, ¶ 3 (mem.) (describing the merging effect of concurrent sentences). Taken as a whole, Section 7032 addresses three potential scenarios that the Department of Corrections may face when calculating an inmate's sentence: consecutive, concurrent, and subsequent sentences.

A concurrent sentence is where both sentences run at the same time. As the Vermont Supreme Court instructs, this means that the minimum sentences merge and the maximum sentences merge. *Lafayette*, 2006 VT 73 at ¶ 3. In Mr. Wood's case, this meant that for the purposes of calculating his term, his 8-year minimum sentence for Sexual Assault merged into his 20-year minimum sentence for Murder for a minimum term of 20 years before he could be eligible for furlough or parole. Similarly, his maximum term of 10 years merged with his life sentence meaning that the Department of Corrections maintains the right to supervise and hold some degree of custody over him for life.

This is contrasted with a consecutive sentence where the calculation under Sections 7031 and 7032(c)(2) runs somewhat differently. If Mr. Wood had been sentenced consecutively, the sentences would have been aggregated to make his minimum sentence 28 years and his maximum sentence life plus 10 years. 13 V.S.A. § 7032(c)(2). Unless the Court had clarified otherwise, the aggregate sentence would have run as a single whole. *Martel v. Lanman*, 171 Vt. 547, 547–48 (2000) (mem.); see also *St. Gelais v. Walton*, 150 Vt. 245, 248 (1988).

The third type of case arises when the second sentence is imposed sometime after the first sentence begins to run. Whether concurrent or consecutive, such situations can create issues with how to calculate the aggregate or merged sentences and how to calculate credit for time served between arraignment and conviction. See *State v. LeClair, 2013 VT 114,* ¶ 9 (noting that credits should be calculated to avoid "double credit" for time served against consecutive sentences as distinct from concurrent sentences). If the sentences are concurrent, the Vermont Supreme Court has ruled that the new minimum sentence must still run from the date of sentencing and cannot be fully merged into the older sentence. *Fleming-Pancione v. Menard*, 2017 VT 59, ¶¶ 11, 12. So for example if Mr. Wood had been sentenced for his sexual assault conviction, and then five years later charged and sentenced for his murder conviction to run concurrently, then the second minimum would have been calculated from the date of conviction, not from the date of the earlier sentence, regardless of their status as concurrent sentences. *Id*. Mr. Wood under this scenario would have had to serve 25 years before his minimum sentences were complete. *Id*. In so ruling, the Vermont Supreme Court ruled that the plain language of 13 V.S.A. § 7032(b) controlled such circumstances and required the staggered start dates.[10] *Id*.

As this analysis shows, the primary purpose of and issues arising from 13 V.S.A. § 7032 concern the interpretation of multiple sentences, their calculations, and the application of credit toward the fulfillment of such sentences, whether merged (concurrent) or aggregated (consecutive). In either case, the Department of Corrections retains supervision because of the

[10] The language used by the Court in this analysis is the language from Section 7032(b) that the trial court focused on in its 2022 decision to suggest that the Department's Section 7032(c)(1) argument was flawed. 13 V.S.A. § 7032(b) ("When such multiple sentences are imposed they shall run . . . as the court determines at the time of sentencing and each shall run from its respective date of commitment after sentence."). Upon deeper review and within the context of *Fleming-Pancione*, this section can be read in harmony with Section 7032(c) as addressing situations where the second concurrent sentence does not fully merge with the prior minimum because too much time has elapsed between the start of the first and second sentences. As such, the trial court understands this language, under Section 7032(b), to address these staggered starts and the separate initial timeline that results notwithstanding the subsequent merger and coterminous ending.

generally fungible nature of incarceration. If someone is under an on-going criminal sentence, the Department of Corrections retains custody. Whether this is for the first or second sentence is often given short shrift.

Nothing in Section 7032 or the case law interpreting the statute addresses the central issue of this case. Namely, what authority does the Department of Corrections have to extend supervision over a criminal sentence where the defendant has already served the maximum sentence.[11] For most multiple sentence situations, this is an esoteric question with little consequence. If a defendant is sentenced for unlawful mischief and a concurrent sentence for assault, there is little impact to the Department of Corrections' role if one sentence reaches its maximum while the other sentence runs. The individual remains incarcerated or subject to the Department of Corrections' custody and oversight.

The Effect of 13 V.S.A. § 5407(e) on Mr. Wood's Reporting Obligations

Part of the problem with this case is that the central issue does not offer either a simple or straightforward resolution. In examining this question, the Court finds that there are two scenarios that illustrate the limitation of any single solution.

