

COURT OF APPEALS
GUERNSEY COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	JUDGES:
	:	Hon. Patricia A. Delaney, P.J
Plaintiff-Appellee	:	Hon. William B. Hoffman, J.
	:	Hon. Earle E. Wise, Jr., J.
-vs-	:	
	:	
ALEX JEFFREY ROBERTS	:	Case No. 2017CA00009
	:	
Defendant-Appellant	:	<u>O P I N I O N</u>

CHARACTER OF PROCEEDING: Appeal from the Court of Common Pleas, Case No. 2015CR0001

JUDGMENT: Dismissed

DATE OF JUDGMENT: June 27, 2017

APPEARANCES:

For Plaintiffs-Appellants

JASON R. FARLEY
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For Defendants-Appellees

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Wise, Earle, J.

{¶ 1} Appellant Alex Jeffrey Roberts appeals the February 14, 2017 judgment of conviction and sentence of the Guernsey County Court of Common Pleas. Appellee is the State of Ohio.

FACTS AND PROCEDURAL HISTORY

{¶ 2} In August, 2015, the Guernsey County Grand Jury returned an indictment charging Roberts with one count of aggravated possession of drugs in violation of R.C. 2925.11, a felony of the fifth degree. On February 14, 2017, Roberts pled guilty to the charge and sentenced to six month incarceration. He was given 110 days credit for time served. Roberts' sentence was complete in April 2017.

{¶ 3} Roberts filed an appeal and the matter is now before this court for consideration. He raises one assignment of error:

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{¶ 4} THE TRIAL COURT ERRED BY DENYING THE DEFENDANT-APPELLANT'S REQUEST FOR JAIL-TIME CREDIT FOR TIME THAT DEFENDANT-APPELLANT SERVED FOR MISDEMEANOR OFFENSES RELATED TO HIS FELONY OFFENSE, PRIOR TO HIS INDICTMENT.

{¶ 5} Roberts does not challenge his conviction for aggravated possession of drugs. Rather, he challenges the length of his sentence, arguing he should have received an additional 70 days of jail time credit for time he served on related misdemeanor offenses before being indicted for the felony possession charge. Roberts asks this court to vacate his sentence and remand the matter for a new sentencing hearing.

{¶ 6} But Roberts has completed his sentence. As this court found in *State v. McAbee*, 5th Dist. No. 16COA016, 2016-Ohio-8234 ¶ 15:

An appeal challenging a conviction is not moot even if the entire sentence has been served before the appeal is heard, because “[a] person convicted of a felony has a substantial stake in the judgment of conviction which survives the satisfaction of the judgment imposed upon him or her.” *State v. Golston*, 71 Ohio St .3d 224, 1994-Ohio-109, 643 N.E.2d 109, paragraph one of the syllabus. “However, this logic does not apply if Appellant is appealing solely on the issue of the length of his sentence and not on the underlying conviction. If an individual has already served his sentence, there is no collateral disability or loss of civil rights that can be remedied by a modification of the length of that sentence in the absence of a reversal of the underlying conviction.” *State v. Campbell*, 166 Ohio App.3d 363, 2006–Ohio–2294, 850 N.E.2d 799, paragraph eight, citing *State v. Beamon*, 11th Dist. Lake No.2000-L-160, 2001-Ohio-8712.

{¶ 7} Because Roberts has already been released from incarceration on the felony possession charge, ruling in his favor would grant no relief. We therefore find the sole assignment of error moot.

{¶ 8} For the foregoing reasons, the appeal from the judgment of the Court of Common Pleas of Guernsey County, Ohio, is dismissed.

By Wise, Earle, J.

Delaney, P.J. and

Hoffman, J. concur.

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