

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EDWARD CHARLES MAILE,

Defendant-Appellant.

UNPUBLISHED

June 17, 2004

No. 246843

Kent Circuit Court

LC No. 91-053487-FC

Before: Sawyer, P.J., and Gage and Owens, JJ.

MEMORANDUM.

Defendant appeals as of right from his resentencing by the trial court to a prison term of twelve to forty years for his conviction of first-degree criminal sexual conduct, MCL: 750.520b, as a second habitual offender, MCL 769.10. We dismiss this appeal as moot because this Court previously entered a peremptory order in the prosecution's appeal from that resentencing which reinstated defendant's original sentence of life imprisonment. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that he is entitled to resentencing or alternative relief because an updated presentence report was not prepared before the resentencing. However, subsequent to the filing of defendant's claim of appeal, this Court entered a peremptory order in the prosecution's appeal from defendant's resentencing that vacated the resentencing and reinstated defendant's original sentence of life imprisonment (Order of the Court of Appeals, Docket No. 246206, 4/21/03). Thus, the present appeal is moot because it is premised on defendant being entitled to resentencing from the vacated sentence. See *In re Contempt of Dudzinski*, 257 Mich App 96, 112; 667 NW2d 68 (2003) (issue becomes moot where subsequent event renders it impossible for this Court to fashion a remedy).

Appeal dismissed as moot.

/s/ David H. Sawyer

/s/ Hilda R. Gage

/s/ Donald S. Owens