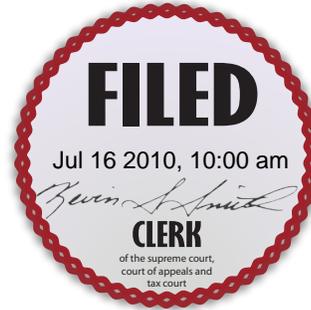


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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RAYMOND BAIRD and GEORGE M. COX, )  
 )  
Appellants-Defendants, )  
 )  
vs. )  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

No. 31A01-0910-CR-514

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APPEAL FROM THE HARRISON SUPERIOR COURT  
The Honorable Roger D. Davis, Judge  
Cause No. 31D01-0805-FD-338 and 31D01-0808-FD-642

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**July 16, 2010**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**NAJAM, Judge**

## STATEMENT OF THE CASE

Raymond Baird and George M. Cox bring this consolidated appeal from the trial court's denial of their motion for review of numerous claims of error relating to the trial court's bond schedule and conditions of bond, set out in local rules, which Baird and Cox raised in the course of their respective criminal proceedings. Baird and Cox raise those numerous claims on appeal, but we address only the following issue: whether the trial court properly denied Baird and Cox's motion. We affirm.

## FACTS AND PROCEDURAL HISTORY

On February 20, 2009, Baird, Cox, and forty-seven other named defendants filed (under each of their forty-nine criminal cause numbers) a "Motion to Terminate Illegal and Unconstitutional Conditions of Bond and for Mandate[,] Declaratory Judgment & Permanent Injunction & Request for Findings of Fact and Conclusions of Law."<sup>1</sup> Baird App. at 4 (capitalization removed). After the State filed its response to that motion but before the court held a hearing or ruled on the motion, Baird pleaded guilty to the charges pending against him and he was sentenced accordingly.

On May 28 and June 2, the court held a hearing on the motion. Thereafter, the court issued its order denying the motion in full as to each defendant. Regarding Baird and Cox specifically, the court concluded as follows: (1) any requests for change of

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<sup>1</sup> On October 17, 2008, those same criminal defendants filed a civil action against the trial court, in the name of Judge Davis, seeking a mandate, a declaratory judgment that the local bond rules were illegal, and a permanent injunction against the court. The trial court dismissed the civil action in favor of a ruling on the criminal motion, among other reasons. See Baird App. at 863. Baird, Cox, and the forty-seven other civil plaintiffs appealed the dismissal of their civil action. See *Cox. v. Davis*, No. 31A01-0912-CV-571. On March 8, 2010, this court denied Baird and Cox's request to consolidate this appeal with the civil appeal. And on June 16, this court affirmed the trial court's dismissal of the civil action in a memorandum decision.

venue or judge were not timely filed and, in any event, were repetitious to previously denied requests and were not open to relitigation; (2) Baird's case had already "been resolved and there is no bond in effect nor are any bond conditions in effect"; (3) Baird's "questions regarding bond and conditions of bond are moot"; (4) Baird and Cox were never subjected to the local rule that requires a protective order or a no-contact order as a condition of bond and therefore they both lacked standing to challenge that rule; (5) insofar as Cox had been required to submit to drug and/or alcohol testing as a condition of his bond, the court vacated that condition. See Baird App. at 223-40. Baird and Cox then filed this appeal.<sup>2</sup> While this appeal was pending, the State filed a motion to dismiss its charges against Cox and release any bonds to him, which the trial court granted on October 6.

### **DISCUSSION AND DECISION**

Baird and Cox challenge the trial court's order and reassert their numerous claims against the trial court's local rules on appeal. But they concede that, "[w]ithout question, Cox and Baird can obtain no practical relief for themselves. Baird has entered a plea of guilty and Cox's case was dismissed; neither [is] currently suffering under any of the illegal policies." Cox Br. at 2.<sup>3</sup>

This court has discussed the doctrine of mootness as follows:

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<sup>2</sup> None of the other forty-seven criminal defendants are parties to this appeal.

