

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1584

September Term, 2013

FATAI A. GAFARI

v.

J. PHILLIP MORGAN, WARDEN

Berger,
Reed,
Raker, Irma S.
(Retired, Specially Assigned),

JJ.

Opinion by Raker, J.

Filed: April 25, 2016

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of *stare decisis* or as persuasive authority. Md. Rule 1-104.

Appellant Fatai Gafari filed a petition for a writ of *habeas corpus* in the Circuit Court for Washington County challenging the Division of Corrections having denied him the benefit of diminution credits. The circuit court denied the petition and appellant appealed to this Court. This Court dismissed the appeal, but granted appellant's motion for reconsideration and scheduled the case for hearing during the January 2015 session of this Court. Appellant's term of incarceration in Maryland ended before this Court heard argument, and appellant was transferred to custody of the United States Marshall Service to serve a federal term of incarceration. Since then, appellant was released from federal incarceration.

Habeas corpus is available as a remedy only if the petitioner is in custody or subject to conditions of parole or probation. *McMannis v. State*, 311 Md. 534, 539-47 (1988). The writ of *habeas corpus* is available only to those who are in actual, involuntary, illegal physical restraint. *Hendershott v. Young*, 209 Md. 257, 261-62 (1956). The Court of Appeals has declined to expand the interpretation of "in custody" for purposes of our post-conviction statute and *habeas corpus* relief in light of such expansions in other states and in the federal law. *McMannis*, 311 Md. at 542-43. Further, an appeal from denial of a petition for *habeas corpus* relief becomes moot when the sentence in question ends and the petitioner is released. *Bradford v. Warden of Md. Penitentiary*, 215 Md. 637, 639 (1958).

This Court made inquiry of the United States Federal Bureau of Prisons as to the current status of appellant, and was directed to the internet inmate locator

(<https://www.bop.gov/inmateloc/> [<https://perma.cc/CNL9-6MVR>]). There, appellant, “Fatai A Gafari,” is listed as “NOT IN BOP CUSTODY,” leading this Court to conclude that his Federal incarceration ended. It appears to this Court that appellant is no longer in the custody of the State of Maryland or the United States Federal Bureau of Prisons. Therefore he is no longer eligible for the relief that he sought.

**JUDGMENT OF THE CIRCUIT
COURT FOR WASHINGTON
COUNTY AFFIRMED. COSTS
WAIVED.**