

ZACHARY R. RAND

v.

STATE OF MAINE

Argued April 10, 2015  
Decided May 12, 2015

Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, GORMAN, JABAR, and  
HJELM, JJ.

#### MEMORANDUM OF DECISION

Zachary R. Rand appeals from an order of the Superior Court (Hancock County, *Cuddy, J.*) dismissing, without reaching the merits, his petition for post-conviction review filed pursuant to 15 M.R.S. §§ 2121-2132 (2014).<sup>1</sup> Rand petitioned for review of the post-conviction court's order, arguing that the court had authority to review its decision to terminate his participation in Adult Drug Treatment Court and that the court violated certain of his due process rights by deciding sanctions for his violation of Drug Court rules after presiding over his participation in Drug Court.

We exercised our discretion, pursuant to M.R. App. P. 19(f), to grant a certificate of probable cause to reach the merits of Rand's petition. From our review of the record, it appears that the issue principally addressed before the Superior Court was the process for termination from Drug Court, rather than any

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<sup>1</sup> The post-conviction review statutes, 15 M.R.S. §§ 2121-2132, have been amended since Rand filed his petition for post-conviction review in April 2013, though the amendments are not relevant to the present case. *See, e.g.*, P.L. 2013, ch. 266, §§ 2, 3 (effective Oct. 9, 2013) (codified at 15 M.R.S. § 2124 (2013)).

alleged defects in the underlying judgment that could have supported a post-conviction review petition. With the record in that status, the Superior Court's action must be affirmed. Because there was no address of the merits of any proper post-conviction issue by the Superior Court, this action would not generate a bar to any further proper post-conviction claims by operation of 15 M.R.S. § 2128(3) (stating that grounds not asserted in any prior post-conviction action are deemed waived).

The entry is:

Dismissal order affirmed.

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**On the briefs and at oral argument:**

Robert Van Horn, Esq., Ellsworth, for appellant Zachary R.  
Rand

Matthew J. Foster, District Attorney, Prosecutorial District VII,  
Ellsworth, for appellee State of Maine