No. A26A1254

IN THE COURT OF APPEALS OF GEORGIA

Sierrah Coronell, et al.,

Plaintiffs-Appellants,

v.

State of Georgia,

Defendant-Appellee.

Transferred by the Supreme Court of Georgia
Case No. S26A0410

PLAINTIFFS-APPELLANTS' REPLY

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INTRODUCTION

Appellee's jurisdictional argument essentially boils down to the contention that Appellants' claims became moot upon their release from pretrial detention.[1] But that argument misapprehends both the mootness doctrines applicable to the individual and class claims at issue and the relief sought by Appellants. With respect to the individual claims, under well-established Georgia precedent, a case is not moot unless the court cannot grant the plaintiff any effective relief. *See Rampersad v. Plantation at Bay Creek Homeowners Ass'n, Inc.*, 362 Ga. App. 329, 332 (2022); *see also Mobley v. Palm Beach Cnty. Sheriff Dep't*, 783 F.3d 1347, 1352 (11th Cir. 2015). Contrary to Appellee's persistent mischaracterizations, Appellants neither requested release, nor asserted a right to unsecured release. *See* V1-86–87, ¶ A-E. Instead, they seek to enjoin the enforcement of S.B. 63, which would entitle them to a hearing on whether unsecured bail is appropriate and, consequently, whether their current bail conditions, issued under S.B. 63's blanket restrictions, should be modified. *See id.* A judgment in Appellants' favor would entitle them to that relief irrespective of whether they remain in custody or of whether the court ultimately

[1] This appeal was transferred to the Court of Appeals from the Supreme Court of Georgia after the opening and response briefs had been filed. In accordance with Supreme Court of Georgia's instructions, this brief addresses mootness only.

agrees that secured bail is inappropriate. The trial court remains fully capable of granting effective relief to Appellants in this case.

Invoking specific examples of criminal defendants who experienced lengthy periods of pretrial detention, Appellee contends that the class claims do not satisfy the exception for cases challenging a harm that is capable of repetition yet evades review and are therefore moot. But this position grossly misapplies that doctrine, which applies with particular force in the pretrial context. It is well-established that cases challenging pretrial procedures satisfy this mootness exception because the pretrial phase of a criminal case is necessarily temporary and its length cannot be determined at the outset, both of which guarantee a constant turnover of the affected population that would otherwise allow recurring constitutional violations to evade review. *See Gerstein v. Pugh*, 420 U.S. 103, 110 n.11 (1975). Because meaningful relief remains available for Appellants and putative class members, and the challenged conduct is capable of repetition yet evading review and is inherently transitory, this case is not moot.

ARGUMENT

I. Appellants' Release from Jail Did Not Moot Their Individual Claims.

Appellee argues that Appellants' claims were mooted by their eventual release from jail days after this lawsuit was filed, thus preventing the trial court from granting effective relief. *See* Appellee's Br. at 11–12 (citing *Jayko v. State*, 335 Ga.

App. 684, 685 (2016)). This argument fails because it misunderstands the governing mootness doctrine and mischaracterizes the remedy Appellants seek. Because Appellants' have not been granted their requested relief—an invalidation of S.B. 63—and, because they remain subject to secured bail orders improperly mandated by S.B. 63, that relief would entitle them to a hearing on the propriety of secured bond. Their individual claims are therefore not moot.

Georgia precedent clearly establishes that a case becomes moot only when the remedy sought is no longer available or a favorable decision would provide no benefit to an appellant. *See BCG Operations, LLC v. Town of Homer*, 366 Ga. App. 535, 538 (2023) ("It is a rather fundamental rule of both equitable jurisprudence and appellate procedure, that if the thing sought to be enjoined in fact takes place, the grant or denial of the injunction becomes moot.") (cleaned up); *Rampersad*, 362 Ga. App. at 332 ("A case becomes moot on appeal if the appellants can no longer get their desired relief, and so a favorable decision on appeal would 'be of no benefit' to them.") (internal citation omitted). Here, S.B. 63 has neither been declared unconstitutional nor enjoined. Appellants would plainly benefit from both forms of relief, as it would entitle them to a new bail hearing to assess whether secured bail is an appropriate release condition.

