

Circuit Court for Anne Arundel County  
Case No. C-02-CR-23-001147

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 2328

September Term, 2023

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ANTHONY OWENS

v.

STATE OF MARYLAND

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Berger,  
Arthur,  
Reed,

JJ.

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Opinion by Berger, J.

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Filed: May 29, 2025

\* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms with Rule 1-104(a)(2)(B). Md. Rule 1-104.

This appeal arises out of the conviction and sentencing of Anthony Owens for driving while under the influence of drugs. While pleading guilty to this offence, Owens requested that the trial court not impose probation but that he be permitted to serve his full sentence in prison. Despite his objections, the court sentenced Owens to sixty days incarceration, suspended all but thirty days, and placed Owens on three years of supervised probation that included drug and mental health screening and treatment. Owens objected to the imposition of probation and refused to sign the order presented to him by the court. Therefore, Owens subsequently filed a motion for reconsideration and a motion to correct illegal sentence, arguing that the court could not force him to accept probation. The trial court denied these motions.

On appeal, Owens presents one question for our review:

Whether it was illegal under Maryland Rule 4-345(a) for the sentencing court to force Mr. Owens into supervised probation.

For the reasons explained herein, we shall dismiss Owen’s appeal for mootness.

### **FACTS AND PROCEDURAL HISTORY**

In March 2022, law enforcement officers discovered Anthony Owens (“Owens”) unresponsive in his vehicle along the shoulder of Route 295 in Anne Arundel County, Maryland. The vehicle was running, and the keys were in the ignition. Officers found fentanyl and heroin around Owens’ body. Observing signs of an opioid overdose, officers administered Narcan to Owens and were able to briefly wake him. When he again lost consciousness, officers transported Owens to Harbor Hospital where he received further treatment.

Owens appeared before the Circuit Court for Anne Arundel County in August 2023 on charges of driving while impaired under Maryland Code, Section 21-902(c) of the Transportation Article (“TA”), to which he pled guilty. At the start of the hearing, Owens requested that he receive “flat time.” In other words, he did not wish to agree to any terms of probation. The court informed Owens that it was not bound by his recommendation and that it could impose any sentence within the guidelines, including up to five years of probation. Defense counsel argued that probation could not be forced on Owens saying, “It’s a consent that’s on the back of that probation order that requires his signature. And I would object to any form of probation.” The court explained that for purposes of public safety, supervised probation is customary when charges involve driving while intoxicated. Having been instructed that probation remained on the table following his guilty plea, Owens agreed to proceed with the plea but renewed his objection to any period of probation.

During the hearing, defense counsel provided details regarding Owens’ particular circumstances. In addition to substance use problems, Owens had been dealing with mental health issues including bipolar disorder, anxiety, ADHD, and depression since childhood. Owens had been on and off medication for these diagnoses and in and out of drug treatment before this offense. At the time of the hearing, Owens was also already on probation in Baltimore City for an unrelated offense and had approximately two and a half years remaining on that term.

At the close of the hearing, the court sentenced Owens to sixty days with all but thirty days suspended along with the following terms of probation: “The defendant will be

placed on a period of three years of supervised probation with the special conditions that he have drug screening and treatment as recommended by parole and probation; that he participate in the victim impact panel; that he has mental health screening and treatment as recommended by parole and probation.” Owens refused to sign the probation/supervision order. In November 2023, Owen filed a motion for reconsideration requesting to serve his entire sixty-day sentence in lieu of probation. This motion was denied. Owens then filed a motion to correct illegal sentence in December 2023. He argued that because the probation order includes a section titled “Consent,” and states “I understand these conditions and agree to follow them,” that the order was not valid without his consent. This timely appeal followed the denial of that motion.

Following the initiation of this appeal, on July 10, 2024, a bench warrant was issued for Owens for violating his probation based on an alleged failure to report for supervision, failure to provide proof of employment or school enrollment, and new arrests. On November 25, 2024, the circuit court held a violation of probation hearing. No agent appeared at the hearing and the State dismissed the violation of probation. The circuit court then closed Owen’s probation as “unsatisfactory.”

## **DISCUSSION**

### **I. The issue of whether Owens was permitted to reject the term of probation is moot because there is no longer an effective remedy this Court could provide.**

Following the initial briefing in this case, the State informed this Court of the change in Owens probation status and argued that it rendered this case moot. We permitted both parties to file supplemental briefing on the matter. The State argues that Owen’s claim is

moot because his probation is closed, his sentence is complete, and there is no effective remedy this Court could provide. Owens counters the State’s argument by contending that the case is not moot because the unsatisfactory closure of his probation term holds collateral consequences. For this reason, striking Owen’s probation order as an illegal sentence is still a viable remedy.

“A case is moot when there is ‘no longer an existing controversy when the case comes before the Court or when there is no longer an effective remedy the Court could grant.’” *State v. Dixon*, 230 Md. App. 273, 277 (2016) (quoting *Suter v. Stuckey*, 402 Md. 211, 219-20 (2007)). Appellate courts “do not sit to give opinions on abstract propositions or moot questions, and appeals which present nothing else for decision are dismissed as a matter of course.” *La Valle v. La Valle*, 432 Md. 343, 352 (2013). There are, however, circumstances in which this Court will address the merits of a moot case. One exception is when the controversy, even though moot at the time of judicial review, “is capable of repetition but evading review.” *Sanchez v. Potomac Abatement, Inc.*, 198 Md. App. 436, 443 (2011). This exception applies when “(1) the challenged action was too short in its duration to be fully litigated prior to its cessation or expiration; and (2) there was a reasonable expectation that the same complaining party would be subject to the same action again.” *Powell v. Maryland Department of Health*, 455 Md. 520, 541 (2017).

In arguing that this case is not moot, Owens relies on *Adkins v. State*, 324 Md. 641, 656 (1991) in support of his contention that an appeal of a probation violation “is not rendered moot simply because petitioner has served the sentence imposed.” This is because, Owens argues, probation violations carry collateral consequences such as elevated

guidelines and harsher sentencing in other cases. *Adkins*, 324 Md. at 654-56. We agree with Owens that if such collateral consequences existed here, the case would not be moot. Here, however, unlike the defendant in *Adkins*, there was no violation of probation finding made against Owens. That his probation was closed unsatisfactorily does not appear, on its own, to carry the collateral consequences discussed in *Adkins*. One potential consequence of a failure to complete a term of probation is ineligibility for expungement. CP § 10-105(c)(8). This, however, does not apply to Owens because his conviction pursuant to TA § 21-902(c)(1)(i) for driving while impaired by drugs would not be eligible for expungement regardless of the status of his probation. For these reasons, because Owen's term of probation has been closed without a violation of probation, we hold that no remedy exists in this case and it, therefore, has been rendered moot.

Owens argues that, even if the case is moot, we should exercise our discretion in reaching the merits because the issue is capable of repeating, yet evading review. We acknowledge Owen's argument that the relatively short duration of probation terms can make probation errors difficult to pursue on appeal. Probation in Maryland, however, can be ordered for up to five years, a period that does not foreclose the possibility of fully resolving this issue on appeal should it arise in the future under different circumstances. Under the circumstances of this case, we decline to exercise our discretion to hear a moot issue and reach the merits of the case.

**APPEAL DISMISSED. COSTS TO BE PAID  
BY APPELLANT.**