FILED
JUN 15 1989
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

ERIC TROUT,	)	
Applicant-Appellant,	)	319
vs.	)	
STATE OF IOWA,	)	9-168 88-992
Resister-Appellee.	)	

Appeal from the Iowa District Court for Lee County (CL1613 (N) 068), D.B. Hendrickson, Judge.

Prison inmate appeals the denial of his postconviction relief. **DISMISSED.**

William L. Wegman, State Public Defender, and Barbara M. Anderson, Assistant State Public Defender, for the applicant-appellant.

Thomas J. Miller, Attorney General; Kristin W. Ensign, Assistant Attorney General; and Suzie Berregaard, Assistant Attorney General, for the resister-appellee.

Considered by Oxberger, C.J., and Schlegel and Habhab, JJ.

OXBERGER, C.J. 320

Applicant, Eric Trout, has appealed the denial of his application for postconviction relief to challenge the imposition of prison discipline. We dismiss this appeal for defendant's failure to exhaust his administrative remedies within the Department of Corrections, as provided in Iowa Code section 903A.3(2) and because this case has become moot because Trout has been released from prison during the pendency of this appeal.

I. Exhaustion of Administrative Remedies

Iowa Code section 663A.2(6) authorizes a postconviction relief action if "[t]he person's reduction of sentence pursuant to section 903A.1 through 903A.7 has been unlawfully forfeited and the person has exhausted the appeal procedure of section 903A.3(2)." (Emphasis added.) Section 903A.3(2) provides orders of the hearing officer are subject to appeal to the superintendent or warden of the institution. A decision of the superintendent or warden is subject to review by the director of the Iowa Department of Corrections. Id.

Trout did not appeal his disciplinary decisions to the warden nor to the director of the Department of Corrections. Exhaustion of the appellate procedure is a condition of applicability of postconviction law under section 663A.2(6). Therefore, we dismiss this appeal for failure to exhaust appellate procedure.

II. Mootness

Even if the applicant has exhausted his administrative remedies, we dismiss due to the fact the issue raised by the applicant is now moot. In Wilson v. Farrier, our supreme court declared an action for postconviction relief challenging prison disciplinary action moot because the inmate had been paroled. 372 N.W.2d 499, 501 (Iowa 1985). Here applicant Trout has been released from prison during the pendency of this appeal. Therefore, we find the issues raised by the applicant to be moot. Further, this moot question does not meet the two-prong exception of Rush v. Ray, 332 N.W.2d 325, 326-27 (Iowa 1983). We dismiss.

DISMISSED.