Moreover, Appellants' release status is irrelevant to the mootness question. Appellants' prayer for relief did not include a request to be released from pretrial

detention. *See* V1-86–87, ¶ A-E. Rather, Appellants sought a declaration that S.B. 63 is unconstitutional and an injunction prohibiting its enforcement. *Id.* That relief would remedy SB 63's denial of individualized judicial determinations of whether unsecured conditions of release are appropriate on a case-by-case basis. V1-67, ¶ 9. Appellee acknowledges that plaintiffs would be entitled to a new hearing if they prevailed on the merits but nonetheless asserts that "mere speculation that the court might decide to grant unsecured release is not enough" to save Appellants' claims from mootness. Appellee's Br. at 12. Importantly, Appellants have never asserted a right to unsecured release; they only assert a right to be *considered* for unsecured release. In short, Appellants seek due process—not a guaranteed result. Whether the trial court may ultimately "vitiate Coronell and Holsey's secured bond orders should they prevail" has no bearing on the relief to which Appellants are entitled, and it therefore has no bearing on the trial court's jurisdiction to hear Appellants' claims. *Id.* at 13.

Because trial court can still grant relief that materially affects Appellants' legal rights, their claims are not moot.

II. The Capable of Repetition, Yet Evading Review and the Inherently Transitory Exceptions to Mootness Apply to This Putative Class Action.

Appellee contends that Appellants must meet a two-pronged capable-of-repetition-yet-evading-review test, and that they fail both prongs because the

challenged action is not too short in duration to be fully litigated and there is not a reasonable expectation the same party will face the same action again. Appellee's Br. at 14 (citing *Weinstein v. Bradford*, 423 U.S. 147, 149 (1975)). Appellee similarly contends the "inherently transitory" exception does not apply to Appellants' claims. *Id.* at 14–15. Both arguments fail.

First, this putative class action falls squarely within these two long-recognized and closely-related exceptions to mootness that ensure courts may adjudicate claims that would otherwise evade review.[2] Appellants satisfy the capable-of-repetition-yet-evading-review exception to mootness because the challenged action affects an existing class and the pretrial phase of a criminal case—which may or may not include detention—is temporary and often too short for a civil challenge to be fully litigated before it ends. Appellants also satisfy the inherently transitory exception "because the 'inherently transitory' exception to the mootness doctrine is a 'strain' of the capable-of-repetition-yet-evading-review doctrine applied to class action claims," like the ones at issue here. *See Patton v. Fitzhugh*, 131 F.4th 383, 393 (6th Cir. 2025), *cert. denied*, 223 L. Ed. 2d 241 (Nov. 24, 2025). Indeed, the challenged practice continues to affect a constantly changing class.

[2] *See U.S. Parole Comm'n v. Geraghty*, 445 U.S. 388, 398–99 (1980) (explaining that the "inherently transitory" doctrine grew out of the application of the capable-of-repetition-yet evading-review exception to class-action claims).

Second, Appellee's assertion that Georgia law does not recognize the inherently transitory exception is incorrect. Georgia class action jurisprudence closely tracks federal law, *see Fuller v. Heartwood 11*, 301 Ga. App. 309, 312 (2009) (explaining Georgia courts "look to those federal cases interpreting Rule 23 . . . , the rule upon which OCGA § 9-11-23 was based, for guidance"), including doctrines governing mootness, *see Int. of C.C.*, 314 Ga. 446, 450 (2022) (finding that under binding state precedent, Georgia courts apply federal mootness precedent). And that federal law has long recognized the inherently transitory exception as a derivative of the capable of repetition, yet evading review doctrine, as well as the exception's natural application to class claims challenging pretrial procedures. *See* Gerstein, 420 U.S. at 110 n.11 (1975). Thus, if Georgia courts follow federal precedent in applying the capable of repetition, yet evading review doctrine, they must also follow federal precedent in applying the inherently transitory doctrine. Indeed, both exceptions share the same core factual foundation: but for the exception, recurring constitutional violations will otherwise evade review due to their inherently transitory nature.

A. Appellants' Claims Are of an Inherently Time-Limited Nature That Satisfies the First Element of the Capable-of-Repetition-Yet-Evading-Review Exception.

