UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-4688

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MITCHELL GATEWOOD,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Robert J. Conrad, Jr., District Judge. (3:07-cr-00054-RJC-1)

Submitted: August 26, 2016 Decided: September 22, 2016

Before WILKINSON, AGEE, and FLOYD, Circuit Judges.

Dismissed in part; affirmed in part by unpublished per curiam opinion.

Richard L. Brown, Jr., LAW OFFICES OF RICHARD L. BROWN, JR., Monroe, North Carolina, for Appellant. Amy Elizabeth Ray, Assistant United States Attorney, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Mitchell Gatewood appeals from the district court's judgment revoking his supervised release and sentencing him to 7 months' imprisonment and an 18–month term of supervised release. Gatewood's counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), stating that there are no meritorious issues for appeal, but questioning whether Gatewood's revocation sentence is plainly unreasonable. Gatewood was informed of his right to file a pro se supplemental brief, but he has not done so. The Government declined to file a brief. During the pendency of this appeal, Gatewood was released from incarceration and began serving the 18–month term of supervised release.

We may address sua sponte whether an issue on appeal presents "a live case or controversy . . . since mootness goes to the heart of the Article III jurisdiction of the courts." Friedman's, Inc. v. Dunlap, 290 F.3d 191, 197 (4th Cir. 2002) (internal quotation marks and citation omitted). Because Gatewood already has served his term of imprisonment, there is no longer a live controversy regarding the length of his confinement. Therefore, counsel's challenge to the district court's decision to impose the seven–month prison term is moot. See United States v. Hardy, 545 F.3d 280, 283-84 (4th Cir. 2008). However, because Gatewood is still serving the 18–month

term of supervised release, and because his attorney filed an Anders brief, we retain jurisdiction to review pursuant to Anders the district court's decisions to revoke Gatewood's supervised release and to impose the 18–month term of supervised release.

In accordance with Anders, we have reviewed the record in this case and have found no meritorious issues for appeal. We therefore dismiss the appeal as moot to the extent Gatewood seeks to challenge his seven–month prison term and affirm the district court's judgment in all other respects. This court requires that counsel inform Gatewood, in writing, of the right to petition the Supreme Court of the United States for further review. If Gatewood requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on Gatewood. 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 IN PART;
AFFIRMED IN PART