

Circuit Court for Baltimore County
Case No. 03-K-11-003240

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1564

September Term, 2019

SEKWAN RAMIEK MERRITT

v.

STATE OF MARYLAND

Graeff,
Zic,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zic, J.

Filed: July 26, 2022

* This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Appellant, Sekwan Ramiiek Merritt, was serving a mandatory sentence of 10 years without the possibility of parole for possession of heroin with intent to distribute. In 2017, despite the no-parole restriction on his sentence, Mr. Merritt was paroled so that he could enter a drug treatment program.¹ Then, in 2018, he filed a motion for modification of sentence, pursuant to the Justice Reinvestment Act, 2016 Md. Laws, ch. 515, which allows a person serving a mandatory minimum sentence for certain drug offenses, imposed prior to the effective date of the Act, to file a motion for modification of sentence even where otherwise he would be ineligible to do so. *See* Md. Code Ann., Crim. Law § 5-609.1.

Following a hearing, the circuit court denied Mr. Merritt’s motion for modification on the ground that he was not then “serving a term of confinement,” as required under Criminal Law § 5-609.1 and was therefore ineligible for the relief afforded by that statute. Mr. Merritt then noted this appeal.

During the pendency of that appeal, we certified to the Court of Appeals three cases, *Brown v. State*, *Bottini v. State*, and *Wilson v. State*, presenting four issues that could be outcome determinative here.² We thereafter stayed the instant appeal pending

¹ It appears that Mr. Merritt was paroled under a statute that, under limited circumstances, overrides a no-parole sentencing provision. *See* Md. Code Ann., Corr. Servs. § 7-301(a)(3) (1999, 2013 Supp.).

² The certified issues were:

1. Does the authority granted to the courts by Criminal Law Article § 5-609.1 to modify minimum mandatory sentences for certain drug-related offenses extend to cases

the Court of Appeals’ decision in *Brown, Bottini, and Wilson*. The Court of Appeals has since rendered a decision in those cases, *Brown v. State*, 470 Md. 503 (2020), and we lifted the stay in the instant appeal.

Subsequently, while this appeal was still pending, Mr. Merritt completed serving his sentence.³ Accordingly, we dismiss this appeal as moot. *Cottman v. State*, 395 Md. 729, 744 (2006) (observing that a case is moot “when there is no longer any existing controversy between the parties at the time that the case is before the court, or when the court can no longer fashion an effective remedy” (quoting *In re Kaela C.*, 394 Md. 432, 452 (2006))); *Wheeler v. State*, 160 Md. App. 566, 573 (2005) (same); cf. *Barnes v. State*, 423 Md. 75, 82, 88 (2011) (dismissing, on ground of mootness, appeal from denial of motion to correct illegal sentence, where defendant had completed serving his sentence).

in which the sentences were imposed as the result of binding plea agreements and the State does not consent to modification?

2. Does the authority granted to the courts by Criminal Law Article § 5-609.1 to modify such sentences extend to cases in which the sentences were imposed as the result of binding plea agreements in which the defendant waived his or her right to seek a modification of sentence?
3. Does § 5-609.1 require the circuit court to hold a hearing before granting or denying a motion to modify a sentence filed pursuant to the statute?
4. When does the Court of Special Appeals have jurisdiction to consider an appeal from an order denying a § 5-609.1 motion to modify a sentence?

³ The start date for Mr. Merritt’s sentence was June 27, 2012. Therefore, his mandatory release date was June 27, 2022.

**APPEAL DISMISSED AS MOOT. COSTS
TO BE DIVIDED EQUALLY BETWEEN
THE PARTIES.**