Appellee cherry-picks criminal cases involving individuals detained for extended periods prior to conviction, claiming they demonstrate that pretrial detention is not inherently brief. *See* Appellee's Br. at 13–14. These cases are

inapposite,[3] and Appellee's argument again misstates the nature of this action, which challenges S.B. 63's mandatory imposition of secured bail, rather than Appellants' pretrial detention. Thus, the operative inquiry is whether the pretrial phase is inherently time-limited. But regardless of whether the Court views the applicable period as the length of pretrial detention or the length of the pretrial process, the result is the same: the exception applies because both periods are inherently time-limited.

Courts routinely apply the exception to challenges, like this one, where the claims at issue inherently risk becoming moot before appellate review can be completed. *See Dunn v. Blumstein,* 405 U.S. 330 (1972); *see also Sosna v. Iowa,* 419 U.S. 393, 402 (1975) ("In cases in which the alleged harm would not dissipate during the *normal time* required for resolution of the controversy, the general principles of Art. III jurisdiction require that the plaintiff's personal stake in the litigation continue throughout the entirety of the litigation.") (emphasis added). And claims challenging

[3] None of the cases cited by Appellee discuss mootness, let alone apply the capable-of-repetition, yet-evading-review exception. *Brewington v. State*, 288 Ga. 520, 523, n.3 (2011) (reviewing the trial court's denial of appellants' motion to dismiss their indictments for murder on constitutional speedy trial grounds); *Boseman v. State*, 263 Ga. 730, 733 (1994) (same), *overruled on other grounds by Sosniak v. State*, 292 Ga. 35, 40 (2012); *Johnson v. State*, 313 Ga. App. 895, 899 (2012) (reviewing the trial court's denial of appellant's motion to dismiss his indictment for burglary and four counts of theft by taking on constitutional speedy trial grounds).

bail practices (or, as here, the laws that govern them) epitomize such claims. *See Gerstein*, 420 U.S. at 110 n.11.

As the Court explained in *Gerstein*, what matters most is that the lifespan of challenged action "cannot be ascertained at the outset." *Id.*; *see also Jonathan R. by Dixon v. Just.*, 41 F.4th 316, 325–26 (4th Cir. 2022) (finding "the essence of the exception" is the "uncertainty about whether a claim will remain alive") (quoting *Olson v. Brown*, 594 F.3d 577, 582 (7th Cir. 2010)). *Gerstein*'s focus on the unpredictable length of the pretrial phase is common sense for anyone familiar with the criminal process. Both in Georgia and across the country, criminal cases are often resolved via plea bargain, or are otherwise resolved during the pretrial phase of a case. *Lafler v. Cooper*, 566 U.S. 156, 169–70 (2012) ("[C]riminal justice today is for the most part a system of pleas, not a system of trials. Ninety-seven percent of federal convictions and ninety-four percent of state convictions are the result of guilty pleas."). Because these events can occur at any time—and often without warning—no court can reliably ensure that a named plaintiff will remain subject to an unconstitutional bail order long enough to litigate a constitutional challenge. Even detentions lasting weeks or a few months are generally insufficient to survive motion practice, briefing, discovery (if applicable), class certification (if applicable), and appeal. Appellee's arguments ignore this reality.

This putative class is composed of a population that shifts constantly: individuals cycle through pretrial custody with little or no opportunity to litigate systemic constitutional violations before their personal stake in the controversy expires. Therefore, it cannot be reasonably expected that the personal stake of any individual plaintiff or class member—including Appellants—will endure until the challenge is fully litigated. If courts required every named plaintiff to remain detained, or otherwise subject to an unconstitutional bail order for the duration of their civil case, no challenge to unconstitutional practices and/or laws like S.B. 63, could proceed to resolution.

B. The Second Element of the Capable-of-Repetition-Yet-Evading-Review Exception is Satisfied Because the Challenged Action Affects "An Existing Class of Sufferers."

Citing *Weinstein*, Appellee further argues that Appellants cannot show a reasonable expectation that they will again be subjected to the same action that they challenge here. *See* Appellee's Br. at 14. But the State points to no Georgia case in arguing the necessity of that prong or in arguing Appellants have not met it. And in fact, Georgia precedent applies the capable-of-repetition-yet-evading-review doctrine in cases, where, as here, "an existing class of sufferers" will continue to be subject to the challenged action. *See, e.g.*, *McAlister v. Clifton*, 313 Ga. 737, 740 (2022). In *Interest of D.B.*, for example, this Court found that a parent's challenge to the lack of due process before her children were removed was not moot, even though

she had already won the relief she sought—the return of her children—because the challenged action routinely happens: without any factual finding on the record justifying it, in a short period of time, to "an existing class of sufferers" who would continue to be subject to the challenged conduct. 376 Ga. App. 403, 410 (2025) (finding that the possibility that the challenged action would recur was not speculative because it affected a class of sufferers). The same can be said of Appellants' claims here.

