

The Supreme Court of South Carolina

Darrell Brown, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2013-000266

ORDER

This matter is before the Court pursuant to a notice of appeal and petition for a writ of certiorari seeking review of the denial of petitioner's application for post-conviction relief.¹ Because petitioner was released on parole on October 27, 2011, counsel for petitioner was asked to advise the Court why this matter should not be dismissed as moot.

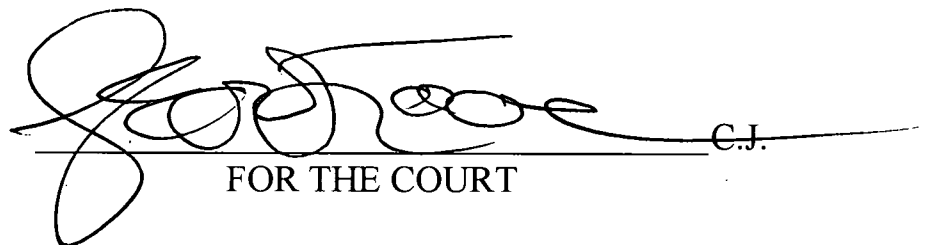
Counsel maintains the Court should proceed to decide the case because it presents a controversy that affects petitioner's legal rights. Specifically, counsel contends that if the Court decides in petitioner's favor, petitioner may be entitled to compensation in another action for the time he illegally served. Counsel asserts that since this case affects those ongoing rights and petitioner needs a determination by this Court as to the legality of the sentence, the matter should not be dismissed as moot.

We disagree. An appellate court will not pass on moot and academic questions or make an adjudication where there remains no actual controversy. *Curtis v. State*, 345 S.C. 557, 549 S.E.2d 591 (2001)(citing *Jackson v. State*, 331 S.C. 486, 489 S.E.2d 915 (1997)). Moot appeals result when intervening events render a case nonjusticiable. *Curtis, supra*. A case becomes moot when judgment, if rendered, will have no practical legal effect on the existing controversy. *Id.* This is true when some event occurs making it impossible for this Court to grant effectual relief. *Id.* An applicant has standing to seek PCR if he is in custody or he is

¹ The petition was filed pursuant to *Johnson v. State*, 294 S.C. 310, 364 S.E.2d 201 (1988).

prejudiced by persistent results of his prior conviction. *Jackson, supra.*

In the case at hand, there is no relief this Court can grant to petitioner on the sole allegation involved in this case - the length of the sentence he served. Petitioner has completed his sentence and has not alleged he is suffering continuing prejudice from the conviction. While counsel maintains a decision by this Court would aid petitioner in a potential civil action against the South Carolina Department of Corrections or the South Carolina Department of Probation, Pardon and Parole Services, such a decision would be advisory as it relates to this case. *See U.S. v. Juvenile Male*, ___ U.S. ___, 131 S.Ct. 2860, 180 L.Ed.2d 811 (2011) (acknowledging exception to mootness doctrine where a decision may affect future events or have collateral consequences for the parties, but finding fact that a favorable decision in an appeal challenging federal sex-offender registration conditions that juvenile was no longer subject to might serve as a useful precedent for the juvenile in a hypothetical lawsuit challenging state registration requirement on ex post facto grounds could not save the case before it from mootness); *Spencer v. Kemna*, 523 U.S. 1, 118 S.Ct. 978, 140 L.Ed.2d 43 (1998)(rejecting petitioner's argument that petition for writ of habeas corpus revoking his parole was not moot based on his completion of the entire term of imprisonment underlying the parole revocation because a decision on the validity of his parole revocation was necessary to aid him in pursuing a damages action under 42 U.S.C. § 1983). The matter is therefore dismissed as moot.


C.J.
FOR THE COURT

Columbia, South Carolina

January 23, 2014

cc:

David Alexander, Esquire
Megan E. Harrigan, Esquire