

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

STATE OF OREGON,  
*Plaintiff-Respondent,*

*v.*

JOSE HERNANDEZ FLORES,  
*Defendant-Appellant.*

Umatilla County Circuit Court  
18CR22625; A172701

Daniel J. Hill, Judge.

Submitted June 11, 2021.

Ernest G. Lannet, Chief Defender, Criminal Appellate Section, and Nora Coon, Deputy Public Defender, Office of Public Defense Services, filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Patricia G. Rincon, Assistant Attorney General, filed the brief for respondent.

Before Ortega, Presiding Judge, and Shorr, Judge, and Powers, Judge.

PER CURIAM

Appeal dismissed.

**PER CURIAM**

Defendant appeals from a judgment of conviction for driving under the influence of intoxicants (DUII). Defendant challenges the court's imposition of certain special conditions of probation in the judgment related to controlled substances, arguing that, because his DUII conviction was related to alcohol use, there is nothing in the factual record to support the court's imposition of those conditions. The state responds that defendant's appeal is moot and should be dismissed. After entry of the judgment of conviction, the court found defendant in violation of his probation and entered the same special conditions of probation in that probation-violation judgment. Defendant did not appeal that judgment. The state argues that, as a result, even if the court erred in originally imposing the special conditions of probation, defendant would still be subject to those conditions based on the probation-violation judgment, rendering his appeal moot.

We addressed the same circumstances in *State v. Nguyen*, 298 Or App 139, 445 P3d 390 (2019). In that case, we concluded that the appeal was moot and should be dismissed, stating:

“[I]n light of the unchallenged judgment in which the court re-imposed the same special probation conditions that defendant challenges on appeal, a decision of this court regarding the propriety of the way by which those conditions were initially imposed would have no practical effect because, in any event, defendant would continue to be subject to the identical conditions. Furthermore, when changed circumstances render an appeal moot, it will be dismissed.”

*Id.* at 140 (internal quotation marks omitted). That same reasoning applies here.

Appeal dismissed.