

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-7134

CRAIG ANDRE NEAL,

Petitioner - Appellant,

v.

WARDEN JOYNER,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Rock Hill. Richard Mark Gergel, District Judge. (0:17-cv-02352-RMG)

Submitted: September 17, 2020

Decided: October 28, 2020

Before GREGORY, Chief Judge, NIEMEYER, and HARRIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Craig Andre Neal, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Craig Andre Neal, formerly a federal prisoner, appealed the district court's order accepting the magistrate judge's recommendation and dismissing his 28 U.S.C. § 2241 petition seeking relief from his mandatory life prison sentence. After filing this appeal, the United States District Court for the Middle District of Florida granted his motion pursuant to Section 404 of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194, for retroactive application of the Fair Sentencing Act of 2010; and he was released from prison. *See United States v. Neal*, No. 3:02-cr-00103-HLA-JRK (M.D. Fla., PACER No. 166). We previously placed this appeal in abeyance for that decision, and we now dismiss the appeal.

“Because mootness is jurisdictional, we can and must consider it even if neither party has raised it.” *United States v. Ketter*, 908 F.3d 61, 65 (4th Cir. 2018) (citation omitted). “A case becomes moot—and therefore no longer a Case or Controversy for purposes of Article III—when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome.” *Id.* (internal quotation marks and citation omitted). Based on our review, we conclude that this appeal is moot. *See United States v. Surratt*, 855 F.3d 218, 219 (4th Cir. 2017). Accordingly, we deny leave to proceed in forma pauperis, deny the pending motion as moot, and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED