

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
GEAUGA COUNTY, OHIO**

STATE OF OHIO,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2018-G-0174
ALEXIS JAVIER ZAYAS BORRERO,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Chardon Municipal Court, Case No. 2018 CRB 00630.

Judgment: Appeal dismissed.

James M. Gillette, City of Chardon Police Prosecutor, PNC Bank Building, 117 South Street, Suite 208, Chardon, OH 44024 (For Plaintiff-Appellee).

Dawn M. Gargiulo, Assistant Public Defender, 211 Main Street, Chardon, OH 44024 (For Defendant-Appellant).

TIMOTHY P. CANNON, J.

{¶1} Appellant, Alexis Javier Zayas Borrero, appeals a probation condition ordered following a conviction for Discharge of a Firearm (R.C. 2923.162(A)(2)) by the Geauga County Court of Common Pleas prohibiting him from consuming alcohol; using, consuming, or possessing drugs; or entering a bar, subject to testing at appellant's expense. We decline to address the merits.

{¶2} The sole issue on appeal relates to what appellant claims are improper conditions of probation placed on appellant. On March 13, 2019, appellant, by and

through counsel, filed a “NOTICE THAT APPELLANT’S PROBATION IS TERMINATED.” In the notice, appellant stated that “[t]he issue for review on appeal concerns a condition of probation and, therefore, is moot as to Appellant. Despite mootness as to Appellant, the issue is capable of repeating and evading review.”

{¶3} On April 9, 2019, appellee, the state of Ohio, filed a motion for leave to file brief instanter and a motion to supplement the record with a certified copy of the trial court’s order terminating appellant’s probation.

{¶4} The court holds that while it is possible this issue may be repeated, it will not necessarily evade review. The facts of appellant’s underlying offense are unique to his case and will not necessarily be relevant in any subsequent case. Any ruling on the issue would be purely advisory given that there is no relief we are able to provide to appellant. Therefore, we decline to address the merits of the appeal.

{¶5} Appellant’s appeal is hereby dismissed as moot.

CYNTHIA WESTCOTT RICE, J.,

MATT LYNCH, J.,

concur.