

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Gabrial Christor,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

July 8, 2022

Court of Appeals Case No.
21A-CR-669

Appeal from the
Clark Circuit Court

The Honorable
Bradley B. Jacobs, Judge

Trial Court Cause No.
10C02-1906-F2-11

Vaidik, Judge.

Case Summary

- [1] Gabriel Christor pled guilty to several drug-related charges and was sentenced to four-and-a-half years in prison. He now appeals, arguing he did not knowingly and voluntarily waive the right to appeal his sentence and that his sentence is inappropriate. The State cross-appeals, arguing the appeal is moot because Christor has already served his sentence and the appeal does not involve a question of great public importance. We agree with the State and dismiss the appeal.

Facts and Procedural History

- [2] In August 2020, Christor and the State entered into a written plea agreement under which Christor pled guilty to Level 5 felony possession of methamphetamine, two counts of Level 6 felony possession of a narcotic drug, and Class A misdemeanor possession of paraphernalia. The plea agreement called for the sentences to run concurrently, with sentencing otherwise left to the discretion of the trial court, and had the following box checked, “DEFENDANT WAIVES RIGHT TO APPEAL.” Appellant’s App. Vol. II p. 18.
- [3] At the March 2021 guilty-plea and sentencing hearing, the trial court advised Christor that by pleading guilty, he waived the right to appeal his convictions, but the court did not say that he also waived the right to appeal his sentence. *See* Tr. Vol. II pp. 6-7. The court accepted the plea agreement and sentenced

Christor to four-and-a-half years, with credit of 637 days for time already served and seven months for completing programs while in jail. *See* Appellant’s App. Vol. II pp. 49-50.

[4] Christor appealed, arguing he did not knowingly and voluntarily waive the right to appeal his sentence and that his sentence is inappropriate. The State moved to dismiss the appeal, arguing the appeal is moot because Christor had already served his sentence and the appeal does not involve a question of great public importance. This Court’s motions panel denied the State’s motion to dismiss, following which the State filed its brief.

Discussion and Decision

[5] Christor contends he did not knowingly and voluntarily waive the right to appeal his sentence and that his sentence is inappropriate. The State cross-appeals, asking us to dismiss the appeal as moot.

[6] Once a “sentence has been served, the issue of the validity of the sentence is rendered moot.” *I.J. v. State*, 178 N.E.3d 798, 799 (Ind. 2022). Moot appeals ordinarily are dismissed. *Id.* However, Indiana recognizes an exception that may be invoked when the appeal involves a question of great public importance that is likely to recur. *Id.*

[7] Christor acknowledges he has already served his sentence, which implicates the mootness doctrine. *See* Appellant’s Br. p. 5 (“Christor respectfully requests the issue of waiver not be consider[ed] moot for himself[.]”). Nevertheless, he asks

us to address the waiver issue because “there is a distinct possibility of future plea decisions that would turn on this issue.” *Id.*

[8] There are two problems with Christor’s argument. First, waiver is not an issue in this case, as the trial court never said Christor waived the right to appeal his sentence and the State “[does] not assert[] that Christor waived the right to appeal his sentence.” Appellee’s Br. p. 9. Second, the appeal does not involve a question of great public importance because there is already an established body of case law addressing whether defendants like Christor knowingly and voluntarily waived the right to appeal their sentences. *See, e.g., Johnson v. State*, 145 N.E.3d 785, 787 (Ind. 2020); *Williams v. State*, 164 N.E.3d 724 (Ind. 2021). *Williams* is nearly identical to this case, including the same checked box on the plea agreement (“DEFENDANT WAIVES RIGHT TO APPEAL.”) and the same advisement during the colloquy.¹ In that case, the Indiana Supreme Court found the defendant did not waive the right to appeal his sentence because “it [was] not apparent from the plea agreement or the colloquy at the sentencing hearing that [he] knowingly and voluntarily waived the right to appeal his sentence.” *Williams*, 164 N.E.3d at 725.

¹ The trial court is the same in both cases.

[9] Because Christor has already served his sentence and our Supreme Court has already decided the waiver issue he raises on appeal, we dismiss the appeal as moot.²

[10] Dismissed.

Crone, J., and Altice, J., concur.

² In reaching this conclusion, we recognize that we are reconsidering the motions panel's order permitting Christor's appeal to proceed. "It is well established that we may reconsider a ruling by the motions panel." *Core v. State*, 122 N.E.3d 974, 976 (Ind. Ct. App. 2019) (quotation omitted); *Cincinnati Ins. Co. v. Young*, 852 N.E.2d 8, 12 (Ind. Ct. App. 2006), *trans. denied*.