IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	DIVISION ONE
	)	
Respondent,	)	No. 65634-1-I
	)	(consol. with No. 65637-6-I and
v.	)	No. 65638-4-I)
	)	
TROY CLINTON VANSICKLE,	)	UNPUBLISHED OPINION
	)	
Appellant.	)	FILED: September 12, 2011
_____	)	

Dwyer, C.J. — Based upon Troy VanSickle's repeated failure to make court-ordered restitution payments and to file related monthly financial reports, the trial court modified VanSickle's three criminal sentences and imposed as sanctions additional incarceration time. VanSickle challenges on various grounds the trial court's orders modifying his sentences. However, because he has served all of the incarceration time mandated by the court's orders, VanSickle's appeal is moot. Therefore, we dismiss the appeal.

I

VanSickle appeals from the trial court's orders modifying his sentences in three separate cause numbers. The original sentences were imposed based upon a 1991 conviction of extortion in the first degree, a 1996 conviction of theft in the first degree, and a 1997 conviction of four counts of theft in the first

degree. VanSickle was sentenced to a period of incarceration and ordered to pay restitution for each of these offenses. The trial court also mandated that VanSickle submit monthly financial reports. On multiple occasions thereafter, the trial court found that VanSickle had repeatedly failed to make restitution payments and to file financial reports as ordered. VanSickle was sanctioned for these violations.

On May 27, 2010, the trial court held a sentence modification hearing to consider additional sentence violations alleged by the State. The trial court found that VanSickle had committed one continuous violation for failing to make restitution payments and 39 separate violations for failing to file monthly financial reports. The trial court imposed sanctions based upon both the 40 violations found at the May 27, 2010 hearing and 25 violations that had been found by the court at an earlier hearing.[1] The court sentenced VanSickle to 15 days of incarceration for each violation—a total of 975 days of incarceration—on each of the three cause numbers. The incarceration time on each cause number was to be served concurrently.

On December 3, 2010, the trial court entered an order granting VanSickle credit for time served. Concluding that, with this credit, VanSickle had served all of the incarceration time imposed by the May 27, 2010 orders modifying his sentences, the trial court determined that VanSickle was entitled to immediate

[1] VanSickle had failed to appear at the hearing to impose sanctions for the 25 violations found by the court on October 23, 2003; thus, as of the May 2010 hearing, he had not yet been sanctioned for those violations.

release from incarceration.

VanSickle appeals from the trial court's orders modifying his sentences.

II

VanSickle first contends that his due process rights were violated because, he asserts, the trial court imposed sanctions for his failure to pay restitution without inquiring as to whether such nonpayment was willful. VanSickle additionally contends that the trial court did not timely extend its jurisdiction over the cause number for his 1991 conviction and, thus, that the court had no jurisdiction to enforce the financial obligations set forth in that sentence. However, because VanSickle has served the entirety of the incarceration time imposed by the orders from which he appeals, his appeal is moot.

"A case is moot if a court can no longer provide effective relief." In re Cross, 99 Wn.2d 373, 376-77, 662 P.2d 828 (1983) (citing State v. Turner, 98 Wn.2d 731, 733, 658 P.2d 658 (1983)). Where the subject of an appeal is a term of incarceration that has already been served, the appellate court cannot provide the relief that is sought and, thus, the case is moot. Cross, 99 Wn.2d at 377 ("Since the detention which is the subject of this appeal has already ended, we cannot provide the most basic relief . . . sought."); see also State v. Murray, 118 Wn. App. 518, 521, 77 P.3d 1188 (2003).[2] Here, VanSickle requests that

[2] Notwithstanding that the sentence has been served, an appeal may not be moot where there are collateral consequences to that sentence. Monohan v. Burdman, 84 Wn.2d 922, 925, 530 P.2d 334 (1975). However, no such collateral consequences exist here. VanSickle appeals only from the trial court's orders modifying his sentences, not from a criminal conviction, and the

we reverse the trial court's orders modifying his sentences and remand for a new sentence violation hearing. Obviously, the sole purpose served by the grant of such a remedy, from VanSickle's standpoint, would be to obtain an order imposing less incarceration time than was imposed by the challenged orders. However, VanSickle has already served the entire term of incarceration imposed in those orders. Thus, because we cannot effectively provide the relief sought, VanSickle's appeal is moot.

We may nonetheless "retain and decide an appeal which has otherwise become moot when it can be said that matters of continuing and substantial public interest are involved." Sorenson v. City of Bellingham, 80 Wn.2d 547, 558, 496 P.2d 512 (1972). However, we do so "only where the real merits of the controversy are unsettled and a continuing question of great public importance exists." Sorenson, 80 Wn.2d at 558. Such is not the case here.

VanSickle challenges jurisdiction on only one of three cause numbers. Because the periods of incarceration imposed were to be served concurrently, any purported lack of jurisdiction over one cause number would in no way affect the length of the incarceration term imposed. Moreover, VanSickle challenges only one violation of the 65 violations upon which the incarceration term was based—in other words, he challenges only 15 days of the 975-day term of incarceration. See Cross, 99 Wn.2d at 377 ("The invalidation of less than 60 days out of the minimum year and a half during which Ms. Cross has been

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incarceration time that has since been served in its entirety was the only sanction imposed.

detained seems to us of minimal significance.").[3] He has, as stated, already completed this 15 days of incarceration.

Because VanSickle has already served the period of incarceration imposed by the trial court's orders, we can provide no effective relief. Accordingly, we dismiss this appeal as moot.

Dwyer, C. J.

We concur:

Appelwick, J.

Grosse, J.

[3] VanSickle sets forth additional challenges to the trial court's orders in a statement of additional grounds. We have considered these claims of error and determined that they are not meritorious and do not constitute issues of continuing and substantial public interest.