

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

October 17, 2023

FOR THE TENTH CIRCUIT

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RUSTIN ERIC MAIR,

Defendant - Appellant.

No. 22-4103
(D.C. No. 2:21-CR-00131-CW-1)
(D. Utah)

ORDER AND JUDGMENT*

Before **TYMKOVICH**, **EID**, and **CARSON**, Circuit Judges.

Rustin Eric Mair appeals the district court's order denying his motion to order the Bureau of Prisons (BOP) to recalculate his sentence. For the reasons explained below, this appeal is moot, so we will dismiss it.

In October 2021, the United States District Court for the District of Utah sentenced Mair to a 33-month prison term for the crime of possessing a firearm while a felon. The BOP assigned him to serve his sentence at the federal correctional institute in Phoenix, Arizona.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

About a year later, Mair filed a motion in the District of Utah requesting that the court order the BOP to give him credit for time served in pretrial detention. The district court denied the motion because Mair was attacking the execution of his sentence, but his motion was not brought under 28 U.S.C. § 2241. The district court further reasoned that § 2241 challenges must be filed in the federal district where the prisoner is being housed (in Mair’s case, the District of Arizona). *See Bradshaw v. Story*, 86 F.3d 164, 166 (10th Cir. 1996) (“A petition under 28 U.S.C. § 2241 attacks the execution of a sentence rather than its validity and must be filed in the district where the prisoner is confined.”).

Mair appealed. In his opening brief, he re-argued the merits of his claim that he deserves credit for time served. The government’s response brief argued that the district court correctly dismissed for lack of statutory jurisdiction. The government also argued for affirmance on alternative grounds, including that Mair may have already received the relief requested through a nearly identical action filed in the District of Arizona.

Merits briefing concluded in March 2023. In July, the court entered a procedural order permitting one of the government’s attorneys to withdraw. The court mailed that order to Mair at his facility in Phoenix. In August, that mailing was returned. Court staff used the BOP’s online inmate locator tool to find a forwarding address and learned that Mair had been released from federal custody on August 8. The court then ordered the government to file a supplemental brief confirming whether Mair had indeed been released. The government filed its brief and

confirmed as much. The court gave Mair until September 22 to file a response. The court received nothing from Mair by that date, and has received nothing since.

Under the Constitution (article III, § 2), federal courts may only exercise jurisdiction over “Cases” and “Controversies.” A dispute does not qualify as a case or controversy unless the court can enter an order that would redress the claimed injury. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992). If circumstances develop during a case that make it impossible for the court to redress the injury, the case usually becomes moot and the federal court loses jurisdiction. *See Iron Arrow Honor Soc’y v. Heckler*, 464 U.S. 67, 70 (1983).

That is the situation here. “[Mair] has completed his prison sentence. To the extent that he seeks a shorter term of imprisonment, it is obviously no longer possible to provide such relief.” *Rhodes v. Judiscak*, 676 F.3d 931, 933 (10th Cir. 2012). Thus, whether or not the district court was correct about § 2241 (and we have no reason to doubt that), there is no longer anything this court or the district court could order the BOP to do regarding the calculation of Mair’s sentence, because he has discharged it.

Accordingly, we grant Mair’s motion to proceed on appeal without prepayment of costs or fees, but we dismiss this appeal as moot.

Entered for the Court

Joel M. Carson III
Circuit Judge