

203 Conn. App. 141

MARCH, 2021

153

*Velez v. Commissioner of Correction*

cretion, we have stated that [d]iscretion means a legal discretion, to be exercised in conformity with the spirit of the law and in a manner to subserve and not to impede or defeat the ends of substantial justice. . . . In general, abuse of discretion exists when a court could have chosen different alternatives but has decided the matter so arbitrarily as to vitiate logic, or has decided it based on improper or irrelevant factors. . . . [Reversal is required only] [i]n those cases in which an abuse of discretion is manifest or where injustice appears to have been done . . . .” (Footnote added; internal quotation marks omitted.) *Id.*, 38.

The habeas court found that “the petitioner point[ed] to nothing in the 2005 report that shows his deficits are of such a nature that he was unable to file a second petition between August, 2011 and August, 2015.” Our review of the record indicates that, although the petitioner’s counsel represented that the deficiencies set forth in the 2005 report “still afflict him today,” the petitioner presented no evidence of the nature of his deficiencies during the relevant time frame or how his deficiencies contributed to the delay in filing the second habeas petition. Rather, the court’s determination that the petitioner “failed to prove how his deficits affected his ability to timely file this second petition” is supported by the petitioner’s having obtained a general equivalency diploma and completed college classes and his success in filing two habeas petitions as a self-represented party, despite the alleged prevalence of his deficiencies. The court therefore did not err in concluding that “the petitioner’s deficits, while significant, have not been proven to be the reason [that] the petition was untimely filed and thus, do not rebut the statutory presumption [of unreasonable delay].”

We conclude that the habeas court did not abuse its discretion in determining that the petitioner failed to establish good cause for the delay in filing his successive

NOTE: These pages (203 Conn. App. 153 and 154) are in replacement of the same numbered pages that appear in the Connecticut Law Journal of 9 March 2021.

---

154                      MARCH, 2021                      203 Conn. App. 154

---

Village Mortgage Co. v. Veneziano

---

habeas petition. Accordingly, the habeas court correctly dismissed the petitioner's second habeas petition pursuant to § 52-470 (d) and (e).

The judgment is affirmed.

In this opinion the other judges concurred.

---

VILLAGE MORTGAGE COMPANY v.  
JAMES VENEZIANO  
(AC 40701)

Prescott, Suarez and DiPentima, Js.

*Syllabus*

The plaintiff mortgage company sought declaratory relief related to the defendant's failure to comply with its corporate bylaws, which required the defendant to satisfy state and federal licensing requirements related to the plaintiff's mortgage loan business. The defendant was a founding shareholder and former employee, officer, and director of the plaintiff. The trial court, relying on a stipulation entered into by the parties, ordered the defendant to satisfy the licensing requirements by a certain date, or, in accordance with the plaintiff's bylaws, his stock in the plaintiff would be surrendered. After finding that the defendant had failed to comply with its order, the court rendered judgment ordering the defendant's shares to be surrendered to the plaintiff, from which the defendant appealed to this court. On appeal, the defendant claimed, inter alia, that the court erred in its interpretation of the parties' stipulation. The plaintiff subsequently filed a motion to dismiss the appeal on the ground that this court lacked subject matter jurisdiction over the appeal because the defendant's claims were moot. The plaintiff argued that during the pendency of the present appeal, it had taken the defendant's stock in satisfaction of a judgment rendered in certain prior litigation between the parties, and, therefore, the defendant was unable to demonstrate that he was entitled to any practical relief. *Held* that this court lacked subject matter jurisdiction, and, therefore, the appeal was dismissed: there did not appear to be any dispute between the parties that this court was unable to afford the defendant any direct, practical relief from the reversal of the judgment from which he appealed as the subject of the judgment in the present action was the defendant's stock in the plaintiff, which, during the pendency of the appeal, the plaintiff has taken in satisfaction of the judgment rendered in a prior action; despite the defendant's claim that this court may afford him practical relief because the issue of when the plaintiff took the stock in satisfaction of the judgment rendered in the prior action would affect