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SJC-13836

KYLE CULOTTA vs. COMMONWEALTH.

December 12, 2025.

Pretrial Detention. Firearms. Moot Question.

The petitioner, Kyle Culotta, appeals from a judgment of a single justice of this court denying his petition pursuant to G. L. c. 211, § 3. Culotta has been charged in a complaint with numerous counts of, among other things, possession of a firearm without a license, in violation of G. L. c. 269, § 10 (a), and possession of a loaded firearm without a license, in violation of G. L. c. 269, § 10 (n). A judge in the District Court ordered that Culotta be detained pending trial on the basis of dangerousness pursuant to G. L. c. 276, § 58A. Culotta sought review of the detention decision in the Superior Court, where a judge similarly ordered that Culotta be detained pending trial pursuant to § 58A. Culotta thereafter filed his G. L. c. 211, § 3, petition in the county court.

In the petition, Culotta argued not only that the Superior Court judge erred in concluding that he should be detained pursuant to § 58A, but that the underlying charges pursuant to G. L. c. 269, § 10 (a), are not a proper predicate offense for purposes of that finding. As to the latter point, he essentially asked the court to reconsider its decision in Vega v. Commonwealth, 490 Mass. 226 (2022), where the court concluded that unlicensed possession of a firearm, in violation of G. L. c. 269, § 10 (a), "is a constitutional predicate offense under G. L. c. 276, § 58A." Id. at 241. Reconsideration of that issue is necessary, in Culotta's view, in light of the United States Supreme Court's decisions in New York State Rifle & Pistol Ass'n v. Bruen, 597 U.S. 1 (2022), and United States v.

Rahimi, 602 U.S. 680 (2024). The single justice denied the petition on the basis that the Superior Court judge did not abuse her discretion or commit an error of law in ordering Culotta's pretrial detention pursuant to G. L. c. 276, § 58A.

The case is now before us pursuant to S.J.C. Rule 2:21, as amended, 434 Mass. 1301 (2001), which requires a showing that "review of the trial court decision cannot adequately be obtained on appeal from any final adverse judgment in the trial court or by other available means." S.J.C. Rule 2:21 (2).

After Culotta's appeal was entered in the full court, he was released on bail. His appeal is therefore moot. Although Culotta acknowledges that, as to the issue of his own detention, the appeal is moot, he argues that the court should nonetheless consider the issue whether G. L. c. 269, § 10 (a), is a constitutional predicate offense under G. L. c. 276, § 58A.¹ He argues that the issue is capable of repetition yet evading review, and that, mootness notwithstanding, the court should therefore consider it. See Lockhart v. Attorney Gen., 390 Mass. 780, 783 (1984). We disagree. A defendant being detained pretrial pursuant to G. L. c. 276, § 58A, will not necessarily be released before review of the issue, as happened here. Indeed, in Vega itself the defendants remained in pretrial detention throughout the course of their appeal, i.e., the issue did not become moot before it could be decided. See Vega, 490 Mass. at 229, 230. We therefore "decline to exercise our discretion to consider the merits of a moot claim in the circumstances of this case." Cook v. Commonwealth, 463 Mass. 1014, 1014 (2012).

Appeal dismissed.

The case was submitted on the papers filed, accompanied by a memorandum of law.

Daniel Hagan, Daniel D. Kelly, & Kyle J. DeSousa for the petitioner.

¹ Culotta's motion to amend his rule 2:21 memorandum to address mootness is allowed.