

NOTICE
Decision filed 12/15/17. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2017 IL App (5th) 150240-U

NO. 5-15-0240

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Saline County.
)	
v.)	No. 12-CF-311
)	
BRIAN G. STAFFORD,)	Honorable
)	Walden E. Morris,
Defendant-Appellant.)	Judge, presiding.

JUSTICE OVERSTREET delivered the judgment of the court.
Justices Welch and Chapman concurred in the judgment.

ORDER

- ¶ 1 *Held:* Because the defendant appeals an order regarding his sentence that has already been served, the appeal is moot. The appeal is dismissed.
- ¶ 2 The defendant, Brian G. Stafford, appeals his sentence. The Office of the State Appellate Defender (OSAD) was appointed to represent the defendant. OSAD filed a motion to withdraw as counsel, alleging that there is no merit to the appeal. See *Anders v. California*, 386 U.S. 738 (1967). The defendant was given proper notice and granted an extension of time to file briefs, objections, or any other document supporting his appeal. The defendant did not file a response. We considered OSAD's motion to

withdraw as counsel on appeal. We examined the entire record on appeal and found the appealed issue moot. We grant OSAD's motion to withdraw and we dismiss the appeal.

¶ 3

BACKGROUND

¶ 4 The defendant pleaded guilty to various violations of the term of probation he was then serving. The circuit court then sentenced the defendant to three years with the Illinois Department of Corrections (IDOC) followed by one year of mandatory supervisory release (MSR). Following motions in the trial court and this court, we granted leave to file a late notice of appeal. The defendant appeals the sentence. According to a verification of incarceration from the IDOC and the IDOC inmate search website, the defendant has completed serving his sentence and term of MSR.¹

¶ 5

ANALYSIS

¶ 6 We have a duty to determine our jurisdiction independent of an objection from either party. *Secura Insurance Co. v. Illinois Farmers Insurance Co.*, 232 Ill. 2d 209, 213 (2009). An issue on appeal is moot when the underlying facts have changed such that the court cannot grant relief. *In re Shelby R.*, 2012 IL App (4th) 110191, ¶ 16. In most cases, a challenge to a sentence that has been completely served is moot. *Id.* ¶ 14. But there are exceptions to the mootness doctrine. *In re Alfred H.H.*, 233 Ill. 2d 345 (2009).

¶ 7 If there are collateral consequences to the issue raised on appeal, an exception to the mootness doctrine may apply. *Id.* at 361-62. In *Alfred H.H.*, the court held that the

¹<https://www.illinois.gov/IDOC/OFFENDER/Pages/InmateSearch.aspx> (last visited Dec. 14, 2017), of which we may take judicial notice (*Cordrey v. Prisoner Review Board*, 2014 IL 117155, ¶ 12).

collateral consequences doctrine applied to the propriety of an involuntary mental-health admission. *Id.* The court reasoned that a person appealing an involuntary admission, especially where no prior such admission existed, faced possible collateral consequences because, for example, such a record could impede a person's ability to work in certain fields. *Id.* Here, no such collateral consequences exist. It might be different if the appeal involved his underlying conviction. The existence or lack thereof can have significant implications in a person's life. But again, that is not the issue here. The sentence has been served, and we find no collateral consequences exist.

¶ 8 Another exception exists for issues that are capable of repetition but evade review due to the court's inability to resolve the issue before the cessation of the issue. *In re Barbara H.*, 183 Ill. 2d 482, 491 (1998). The capable-of-repetition exception cannot be invoked unless "there is a reasonable expectation that the same complaining party would be subjected to the same action again." *Id.* The defendant cannot satisfy this prerequisite. We will not presume that the defendant will be again convicted for the same crime, receive probation for that conviction, plead guilty to charges of a parole violation, and then appeal a denial of his motion to vacate sentence. There is no reasonable expectation of repetition.

¶ 9 Finally, a public-interest exception to the mootness doctrine may exist. Three elements must be met before such an exception can be invoked: (1) the question presented is of a public nature; (2) public officers are in need of authoritative guidance; and (3) it is likely the same issue will recur. *Commonwealth Edison Co. v. Illinois Commerce Comm'n*, 2016 IL 118129, ¶ 12. The exception applies only when each

element is established. *Id.* ¶ 13. There is no dearth of existing case law regarding sentencing and denials of motions to vacate sentences. The second element of the public-interest exception is not met because there is no need for guidance of public officers; the case law concerning any argument the defendant could make is ample, so that exception does not apply.

¶ 10 The defendant's case is moot, and no exception to the mootness doctrine applies. Accordingly, we have no jurisdiction. *In re Marriage of Peters-Farrell*, 216 Ill. 2d 287, 292 (2005). Therefore, we take the only action we have authority to perform. The motion to withdraw is granted and the appeal is dismissed.

¶ 11 Motion granted; appeal dismissed.