

IN THE UTAH COURT OF APPEALS

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Brian Pearce,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Petitioner and Appellant,	)	
	)	Case No. 20060539-CA
v.	)	
	)	
Nanette Rolfe, Bureau Chief	)	F I L E D
Driver Control Bureau, Driver	)	(February 23, 2007)
License Division, Department	)	
of Public Safety, State of	)	2007 UT App 60
Utah,	)	
	)	
Respondent and Appellee.	)	

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Third District, Salt Lake Department, 050905094  
The Honorable Glenn K. Iwasaki

Attorneys: Jason Schatz, Salt Lake City, for Appellant  
Mark L. Shurtleff and Annina M. Mitchell, Salt Lake  
City, for Appellee

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Before Judges Bench, Orme, and Thorne.

PER CURIAM:

Brian Pearce appeals the suspension of his driver license. We affirm on the basis that the appeal is moot.

Pearce's license was suspended by the Driver License Division for ninety days based on his arrest for driving under the influence of alcohol. After a trial de novo, the district court affirmed the suspension. Pearce appealed and filed his appellate brief. Appellee subsequently filed a suggestion of mootness on the basis that the suspension period had expired. We agree that the expiration of Pearce's license suspension period renders his appeal moot.<sup>1</sup>

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<sup>1</sup>We note that the trial court denied Pearce's motion for an order staying the suspension pending appeal. Pearce did not file a motion for stay with this court, see Utah R. App. P. 8, and did (continued...)

"We refrain from adjudicating issues when the underlying case is moot." Burkett v. Schwendiman, 773 P.2d 42, 44 (Utah 1989). "An appeal is moot when the present controversy between the parties is ended and 'the requested judicial relief cannot affect the rights of the litigants.'" Phillips v. Schwendiman, 802 P.2d 108, 110 (Utah Ct. App. 1990) (quoting Burkett, 773 P.2d at 44). In such a circumstance, "judicial policy dictates against our rendering an advisory opinion." Black v. Alpha Fin. Corp., 656 P.2d 409, 410-11 (Utah 1982).

Utah courts have consistently refused to hear the merits of driver license revocation appeals rendered moot because the revocation period has expired. See, e.g., Burkett, 773 P.2d at 44; Phillips, 802 P.2d at 109-10. Here, Pearce has requested that his suspension period be voided and his license reinstated. The parties readily agree that Pearce's suspension period has expired. Thus, "[a]ny opinion issued by this court would have no practical or significant legal effect upon the validity of the [suspension] or upon appellant['s] legal rights." Phillips, 802 P.2d at 110.

Pearce is unable to differentiate the circumstances present in his case from those cases cited above. For instance, Pearce argues that his appeal is not truly moot because he will suffer license reinstatement fees. However, in Phillips v. Schwendiman, 802 P.2d 108 (Utah Ct. App. 1990), this court specifically "consider[ed] this indirect consequence to be not of sufficient significance so as to avoid mootness." Id. at 109 n.2.

Pearce also argues that his appeal is not moot because he may suffer additional insurance premiums in the future. Pearce offers no record support for this argument. In addition, Pearce makes vague references to various Utah statutes regarding restricted drivers and interlock devices, but sets forth no basis for an argument that he is affected in some way by these statutes. Similar unsupported and vague arguments were rejected in Phillips:

A general averment, unsupported by the record, that appellants may suffer economic inconvenience or expenses resulting from the suspensions of their driver's licenses does

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<sup>1</sup>(...continued)  
not request emergency relief, see Utah R. App. P. 8A. Accordingly, we do not address whether this is a case where the issue presented is likely to recur but evade appellate review. See Kehl v. Schwendiman, 735 P.2d 413, 415 (Utah Ct. App. 1987).

not demonstrate a collateral consequence that is imposed by law because of the administrative action. Appellants do not demonstrate any consequence that affects a legal right beyond the revocation period . . . . Insofar as we are able to determine in this case, the one-year revocation . . . is the only legal consequence imposed after an administrative determination of the refusal.

Id. at 110 (citations omitted). The same analysis and outcome apply in this case.

Accordingly, we dismiss the appeal on the basis of mootness.

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Russell W. Bench,  
Presiding Judge

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Gregory K. Orme, Judge

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William A. Thorne Jr., Judge