

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

SIERRAH CORONELL, *et al.* :
Plaintiffs :
v. : CIVIL ACTION NO:
STATE OF GEORGIA, : 25CV005987
Defendant. :

ORDER

This case comes before the Court on Defendant’s Motion to Dismiss. Having considered the argument of counsel on August 25, 2025, the entire record, and applicable law, the Court **GRANTS** Defendant’s Motion to Dismiss and **DENIES AS MOOT** Plaintiffs’ Motion for Class Certification.

Introduction

Plaintiffs have filed a lawsuit on their own behalf and as putative representatives of a putative class. They allege that Georgia Senate Bill 63 (S.B. 63)¹, which amends code sections within Chapter 6 of Title 17 of the Georgia Code, is unconstitutional on its face and should be struck down.

S.B. 63 includes ten sections, but the foci of Plaintiffs’ arguments appear to be the amendments to O.C.G.A §§ 17-6-1 and 17-6-12.

The relevant S.B. 63 amendments identify thirty new “bail restricted offenses” (see O.C.G.A § 17-6-12(a)(1)) and provide that:

[n]o person charged with a bail restricted offense shall be eligible for release by any judge on an unsecured judicial release. Such persons charged with a bail

¹ Effective July 1, 2024.

restricted offense shall only be eligible for release through the use of secured means as provided in Code Sections 17-6-4 and 17-6-5, professional bondsmen as provided in Code Section 17-6-50, or property as approved by the sheriff in the county where the offense was committed.

O.C.G.A. § 17-6-12(d).

S.B. 63 amends paragraph 12(d) further, so that it provides that “the judge of any court having jurisdiction over a person charged with committing an offense against the criminal laws of this state shall have authority, in his or her sound discretion and in appropriate cases, to authorize the release of the person on an unsecured judicial release only unless such person is charged with a bail restricted offense.” O.C.G.A. § 17-6-12(d)².

According to the Complaint, S.B. 63 adds “ten pure misdemeanor offenses, twelve pure felony offenses, and eight other offenses that can be either a felony or misdemeanor, depending on the severity of the offense (i.e., first degree, second degree, etc.) and/or an individual’s conviction history for that same offense to the bail-restricted offenses list.” (Complaint, p.3 n.3). These challenged bail-restricted offenses are currently listed at O.C.G.A. §§ 17-6-12(a)(BB) through (EEE).

Plaintiffs also facially challenge O.C.G.A. § 17-6-1(i) and its altered definition of the term “bail.” (Complaint, p. 8, ¶122, ¶122 n.12).

Despite some confusion regarding the scope of relief that Plaintiffs seek, the Plaintiffs are effectively asking the Court to grant relief that removes the criminal offenses listed at O.C.G.A. §§ 17-6-12(a)(BB) through (EEE) from the list of “bail restricted offenses.” In other words, Plaintiffs ask the Court to declare that for any of the thirty “bail restricted offenses”

² The underlined portion reflects language added by S.B. 63.

added by S.B. 63, a judge in his or her sound discretion, and in appropriate cases, would again have the authority to authorize the release of a defendant on unsecured judicial release only.

Plaintiffs also presumably seek to restore O.C.G.A. § 17-6-1(i)'s pre-S.B. 63 definition of "bail" so that it again includes "the release of a person on an unsecured judicial release." Consistent with this reading of the Complaint, the Plaintiffs have defined their putative class as follows:

All people, since July 1, 2024, who are or will be charged with any bail-restricted offense added to O.C.G.A. § 17-6-12(a)(1) by 2024 Georgia Laws Act 507 (S.B. 63), and as a result, have been or will be denied consideration of release on unsecured bond and unsecured judicial release pursuant to O.C.G.A. § 17-6-12(d).

Conclusions of Law

To succeed on a non-First Amendment facial challenge like the one in this case, Plaintiffs must "establish that no set of circumstances exists under which the [challenged portions of the S.B. 63 amendment] would be valid." *United States v. Salerno*, 481 U.S. 739, 745 (1987). See also *Bello v. State*, 300 Ga. 682, 685-686 (2017); *Blevins v. Dade County Bd. of Tax Assessors*, 288 Ga. 113, 118 (2010).

In other words, Plaintiff must show that the SB 63 amendments are unconstitutional in all applications, a heavy burden that Plaintiffs have failed to uphold. Many, if not most, individuals charged with the bail-restricted offenses enumerated within S.B. 63 will be capable of obtaining their pre-trial release from jail through one of the "secured means" authorized by O.C.G.A. § 17-6-12(d). The challenged provisions implicate no constitutional due process issues with respect to such individuals. The unavailability of unsecured release for crimes identified within S.B. 63 has no bearing on the liberty rights of anyone who promptly obtains his or her

secured release. Those individuals have been released from jail even though they were “denied consideration of release on unsecured bond and unsecured judicial release.” Alleged unlawful pretrial detention, *i.e.*, a loss of liberty, creates the potential constitutional due process claim--not the mere absence of a means of unsecured release from jail for bail-restricted crimes.

Under a *Mathews v. Eldridge*, 424 U.S. 319 (1976) procedural due process analysis, the Court finds that Plaintiffs have failed to state a facial procedural due process claim. S.B. 63 does not affect criminal defendants’ liberty interests. And, even if it did, Plaintiffs’ facial claim fails because, at best, S.B. 63 creates a minimal if not non-existent “risk of an erroneous deprivation of [a liberty interest] through the procedures used....” *Id.* at 335. The Court finds that sufficient procedural safeguards exist in Georgia’s pre-detention bail system. *See, e.g.*, O.C.G.A. §§ 17-6-1(b)(1) and 17-6-1(e)(2).

Plaintiffs also have failed to state a substantive due process claim. S.B. 63’s secured judicial release mandate for thirty additional bail-restricted crimes does not raise substantive due process concerns. And even if it did, the mandate would not infringe upon a “fundamental right,” which means that only a rational basis test would apply. *See, e.g., Barzey v. City of Cuthbert*, 295 Ga. 641, 645 (2014) (rational basis test applied for substantive due process claims related to non-fundamental rights).

In *Pugh v. Rainwater*, 572 F.2d 1053 (5th Cir. 1978), the Fifth Circuit Court of Appeals rejected the contention that the right to pretrial liberty is a fundamental right because such liberty right is conditioned on “what is necessary to reasonably assure the defendant’s presence at trial.” *Id.* at 1057. Of even greater significance, in *Salerno*, the United States Supreme Court recognized the “importance and fundamental nature” of the right to pretrial release but

ultimately held that the right to pretrial release is not an absolute fundamental right. *Salerno*, 481 U.S. at 750-51. Thus, pretrial liberty rights may be outweighed by the government's interest and be subordinated to the "greater needs of society." *Salerno*, 481 U.S. at 755. "Pretrial detainees have no absolute fundamental right to pretrial release" because "[i]f they did, bail itself would be unconstitutional." *Schultz v. State*, 42 F.4th 1298, 1332 (11th Cir. 2022) (emphasis added); see also *Edwards v. Cofield*, 2025 U.S. Dist. LEXIS 27047, at **40-41 (M.D. Ala. Feb. 14, 2025) (same);³ *Walker v. City of Calhoun*, 901 F.3d 1245, 1262 (11th Cir. 2018) ("[T]he *Salerno* Court's analysis was much closer to a relatively lenient procedural due process analysis than it was any form of heightened scrutiny. Rather than asking if preventative detention of dangerous defendants served a compelling or important State interest and then demanding relatively narrow tailoring, the Court employed a general due process balancing test between the State's interest and the detainee's.") (citation omitted).

S.B. 63 survives application of the rational basis test. For example, the state has a legitimate interest in assuring an accused's presence at trial. Requiring arrestees to post bail, or detaining them if they cannot, is rationally related to that interest. See, e.g., *Stack v. Boyle*, 342 U.S. 1, 4-5 (1951) ("The right to release before trial is conditioned upon the accused's giving adequate assurance that he will stand trial and submit to sentence if found guilty. Like the ancient practice of securing the oaths of responsible persons to stand as sureties for the

³ A fundamental right is one that is "objectively, deeply rooted in this Nation's history and tradition." *Washington v. Glucksberg*, 521 U.S. 702, 721 (1997); see also *Rainer v. State*, 286 Ga. 675, 677 (2010) (citing *Id.*, 521 U.S. at 720) ("Liberty" specially protected by the Due Process Clause includes, among other fundamental rights, the right to marry, to have children, to direct the education and upbringing of one's children, and the right to marital privacy, and the United States Supreme Court has "*always been reluctant to expand the concept of substantive due process because guideposts for responsible decision making in this unchartered area are scarce and open-ended.*") (citation and punctuation omitted) (emphasis added).

accused, the modern practice of requiring a bail bond or the deposit of a sum of money subject to forfeiture serves as additional assurance of the presence of an accused.") (citation omitted). Plaintiffs' substantive due process claim fails because there is no fundamental right to pretrial release under Georgia law.

Finally, the Court holds that the named Plaintiffs' facial challenges to S.B. 63 are now moot. The criminal release (bond) records for Coronell and Holsey, which are attached as exhibits 1 and 2 to the State's motion to dismiss, are relevant to the jurisdictional issue and may be considered by this Court for that limited purpose if they shed light on the trial court's jurisdiction. *See Dept. of Transp. v. Dupree*, 256 Ga. App. 668, 675 (2002)) (trial court may hear evidence to determine defense in abatement), *overruled in part on other grounds by Ga. Dep't of Transp. v. Thompson*, 354 Ga. App. 200, 207 n.6 (2020); *Hatcher v. Hatcher*, 229 Ga. 249, 250-251 (1972) (trial court may conduct hearing on jurisdictional issue before trial). When the resolution of a case would be tantamount to "the determination of an abstract question not arising upon existing facts or rights," then that case is moot. *Collins v. Lombard Corp.*, 270 Ga. 120, 121 (1998); *see also Jayko v. State*, 335 Ga. App. 684, 685 (2016) ("When the remedy sought in litigation no longer benefits the party seeking it, the case is moot and must be dismissed.") (citation and punctuation omitted). Dismissal of moot cases is mandatory. *See Collins*, 270 Ga. at 121; *McAlister v. Clifton*, 313 Ga. 737, 738 (2022) (citing *In the Interest of M. F.*, 305 Ga. 820, 820 (2019)).

The records presented by the State disclose that both Coronell and Holsey bonded out and were released from jail two days after filing the Complaint. Under the doctrine of

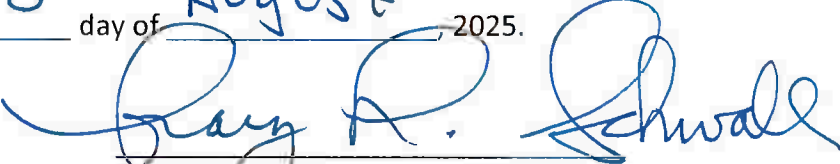
mootness, Plaintiffs' release from jail deprives the court of jurisdiction to entertain their *facial* constitutional challenge.

The Court declines to take the drastic measure of declaring S.B. 63 facially unconstitutional in any respect. The Georgia Supreme Court has emphasized that it is irrelevant whether the Legislature could have potentially come up with a different statute with a theoretically more effective means of accomplishing a statute's stated goals. *See, e.g., Women's Surgical Ctr., LLC v. Berry*, 302 Ga. 349, 355 (2017) (citation omitted). Plaintiffs challenge specific sections of S.B. 63 related to thirty additional crimes that have been added to the list of bail restricted offenses. Plaintiffs ask this Court to declare that none of these thirty offenses may be labeled a "bail restricted offense." However, S.B. 63 is constitutional in numerous applications, and the challenged sections of S.B. 63 have a "plainly legitimate sweep." "[T]he Due Process Clause does not empower the judiciary to sit as a superlegislature to weigh the wisdom of legislation." *Advanced Disposal Svcs. Middle Georgia v. Deep South Sanitation*, 296 Ga. 103, 107, n. 5 (2014) (quoting *Ferguson v. Skrupa*, 372 U.S. 726, 731 (1963)) (citation and punctuation omitted). *See also Olsen v. Nebraska ex rel. Western Reference & Bond Assn.*, 313 U.S. 236, 246 (1941) ("We are not concerned ... with the wisdom, need, or appropriateness of the legislation.").

Based upon the foregoing, it is hereby **ORDERED** that the Defendant's Motion to Dismiss is **GRANTED**. Plaintiffs' facial procedural and substantive due process claims are **DISMISSED** and

Plaintiffs' pending Motion for Class Certification is **DENIED AS MOOT**.

SO ORDERED, this 28 day of August, 2025.

A handwritten signature in blue ink, reading "Craig L. Schwall, Sr.", written over a horizontal line.

Honorable Craig L. Schwall, Sr.
Judge, Superior Court of Fulton County
Atlanta Judicial Circuit