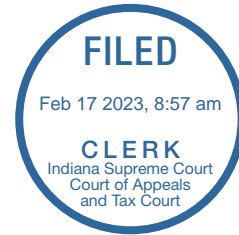


## MEMORANDUM DECISION

Pursuant to [Ind. Appellate Rule 65\(D\)](#), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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Teddy Albert Allman,  
*Appellant-Plaintiff,*

v.

Bartholomew County  
Prosecutor's Office,  
Bartholomew County Sheriff's  
Department, Kelly Benjamin,  
and State of Indiana,  
*Appellee-Defendants.*

February 17, 2023

Court of Appeals Case No.  
22A-MI-2447

Appeal from the Bartholomew  
Superior Court

The Honorable Kenneth R. Bass,  
Special Judge

Trial Court Cause No.  
03D01-2206-MI-2725

**Memorandum Decision by Judge Mathias**  
Judges May and Bradford concur.

**Mathias, Judge.**

- [1] Teddy Albert Allman filed in Bartholomew Superior Court a petition for habeas corpus claiming that the amount set for his bail was excessive, unconstitutional, and a violation of his due process rights. Because Allman did not appeal the order setting the amount of his bail, the named defendants, the Bartholomew County Prosecutor's office, Judge Kelly Benjamin, and the Bartholomew County Sheriff's Department (collectively "the Appellees") filed motions to

dismiss Allman's petition, which the trial court granted. Allman appeals the dismissal of his petition.

- [2] Because Allman has been convicted and sentenced of the charges that he was incarcerated for while awaiting trial, his petition is moot and we dismiss this appeal.

### **Facts and Procedural History**

- [3] On September 14, 2018, the State charged Allman with Level 1 felony rape while armed with a deadly weapon, Level 3 felony criminal confinement while armed with a deadly weapon, and Level 5 felony intimidation while using a deadly weapon under cause number 03C01-1809-F1-5125. Allman's bail was initially set at \$2,000,000 but was reduced to \$750,000 on January 28, 2020. Allman did not appeal this order.
- [4] A jury trial was held in December 2022, and the jury found Allman guilty of all charges. The trial court entered judgment of conviction on all counts. On December 21, 2022, the trial court ordered Allman to serve an aggregate sentence of thirty-five years with seven years suspended to probation. Allman was given credit for 1,289 days served in jail while awaiting trial and sentencing.
- [5] In July 2022, Allman pleaded guilty to failing to register as a sex offender under cause 03C01-1809-F6-5206. His bond in that case had been set at \$7,500. He was sentenced to 547 days but given credit for time served from September 10,

2018 to June 10, 2019. Therefore, his sentence was fully served before he filed the petition in this case.

[6] On June 1, 2022, Allman filed pro se an application for writ of habeas corpus titled “Petition as a Collateral Attack for a Habeas Corpus Review for an Unconstitutional Excessive Amount of Bail and Illegal Detention” under cause number 03D01-2206-MI-2725. *See* Appellant’s App. pp. 24-33. In the petition, Allman alleged that Judge Kelly Benjamin, the Bartholomew County Prosecutor’s Office, and the Bartholomew Sherriff’s Department had violated his due process rights and were illegally and unconstitutionally detaining him because his bail was excessive. *Id.* at 26 (complaining that his \$750,000 bail is “an excessive amount on criminal charges stemming from a domestic issue between the petitioner and his current wife, of alleged charges where no death or murder was involved”).

[7] Judge Benjamin and the Bartholomew County Prosecutor’s Office filed a joint motion to dismiss, which the trial court summarily granted. The Sherriff’s Department filed a motion to dismiss shortly thereafter, and the trial court also summarily granted its motion.

[8] Allman now appeals the dismissal of his petition for habeas corpus.

## **Discussion and Decision**

[9] In his petition for habeas corpus, Allman claims that his bail amounts in cause numbers 03C01-1809-F1-5125 and 03C01-1809-F6-5206 were excessive. The Indiana Constitution prohibits excessive bail. [Ind. Const. art. 1, § 16](#).

Otherwise, the amount of a bail bond is within the sound discretion of the trial court. *E.g.*, *Sneed v. State*, 946 N.E.2d 1255, 1257 (Ind. Ct. App. 2011) (citing *Perry v. State*, 541 N.E.2d 913, 919 (Ind. 1989)). A trial court may also reduce the amount of bail when a defendant presents “evidence of substantial mitigating factors.” Ind. Code § 35-33-8-5(c). These factors, which are listed in Indiana Code section 35-33-8-4(b), must “reasonably” suggest “that the defendant recognizes the court’s authority” over him. I.C. § 35-33-8-5(c). A trial court may not reduce bail, or may increase bail or revoke bail entirely, if it finds by “clear and convincing” evidence that the defendant “poses a risk to the physical safety of another person or the community.” I.C. §§ 35-33-8-5(b) to (d).

- [10] Allman never appealed the orders establishing the bail amounts in either case. And his petition in this case arguing that his bail was unconstitutionally excessive was an impermissible collateral attack of those orders and not properly raised by way of a petition for habeas corpus. “One is entitled to habeas corpus only if he is entitled to his immediate release from unlawful custody.” *Hobbs v. Butts*, 83 N.E.3d 1246, 1248 (Ind. Ct. App. 2017) (citations omitted). *See also* Ind. Code § 34-25.5-1-1 (“Every person whose liberty is restrained, under any pretense whatever, may prosecute a writ of habeas corpus to inquire into the cause of the restraint, and shall be delivered from the restraint if the restraint is illegal.”); *Receveur v. Buss*, 919 N.E.2d 1235, 1237 (Ind. Ct. App. 2010) (observing that “[t]he purpose of the writ of habeas corpus is to bring the person in custody before the court for inquiry into the cause of

restraint, and it may not be used to determine collateral matters not affecting the custody process”), *trans. denied*.

[11] Moreover, Allman’s appeal is moot because he has been convicted and sentenced of the charges in cause number 03-C01-1809-F1-5125. The issue of bail pending trial is moot when presented on appeal after the defendant has been convicted and sentenced. See *Partlow v. State*, 453 N.E.2d 259, 274 (Ind. 1983); see also *Hill v. State*, 592 N.E.2d 1229, 1230 (Ind. 1992); *Ryan v. State*, 42 N.E.3d 1019, 1026 (Ind. Ct. App. 2015), *trans. denied*. “A case is deemed moot when no effective relief can be rendered to the parties before the court.” *Mosley v. State*, 908 N.E.2d 599, 603 (Ind. 2009); see also *C.J. v. State*, 74 N.E.3d 572, 575 (Ind. Ct. App. 2017) (explaining that when a court is not able to render effective relief to a party, the case is moot and subject to dismissal), *trans. denied*.

[12] Even if Allman had properly appealed the orders setting the bail amounts and if our court were to determine that his bail amount was excessive, he was convicted of three felonies and is serving his sentence for those convictions. His bond has been revoked, and, therefore, Allman may no longer post bond or obtain release from incarceration by posting a bond.

[13] For all of these reasons, we agree with the Appellees that Allman’s appeal is moot, and we dismiss this appeal.

May, J., and Bradford, J., concur.