<sup>3</sup> Baird filed his appellant's brief on November 20, 2009, to which the State responded on December 23. On January 12, 2010, this court ordered Baird's appeal to be consolidated with Cox's appeal. Cox then filed his appellant's brief on March 16, and the State filed a timely response. Included in Cox's arguments, however, are Baird's arguments in reply to the State's December 23 brief. If Baird desired to file a reply brief, the appellate rules required him to do so within fifteen days after service of the State's December 23 brief. See Ind. Appellate Rule 45(B)(3). He did not do so. Thus, we will not consider any arguments on Baird's behalf raised in Cox's brief.

We typically will not engage in discussions of moot questions or render advisory opinions. A case is deemed moot when no effective relief can be rendered to the parties before the court. We have also stated that[,] “when the controversy at issue in a case ‘has ended or settled, or in some manner disposed of, so as to render it unnecessary to decide the question involved, the case will be dismissed.’” That being said, Indiana appellate courts have long recognized that a case may be decided on its merits under an exception to the general rule when the case involves questions of “great public interest.” “A public interest exception may be invoked upon the confluence of three elements: (1) the issue involves a question of great public importance; (2) the factual situation precipitating the issue is likely to recur; and (3) the issue arises in a context which will continue to evade review.”

Samm v. State, 893 N.E.2d 761, 765 (Ind. Ct. App. 2008) (citations omitted).

In Samm, the trial court imposed a \$100,000 cash-only bond for two Class B felony charges. The defendant filed a motion to reduce the bond, which the trial court denied. The defendant appealed, and, during the pendency of his appeal, he pleaded guilty. Pursuant to the terms of his guilty plea, “the parties stipulated that . . . the trial court would alter [the defendant’s] bond to \$50,000 payable by 10% cash.” Id. at 764. We held that the parties’ stipulation rendered the defendant’s appeal moot. Id. at 765. Nonetheless, we went on to apply the “great public interest” exception to conclude that the trial court abused its discretion by not considering Indiana Code Section 35-33-8-4 in determining the amount of the defendant’s bond, although we could not “say that the amount of [the defendant’s] bond [wa]s necessarily excessive.” Id. at 768.

Again, Baird and Cox both concede that the issues they raise in their respective briefs are moot.<sup>4</sup> As such, they each seek to establish the “great public interest” exception. See id. at 765. We are not persuaded that this consolidated appeal is the

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<sup>4</sup> In Cox’s brief, Baird asserts for the first time that the trial court erroneously denied his request for a change of judge or venue. Again, we will not consider arguments on Baird’s behalf raised in Cox’s brief. Baird did not make this argument in his brief and, therefore, it is waived.

appropriate vehicle to discuss the issues raised by Baird and Cox. With respect to Baird, his claims became moot before the trial court ever considered the motion. Thus, Baird is asking this court to consider his claims in the first instance. We will not. The only question he may present is whether the trial court erred when it concluded that his claims were moot. As he concedes, it did not.

As for Cox, after he filed his notice of appeal the State dismissed its charges against him. Those circumstances are not analogous to the situation in Samm, where the State and the defendant agreed to reduce the amount of bond after the defendant filed his notice of appeal to review that same question. Cox cites no case law that suggests an appellant in a criminal appeal who does not even have criminal charges pending against him may ask this court to review an issue. Ind. Appellate Rule 46(A)(8)(a). We will not consider Cox's allegations.

Finally, we note that Baird and Cox are not necessarily without remedy to pursue their allegations. If they believe the trial court should be enjoined from implementing or enforcing its local rules, and if they have standing to do so, they may seek a writ of mandate or prohibition from our Supreme Court. See, e.g., App. R. 4(B)(3). And if they believe the State, through its officers, has violated their civil rights, they may pursue those claims in a properly raised civil action. See, e.g., 42 U.S.C. § 1983.

Affirmed.

VAIDIK, J., and BROWN, J., concur.