

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Submitted January 31, 2024

Decided February 1, 2024

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

DAVID F. HAMILTON, *Circuit Judge*

No. 23-2105

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

MICHAEL HILL,
Defendant-Appellant.

Appeal from the United States District
Court for the Northern District of
Illinois, Western Division.

No. 3:99-CR-50004(1)

Philip G. Reinhard,
Judge.

ORDER

Michael Hill appeals the 30-day prison sentence imposed upon the revocation of his supervised release. Because he has already served that sentence and is no longer in custody, his lawyer moves to withdraw from the appeal, arguing that it is moot and it would be frivolous to contend otherwise. See *Anders v. California*, 386 U.S. 738 (1967). A defendant does not have an unqualified constitutional right to counsel in revocation proceedings, see *Gagnon v. Scarpelli*, 411 U.S. 778, 790–91 (1973), but our practice is to apply the *Anders* safeguards to them anyway, see *United States v. Wheeler*, 814 F.3d 856, 857 (7th Cir. 2016). Counsel’s brief explains the nature of the case and addresses the issue of mootness. The analysis appears thorough, and so we limit our review to the

issue counsel discusses and those Hill raises in his Circuit Rule 51(b) response. See *United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014). Because Hill has completed his sentence and faces no collateral consequences from it, the appeal is moot; therefore, we grant the motion to withdraw and dismiss the appeal.

The revocation occurred in 2023, four years after Hill completed a 23-year prison term for drug and gun offenses and was nearing the end of a 5-year term of supervised release. Around that time, he provided urine samples that contained traces of cocaine, and the probation office sought revocation. At a hearing in May 2023, the government submitted the drug tests and examined an expert in toxicology, who testified that the tests showed that Hill had used cocaine. Hill unsuccessfully challenged this evidence. He first cited scientific studies suggesting that someone could test positive for cocaine through secondhand smoke or bodily contact. He then testified that he never used cocaine and that he was exposed to it through secondhand smoke from his girlfriend. Discrediting Hill's evidence, the district court found by a preponderance of the evidence that Hill violated the conditions of his supervised release by using cocaine.

After finding that Hill committed the violations, the district court imposed a below-range sentence of 30 days' imprisonment with no additional supervised release. The court determined that the violation belonged in Grade C, that Hill had a criminal history category of VI, and that this resulted in a sentencing range of 8 to 14 months. The government argued for 8 months' imprisonment and Hill requested a below-range prison term. The district court explained that a prison term above 30 days was not necessary given Hill's age (62) and his prior, long prison term. Hill was taken into custody that day and has now completed his 30-day sentence.

We agree with counsel that because Hill has completed his sentence after revocation, any appeal of the revocation would be unquestionably moot and therefore frivolous. An appeal of an already-completed sentence may present a live controversy if the defendant faces collateral consequences from it. See *Spencer v. Kemna*, 523 U.S. 1, 7–8 (1998). When a defendant has completed a sentence underlying a *conviction*, we may presume that the defendant faces collateral consequences to the conviction. *Id.* But we may not presume that collateral consequences arise when after a prison term, conditional release is revoked. *Id.* at 12. Further neither counsel nor Hill can identify anything special about this case that might generate such consequences. Finally, because Hill will not serve any further term of supervised release for this offense, neither counsel nor Hill can overcome mootness by citing an issue from the revocation proceeding that is arguably capable of repetition and yet evading review. See *id.* at 17.

To argue that the case is not moot, Hill speculates that his rejected testimony from his revocation proceeding—denying his use of cocaine—could expose him in the future to a prosecution for perjury; he therefore seeks to overturn the district court’s factual findings. But no such prosecution is pending, and speculations about possible future prosecutions are insufficient to confer standing. See *id.* at 15–16.

Finally, Hill asserts that he received ineffective assistance of counsel in his revocation proceedings. But the mootness of a challenge to his already-completed sentence obviates this argument. In any case, such a claim would typically depend on developing a factual record and is thus not well-suited for a direct appeal. See *United States v. Stokes*, 726 F.3d 880, 898 (7th Cir. 2013).

Therefore, we GRANT counsel’s motion to withdraw and DISMISS the appeal.