Furthermore, even if *Weinstein* were to be directly applied here, that case explains that its "same complaining party" requirement, does not apply to class actions, such as this one. *See* 423 U.S. at 149 ("Sosna decided that *in the absence of a class action*, the 'capable of repetition, yet evading review' doctrine was limited to the situation where two elements combined[.]") (emphasis added). In a class action, the relevant concern is whether *members of the putative class* will be subjected to the challenged statute in a similar manner. *Gerstein*, 420 U.S. at 110 n.11 (finding a plaintiff asserting a class-action claim could continue to pursue claims on behalf of the class even though the named plaintiff's claims were moot so long as "persons similarly situated" were injured by the same challenged action.). As the Court explained, such a "claim, in short, is one that is distinctly 'capable of repetition, yet evading review.'" *Id*.

Like in *Sosna v. Iowa*, the rationale of the capable-of-repetition-yet-evading-review cases "controls the present case." 419 U.S. at 400–01 ("Although the controversy is no longer live as to appellant Sosna, it remains very much alive for the class of persons she has been certified to represent."). It is uncontested that members of the putative class reasonably will be subjected to the same bail practices that S.B. 63 requires.[4] Therefore, the "capable of repetition" element is satisfied.[5]

C. *Wasserman* Is Inapposite and Its Holding Did Not Alter Georgia Class Action Jurisprudence.

Appellee's reliance on *Wasserman v. Franklin Cnty.*, 320 Ga. 624 (2025) to refute the applicability of the inherently transitory exception to Appellants' class claims is misplaced. *See* Appellee's Br. at 9. *Wasserman* held only that the State Constitution's grant of judicial power does not authorize Georgia courts to adjudicate claims asserting *solely* the rights of third parties not before the court. *Id*. at 644 ("[O]ur current Constitution's grant of the judicial power to Georgia courts does not include the power to adjudicate a plaintiff's claim asserting *only* the rights of parties

[4] A claim can qualify for this exception even when the experience of some individuals subjected to a challenged action are not representative of others' experience. *See Jonathan R. by Dixon*, 41 F.4th at 325–26 ("Even if *some* children will spend a long-enough period in the system, requiring Plaintiffs to predict *which* child will asks too much.").

[5] As explained above, because the inherently transitory exception to the mootness doctrine is, in essence, the capable-of-repetition-yet-evading-review doctrine applied to class action claims, Appellants have also satisfied the elements of the inherently transitory exception.

not before the Court.") (emphasis added). This case is materially different. Appellants bring a putative class action asserting both their own rights and those of the putative class (whose members are, for all intents and purposes, also before the Court).

The distinction between third-party standing and class action standing is critical. Third-party standing allows a litigant to assert the rights of a non-party due to a close relationship with that entity or significant barriers preventing the injured party from suing. Class standing, by contrast, is governed by separate procedural rules and authorizes named Appellants to bring claims on behalf of themselves and a broader group with similar injuries caused by the same action. *Wasserman* concerns the former doctrine, not the latter. *See Wasserman*, 320 Ga. at 644.

Accordingly, *Wasserman* does not undermine Georgia courts' long-established approach to class actions,[6] and provides no basis for dismissing Appellants' claims as moot.

Respectfully submitted this 23rd day of February, 2026.

This submission does not exceed the word count limit imposed by Rule 24.

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[6] *See, e.g.*, *Atlanta Postal Credit Union v. Cosby*, 374 Ga. App. 863, 869–71 (2025), *reconsideration denied* (Mar. 14, 2025); *see also* O.C.G.A. § 9-11-23(b)(2) ("An action may be maintained as a class action if . . . the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole[.]").

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CERTIFICATE OF SERVICE

I certify that there is a prior agreement with the Office of the Attorney General to allow documents in a PDF format sent via email to suffice for service. I hereby certify that today I served a true and correct copy of the foregoing Reply to Defendant-Appellee's Brief on counsel by email as follows:

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