

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

JUNE SESSION, 1996

FILED
August 2, 1996
Cecil Crowson, Jr.
Appellate Court Clerk

STATE OF TENNESSEE,)	C.C.A. NO. 02C01-9508-CC-00234
)	
Appellee,)	
)	
VS.)	MADISON COUNTY
)	
ALFRED SCOTT,)	HON. FRANKLIN MURCHISON
)	JUDGE
)	
Appellant.)	(Probation Revocation)

ON APPEAL FROM THE JUDGMENT OF THE
CIRCUIT COURT OF MADISON COUNTY

FOR THE APPELLANT:

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OPINION FILED _____

APPEAL DISMISSED

DAVID H. WELLES, JUDGE

OPINION

This is an appeal as of right pursuant to Rule 3 of the Tennessee Rules of Appellate Procedure. The Defendant appeals from an order of the trial court revoking his probation and ordering him to serve his two-year sentence in the Department of Correction. Because we have determined that the sole issue presented on appeal is now moot, we dismiss the appeal.

On September 15, 1993, the Defendant entered a plea of guilty to the offense of theft of property over the value of one-thousand dollars. His two-year sentence in the Department of Correction was suspended and he was placed on probation. A probation violation warrant was issued against the Defendant on February 28, 1994. A hearing on the probation violation warrant was conducted on March 14, 1995. The trial court revoked the Defendant's probation and ordered him to serve his two-year sentence in the Department of Correction. It is from this order that the Defendant appeals.

This case was submitted to this court for decision on June 4, 1996. The sole issue raised in this appeal is whether the trial court erred in revoking the Defendant's probation and ordering him to serve his two-year sentence in the Tennessee Department of Correction. It came to the attention of this court that the Defendant was paroled on April 8, 1996. Suggesting that the issue raised in this appeal was moot, this court entered an order on June 6, 1996 advising the Defendant that this appeal would be dismissed unless the Defendant filed an affidavit within fourteen days showing why this court should consider the appeal

on the merits. An affidavit was filed by the Defendant's attorney in which he stated that the Defendant did not respond to the attorney's attempts to contact him.

The doctrine of justiciability prompts courts to stay their hand in cases that do not involve a genuine and existing controversy requiring the present adjudication of present rights. McIntyre v. Traughber, 884 S.W.2d 134, 137 (Tenn. Ct. App. 1994). The concept of mootness deals with the circumstances that render a case no longer justiciable. Id. A moot case is one that has lost its character as a present, live controversy. A case will generally be considered moot if it no longer serves as a means to provide relief to the prevailing party. Id. The two most recognized exceptions to the mootness rule include issues of great public interest and importance to the administration of justice and issues capable of repetition yet evading review. Id. Whether to take up cases that fit into one of the recognized exceptions to the mootness doctrine is discretionary with the appellate courts. Id.

In the case sub judice, it is obvious that this court cannot provide any meaningful relief to the Defendant even if we determine that the trial court erred by revoking the Defendant's probation. A reversal of the trial court's order revoking the Defendant's probation would serve only to unnecessarily confuse and complicate the Defendant's status. We decline to consider this appeal on the merits.

This appeal is accordingly dismissed.

DAVID H. WELLES, JUDGE

CONCUR:

JOSEPH M. TIPTON, JUDGE

JERRY L. SMITH, JUDGE