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This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3031-15T4

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

GREGORY DIXON,

Defendant-Appellant.

Submitted May 23, 2017 — Decided June 21, 2017

Before Judges Koblitiz and Rothstadt.

On appeal from the Superior Court of New
Jersey, Law Division, Camden County,
Indictment Nos. 15-11-3334 and 15-11-3357.

Joseph E. Krakora, Public Defender, attorney
for appellant (Michele A. Adubato, Designated
Counsel, on the brief).

Mary Eva Colalillo, Camden County Prosecutor,
attorney for respondent (Nancy P. Scharff,
Assistant Prosecutor, of counsel and on the
brief).

PER CURIAM

Defendant Gregory Dixon entered into a plea agreement where he pled guilty to two indictments charging, on separate dates and locations, the fourth-degree crime of driving while his license was suspended for a second conviction of operating a motor vehicle while under the influence of alcohol (DWI), pursuant to N.J.S.A. 2C:40-26(b). The State agreed to recommend that he serve the two mandatory 180-day jail sentences concurrently. Defendant appeals only the custodial sentence, which he has now completed.¹ We dismiss the appeal as moot, but briefly discuss the merits.

Defendant raised the following points on appeal:

POINT I: THE USE OF 35 YEAR OLD UNCOUNSELED DWI CONVICTION TO SENTENCE DEFENDANT TO A MANDATORY 180 DAY SENTENCE UNDER N.J.S.A. 2C:40-26 (b) WAS AN ILLEGAL SENTENCE AND MUST BE VACATED.

POINT II: THE DOCTRINE OF FUNDAMENTAL FAIRNESS MANDATES THAT DEFENDANT'S 180 DAY CUSTODIAL SENTENCE BE VACATED.

"An issue is 'moot' when the decision sought in a matter, when rendered, can have no practical effect on the existing controversy." Greenfield v. N.J. Dep't of Corrs., 382 N.J. Super. 254, 257-58 (App. Div. 2006) (internal quotation marks and citation omitted). "[O]ur courts normally will not entertain cases when a controversy no longer exists and the disputed issues have become

¹ Defendant sought a stay of sentence pending appeal, which we denied on April 7, 2016. Our Supreme Court denied a stay again two days later.

moot." De Vesa v. Dorsey, 134 N.J. 420, 428 (1993). We generally do not render advisory decisions retrospectively opining about the legality of matters that have already been resolved, for "[o]rdinarily, our interest in preserving judicial resources dictates that we not attempt to resolve legal issues in the abstract." Zirger v. Gen. Accident Ins. Co., 144 N.J. 327, 330 (1996). Defendant's objection to his 180-day jail sentence is rendered moot because he already served it.

However, we briefly review the facts and law, as we did in our order denying a stay, for the sake of completeness. On February 29, 1980, defendant was convicted of driving while intoxicated (DWI), N.J.S.A. 39:4-50, without counsel present. He was convicted of the same offense again in May 2014 and his driver's license was suspended for seven months. During that suspension, he was charged with the two crimes at issue here.


In State v. Sylvester we held that the defendant's reliance on the post-conviction remedy fashioned by our Supreme Court in State v. Laurick, 120 N.J. 1, cert. denied, 498 U.S. 967, 111 S. Ct. 429, 112 L. Ed. 2d 413 (1990), addressing un-counseled DWI convictions, could not be used to collaterally attack a conviction for driving while suspended. 437 N.J. Super. 1, 7 (App. Div. 2014). We stated: "The Court's remedy in Laurick applied only to the custodial term required for repeat offenders in a DWI

conviction under N.J.S.A. 39:4-50" and not a sentence imposed for violating N.J.S.A. 2C:40-26(b). Ibid.

Defendant admitted he knew his license was suspended on both occasions when he drove. The propriety of that suspension based on a potential collateral attack on one of the underlying DWI offenses is not relevant.

Dismissed as moot.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION