

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with Fed. R. App. P. 32.1

United States Court of Appeals  
For the Seventh Circuit  
Chicago, Illinois 60604

Submitted October 16, 2023

Decided October 19, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-2140

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

*v.*

RODOLFO MADRIGAL,  
*Defendant-Appellant.*

Appeal from the United  
States District Court for the  
Northern District of Illinois,  
Eastern Division.

No. 1:05-CR-00194(6)

Robert W. Gettleman, *Judge.*

ORDER

Rodolfo Madrigal was convicted of conspiracy to possess with intent to distribute cocaine and use of a telephone to facilitate a drug conspiracy. 21 U.S.C. §§ 841(a)(1), 843(b), 846. He completed his prison term in October 2020 and began serving 10 years of supervised release. After Madrigal pleaded guilty in state court to aggravated battery, the district court revoked the term of supervised release. It imposed 15 months' imprisonment with no further supervised release. Madrigal filed a notice of appeal, but his appointed lawyer asserts that the appeal is frivolous and moves to withdraw under *Anders v. California*, 386 U.S. 738, 744 (1967).

Counsel explains the nature of the case and addresses potential issues that an appeal of this kind would involve. The brief adds that Madrigal's appeal would soon become moot because he was scheduled to be released from custody. Our review suggested that Madrigal was released from prison on August 1, 2023, so we asked counsel to file a supplemental statement addressing that point. Counsel confirms that Madrigal has been released without further supervision and states that she is not aware of any collateral consequences of the revocation. Madrigal did not respond to counsel's motion to withdraw or her supplemental filing. See Circuit Rule 51(b).

Because Madrigal is no longer in custody and does not face collateral consequences from the revocation of supervised release, this appeal can no longer provide him with relief. See *Spencer v. Kemna*, 523 U.S. 1, 7, 14–16 (1998). *Spencer* dealt with the end of custody following the revocation of parole, while Madrigal's situation is the end of custody following revocation of supervised release. Several courts of appeals have held that the two situations should be treated identically, and we have not found any contrary decisions. See *United States v. Hardy*, 545 F.3d 280, 283–84 (4th Cir. 2008); *United States v. Mazzillo*, 373 F.3d 181, 182–83 (1st Cir. 2004); *United States v. Meyers*, 200 F.3d 715, 721 n.2 (10th Cir. 2000); *United States v. Propper*, 170 F.3d 345, 348–49 (2d Cir. 1999); *United States v. Clark*, 193 F.3d 845, 847–48 (5th Cir. 1999). We do not see any good reason to disagree with these decisions.

The question remains how we should dispose of this appeal, which cannot be resolved on the merits. In civil suits the normal response to mootness is vacatur and remand with instructions to dismiss. See *United States v. Munsingwear, Inc.*, 340 U.S. 36 (1950). It is not clear whether vacatur is the appropriate step in criminal litigation—but then neither Madrigal nor his appointed lawyer has asked for vacatur. The only actions that have been requested of us are to allow counsel to withdraw and to dismiss the appeal. The circumstances make both steps appropriate, so counsel's motion to withdraw is granted and the appeal is dismissed.