

**NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0657-21**

JOHN S. HILKEVICH,

Appellant,

v.

**NEW JERSEY STATE
PAROLE BOARD,**

Respondent.

Submitted April 19, 2023 – Decided April 26, 2023

Before Judges Vernoia and Natali.

On appeal from the New Jersey State Parole Board.

John S. Hilkevich, appellant pro se.

Matthew J. Platkin, Attorney General, attorney for respondent (Sookie Bae-Park, Assistant Attorney General, of counsel; Steven A. Chaplar, Deputy Attorney General, on the brief).

PER CURIAM

John S. Hilkevich appeals from a July 8, 2021 final decision of the New Jersey State Parole Board (Parole Board) upholding the denial of parole and establishing a seventy-two-month future parole eligibility term (FET). We dismiss the appeal as moot.

In 1999, a grand jury returned a twenty-three-count indictment charging Hilkevich with two counts of first-degree aggravated sexual assault, N.J.S.A. 2C:14-2(a)(2)(b); one count of first-degree aggravated sexual assault, N.J.S.A. 2C:14-2(a)(2)(c); and twenty additional lesser sexual offenses involving three adolescent male victims.

A jury convicted Hilkevich of sixteen offenses, and the court imposed an aggregate forty-year sentence, with thirteen years and four months of parole ineligibility. We reversed the convictions and remanded for a new trial. State v. Hilkevich, No. A-3632-00 (App. Div. Mar. 5, 2003) (slip op. at 13).

At the retrial, the jury convicted Hilkevich of: two counts of aggravated sexual assault, N.J.S.A. 2C:14-2(a)(2)(b); three counts of aggravated criminal sexual contact, N.J.S.A. 2C:14-3(a); two counts of sexual assault, N.J.S.A. 2C:14-2(c)(4) and (5); one count of criminal sexual contact, N.J.S.A. 2C:14-3(b), and one count of endangering the welfare of a child, N.J.S.A. 2C:24-4(a). In 2007, the court sentenced Hilkevich to two consecutive fifteen-year custodial

terms for the aggravated sexual assaults, each with a five-year period of parole ineligibility. The court imposed concurrent sentences on Hilkevich's convictions on the remaining offenses.

We affirmed the convictions, but vacated the sentences imposed on the two aggravated sexual assault convictions and remanded for resentencing on those convictions. State v. Hilkevich, No. A-3169-06 (App. Div. Apr. 8, 2008) (slip op. at 31-32). The Supreme Court denied Hilkevich's petition for certification. State v. Hilkevich, 199 N.J. 131 (2009).

On remand, the trial court again imposed consecutive fifteen-year custodial terms, each with a five-year period of parole ineligibility, on the convictions for aggravated sexual assault. We affirmed the sentences, State v. Hilkevich, No. A-0592-08 (App. Div. Mar. 12, 2010) (slip op. at 4), and the Supreme Court denied Hilkevich's petition for certification, State v. Hilkevich, 202 N.J. 346 (2010).

In 2015, the Parole Board issued a final agency decision upholding the denial of Hilkevich's request for parole and imposing a ten-year FET. Hilkevich appealed. We affirmed the Parole Board's decision, Hilkevich v. New Jersey State Parole Bd., No. A-0079-15 (App. Div. Jan. 25, 2017) (slip op. at 11), and

the Supreme Court denied Hilkevich's petition for certification, Hilkevich v. New Jersey State Parole Bd., 231 N.J. 313 (2017).

In a July 8, 2021 final agency decision, the Parole Board upheld a two-member panel's determination denying Hilkevich parole because there was "a substantial likelihood that [he] would commit a crime if released on parole at [that] time." The Parole Board also upheld a three-member panel's determination establishing a seventy-two-month FET. Hilkevich appealed from the Parole Board's final agency decision.

On appeal, plaintiff argues the Parole Board's decision violates legislative policies, relies on an erroneous application of the record to support its findings, and is founded on conclusions that could not reasonably have been made based on "the relevant factors." The Parole Board argues its decision is supported by sufficient credible evidence, is in accord with the applicable legal principles, and should be affirmed.

Based on our review of the record, we find it unnecessary and inappropriate to decide the issues presented on appeal because Hilkevich was released on parole on January 19, 2023. As such, there is no relief that may be granted by this court based on a resolution of the issues presented on appeal.

"[A]n issue is 'moot' when the decision sought in a matter, when rendered, can have no practical effect on the existing controversy." Comando v. Nugiel, 436 N.J. Super. 203, 219 (App. Div. 2014) (alteration in original) (quoting Greenfield v. N.J. Dep't of Corrs., 382 N.J. Super. 254, 257-58 (App. Div. 2006)); see also Betancourt v. Trinitas Hosp., 415 N.J. Super. 301, 311 (App. Div. 2010) (quoting DeVesa v. Dorsey, 134 N.J. 420, 428 (1993) (Pollock, J., concurring)) ("A case is technically moot when the original issue presented has been resolved, at least concerning the parties who initiated the litigation"). "Mootness is a threshold justiciability determination rooted in the notion that judicial power is to be exercised only when a party is immediately threatened with harm." Stop & Shop Supermarket Co., LLC v. Cnty. of Bergen, 450 N.J. Super. 286, 291 (App. Div. 2017) (quoting Betancourt, 415 N.J. Super. at 311).

"[F]or reasons of judicial economy and restraint, courts will not decide cases in which the issue is hypothetical, [or] a judgment cannot grant effective relief." Ibid. (alterations in original) (quoting Cinque v. N.J. Dep't of Corrs., 261 N.J. Super. 242, 243 (App. Div. 1993)). We may "entertain a case that has become moot when the issue is of significant public importance and is likely to recur." State v. Cassidy, 235 N.J. 482, 491 (2018) (quoting State v. Gartland,

149 N.J. 456, 464 (1997)). We do not find either circumstance present here and we reject Hilkevich's claims to the contrary. We dismiss the appeal as moot.

Dismissed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION