

UNITED STATES PAROLE COMMISSION v. GERAGHTY.
445 U.S. 388 (1980)

[Respondent (a federal prisoner), after twice being denied parole from a federal prison, brought suit against petitioners in Federal District Court challenging the validity of the United States Parole Commission's Parole Release Guidelines. The District Court denied respondent's request for certification of the suit as a class action on behalf of a class of "all federal prisoners who are or who will become eligible for release on parole," and granted summary judgment for petitioners on the merits. Respondent was released from prison while his appeal to the Court of Appeals was pending.]

Mr. Justice BLACKMUN delivered the opinion of the Court.

This case raises the question whether a trial court's denial of a motion for certification of a class may be reviewed on appeal after the named plaintiff's personal claim has become "moot."

It is clear that the controversy over the validity of the Parole Release Guidelines is still a "live" one between petitioners and at least some members of the class respondent seeks to represent. This is demonstrated by the fact that prisoners currently affected by the guidelines have moved to be substituted, or to intervene, as "named" respondents in this Court.

III

On several occasions the Court has considered the application of the "personal stake" requirement in the class-action context. In *Sosna v. Iowa*, 419 U.S. 393, 95 S.Ct. 553, 42 L.Ed.2d 532 (1975), it held that mootness of the named plaintiff's individual claim *after* a class has been duly certified does not render the action moot. It reasoned that "even though appellees . . . might not again enforce the Iowa durational residency requirement against [the class representative], it is clear that they will enforce it against those persons in the class that appellant sought to represent and that the District Court certified." *Id.*, at 400, 95 S.Ct., at 557, 558. The Court stated specifically that an Art. III case or controversy "may exist . . . between a named defendant and a member of the class represented by the named plaintiff, even though the claim of the named plaintiff has become moot."

When, however, there is no chance that the named plaintiff's expired claim will reoccur, mootness still can be avoided through certification of a class prior to expiration of the named plaintiff's personal claim, *e. g.*, *Franks v. Bowman Transportation Co.*, 424 U.S., at 752-757, 96 S.Ct., at 1258- 1260. See *Kremens v. Bartley*, 431 U.S. 119, 129-130, 97 S.Ct. 1709, 1715, 52 L.Ed.2d 184 (1977). Some claims are so inherently transitory that the trial court will not have even enough time to rule on a motion for class certification before the proposed representative's individual interest expires.

These cases demonstrate the flexible character of the Art. III mootness doctrine. As has been noted in the past, Art. III justiciability is "not a legal concept with a fixed content or susceptible of scientific verification." "[T]he justiciability doctrine [is] one of uncertain and shifting contours."

As noted above, the purpose of the "personal stake" requirement is to assure that the case is in a form capable of judicial resolution. The imperatives of a dispute capable of judicial resolution are sharply presented issues in a concrete factual setting and self-interested parties vigorously advocating opposing positions. *Franks v. Bowman Transportation Co.*, 424 U.S., at 753-756, 96 S.Ct., at 1253-1260; *Baker v. Carr*, 369 U.S., at 204, 82 S.Ct., at 703; *Poe v. Ullman*, 367 U.S., at 503, 81 S.Ct., at 1755 (plurality opinion). We conclude that these elements can exist with respect to the class certification issue notwithstanding the fact that the named plaintiff's claim on the merits has expired. The question whether class certification is appropriate remains as a concrete, sharply presented issue. In *Sosna v. Iowa* it was recognized that a named plaintiff whose claim on the merits expires *after* class certification may still adequately represent the class. Implicit in that decision was the determination that vigorous advocacy can be assured through means other than the traditional requirement of a "personal stake in the outcome." Respondent here continues vigorously to advocate his right to have a class certified.

We therefore hold that an action brought on behalf of a class does not become moot upon expiration of the named plaintiff's substantive claim, even though class certification has been denied. The proposed representative retains a "personal stake" in obtaining class certification sufficient to assure that Art. III values are not undermined. If the appeal results in reversal of the class certification denial, and a class subsequently is properly certified, the merits of the class claim then may be adjudicated pursuant to the holding in *Sosna*.