First, there is the central question of this case. Can the Department of Corrections extend a sentence beyond its maximum for no other purpose than to extend the obligation of the Sex Offender Registry? The Vermont Supreme Court in its 2024 decision indicates that in at least some circumstances, it cannot. *Wood*, 2024 VT 21, at ¶ 13 (noting that the use of the term "sex offender" ties the reporting obligation to an active or on-going sentence that qualifies under 13 V.S.A. § 5401(10)). This issue is at the heart of Mr. Wood's action. His contention is that he has served his time for his Sexual Assault sentence and should be eligible to allow his reporting obligations to sunset as the necessary 10-years under 13 V.S.A. § 5407(e) have passed.

This leads to the second scenario. Presuming for the sake of argument that the Court adopted Mr. Wood's interpretation and simply adopted a definition of Section 5407(e)'s requirements that allowed Mr. Wood's sentence to end when his Sexual Assault reached its

[11] In this respect, Section 7032 would be helpful and controlling if Mr. Wood was serving a consecutive sentence since the two sentences would aggregate, and short of direction to the contrary from the court at the time of sentencing, the two sentences would continue to run as that single sentence giving authority to any oversight derived from one or the other sentence. *Martel*, 171 Vt. at 547–48.

maximum. This would create a problem for any sentence where the sex offender sentence reached its maximum long before the controlling minimum allowed the individual to leave the facility. Put more simply, if Mr. Wood's 8 to 10 year Sexual Assault sentence had merged with a 25 to life sentence for murder, then he would not only be beyond his maximum sentence for his sexual assault conviction long before his eligibility for release, but he would arguably be beyond the 10-year period under Section 5407(e) before release. In such a case, a party's obligation to register for the Sex Offender Registry would expire before it ever occurred. Such an outcome runs contrary to both the language of Section 5407(e) and the overall remedial intent of the statute. *Wood*, 2024 VT 21, at ¶ 9.[12]

Given these considerations, the Court looks once more to the 1996 language of Section 5407(e):

> All reporting requirements under this section, except for sexually violent predators, shall cease 10 years after the sex offender is released from prison or discharged from probation or parole, whichever is later. The 10-year period shall not be affected or reduced in any way by the actual duration of the offender's sentence as imposed by the court, nor shall it be reduced by the sex offender's release on parole or ending of probation or other early release.

13 V.S.A. § 5407(e) (1996).

In light of the Vermont Supreme Court's guidance and the facts of the case, the only reasonable manner to interpret this section, which preserves the integrity of the statutory reporting period yet keeps it connected to the sentence on the qualifying conviction, is as follows.[13]

Section 5407 is generally triggered by two events. The first is when an individual is convicted and sentenced under one of the qualifying sex offenses under 13 V.S.A. § 5401(10). The second is, if they are incarcerated, their obligation to report triggers when they are released

[12] There is a third issue not addressed or relevant to the present matter that is also implicated if the Court adopted a broader set of reasoning. The Court takes judicial notice that the Department of Corrections often waits to provide sex offender programing until just before the individual is returned to the community. If the Department of Corrections' authority to provide such programing expired at the point that the sex offender's sentence maxes out, even if that is years before they are released, then it could frustrate the purpose of the programing.

[13] Neither Mr. Wood nor the Department of Public Safety has briefed whether the 2005 changes to Section 5407 have altered its application. Nor has the Court sought to analyze the two statutes to determine if the outcomes would shift. Therefore, nothing in this Decision should be interpreted as providing either review or precedent to how the 2005 version of Section 5407 should apply. The Court's analysis should be read as strictly interpreting the 1996 version of Section 5407 in light of the Supreme Court's decision in *Wood*, and nothing more.

from the facility or otherwise establish residence in the state outside the facility. 13 V.S.A. § 5407(a). Under subsection (e), the reporting requirements end 10-years after the "sex offender" "is released from prison or discharged from probation or parole, whichever is later." *Id*. This "10-year period" is not "affected or reduced in any way by the actual duration of the offender's sentence as imposed by the Court." *Id*.

The Court finds that this language creates a minimum 10-year window where a convicted sex offender must register, regardless of when or how his sentence runs. Under this provision, for example, a sex offender who maxed out their sentence but continued to be incarcerated for 10 or more years could not claim that the 10 years had run. Under this language, the 10-years only begins once the sex offender's triggering sentence is (1) complete and (2) the offender is released from the prison/probation/parole sentence they were serving when said sentence expired.

In this respect, the concept of Section 7032(c)(1)'s merger provisions are not applicable and should not be read into the definition of sentence in Section 4507.[14] The entire question is whether the sentence on the triggering conviction is completed. If it is prior to the sex offender's release, then the 10-year period begins to run once the sex offender has triggered the reporting requirements because they have been released from prison/probation/parole.

The distinction here is that if a sex offender's triggering sentence is maxed out prior to the completion of another unrelated sentence, then the continuation of that unrelated sentence does not affect the calculations under Section 5407(e), except as it may interfere with the 10-year period of registry compliance.

In the present case, the Court understands it to play out in the following manner. Mr. Wood is subject to the reporting requirements of the Sex Offender Registry by virtue of his qualifying sentence. 13 V.S.A. § 5401(10). Mr. Wood's qualifying sentence was completed in August 2004. Therefore, under Section 5407(e), the sole question is when did his 10-year window for reporting end. There are three possible answers. First is when his sentence maxed out in 2004. Neither Mr. Wood nor the Department of Public Safety have suggested this as a possibility, and such a date would run contrary to the plain language of Section 5407(e), which instructs that the 10-year window cannot be shortened or affected by the shorter sentence that

[14] In so interpreting, the Court does not offer an opinion or ruling on the effect of an aggregate (consecutive) sentence based on the differences discussed in the last section.

would effectively suspend the bulk of the 10-year reporting minimum. For this reason, the Court rejects 2004 as a triggering date.

The second date is September 2011 when Mr. Wood went on furlough for the first time and began reporting to the registry. This date is similarly fraught. While on furlough, Mr. Wood was technically still under the direct control and supervision of the Department of Corrections and had neither been transferred nor accepted to either a parole or probation circumstance where probable cause and court process would be necessary to revoke his status. As such, the furlough period continues Mr. Wood's incarceration that he was continuing to serve at the time his Sexual Assault sentence completed, and it cannot be severed or constitute the triggering release that Section 5407(e) contemplates where the substance of the new status is effectively different than the status when the qualifying sentence was completed.

This leaves the date of Mr. Wood's release on parole, November 3, 2017, as the sole remaining date. This date makes sense as the start date for the 10-year window under Section 5407(e) for several reasons. First, it marks the first step in Mr. Wood's custodial history within his 1993 sentences where the sole controlling sentence is the Murder sentence. Second, the grant of parole was triggered, in part, by Mr. Wood's completion of his sex offender treatment programs and finalizing of that portion of his convictions. Third, the release on parole represents a shift away from more direct Department of Corrections supervision and the potential for immediate return to incarceration within a facility. Not all factors favor this date. While released on parole, Mr. Wood was subject to sex offender conditions, and his Sexual Assault conviction was a consideration and concern of the board in its review. Yet, in weighing these facts against the other factors, primarily the fact that the parole exists solely because of the Murder sentence, weighs in favor of using this date as the clear break in the prior merged sentences and the subsequent parole based solely on the on-going life sentence. For these reasons, the Court concludes that Mr. Wood's date of completion for the purposes of starting the 10-year window began on November 3, 2017.

This conclusion means that Mr. Wood is not eligible to be removed from the Sex Offender Registry at this time as he has not exhausted the 10-year window under Section 5407(e), but he will exhaust it on November 3, 2027. At that time, under the terms of the applicable version of 13 V.S.A. § 5407(e), the Department of Public Safety shall remove him

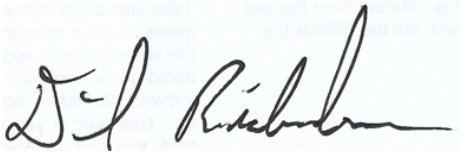
from the registry as his reporting obligations shall have sunset under the 10-year post-sentence provisions of the law.

ORDER

For the foregoing reasons, the parties' motions for summary judgment are **Granted in part and Denied in part.** Mr. Wood's motion is granted to the extent that he seeks a date of removal from the Registry during his lifetime, but it is denied to the extent that he seeks such relief at this time as his right to removal has not fully ripened. The Department of Public Safety's motion is granted to the extent that it opposes Mr. Wood's immediate removal from the registry, but it is denied to the extent that it seeks to keep Mr. Wood obligated to remain on the Registry for the rest of his natural life under the conditions of his parole for his second-degree Murder sentence.

Mr. Wood shall remain on and obligated to report to the Registry under 13 V.S.A. § 5407 until November 3, 2027. At that time, he shall be eligible for removal, either by the Department or through petition under Rule 75. Based on the resolution of all outstanding issues, this Decision constitutes a final judgment. V.R.C.P. 58. Each party shall bear its own costs and attorney's fees. V.R.C.P. 54.

Electronically signed on 10/6/2026 4:54 PM pursuant to V.R.E.F. 9(d)



Daniel Richardson
Superior Court Judge