

COURT OF APPEALS
ASHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	JUDGES:
	:	
	:	Hon. William B. Hoffman, P.J.
Plaintiff - Appellee	:	Hon. Sheila G. Farmer, J.
	:	Hon. Craig R. Baldwin, J.
	:	
-vs-	:	
	:	
KASSIDY M. RIVARD	:	Case No. 13-COA-007
	:	
	:	
Defendant - Appellant	:	<u>OPINION</u>

CHARACTER OF PROCEEDING:	Appeal from the Ashland County Court of Common Pleas, Case No. 12-CRI-061
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JUDGMENT:	Dismissed
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DATE OF JUDGMENT:	September 23, 2013
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APPEARANCES:

For Plaintiff-Appellee

RAMONA FRANCESCONI ROGERS
Ashland County Prosecutor
PAUL T. LANGE
Assistant Prosecuting Attorney
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For Defendant-Appellant

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Baldwin, J.

{¶1} Defendant-appellant Cassidy M. Rivard appeals her sentence from the Ashland County Court of Common Pleas. Plaintiff-appellee is the State of Ohio.

STATEMENT OF THE FACTS AND CASE

{¶2} On May 24, 2012, the Ashland County Grand Jury indicted appellant on one count of illegal processing of drug documents in violation of R.C. 2925.23(B)(1), a felony of the fifth degree, and one count of illegal processing of drug documents in violation of R.C. 2925.23(A), also a felony of the fifth degree. At her arraignment on May 31, 2012, appellant entered a plea of not guilty to the charges.

{¶3} Thereafter, on November 19, 2012, appellant withdrew her former not guilty plea and entered a plea of guilty to the charge of illegal processing of drug documents in violation of R.C. 2925.23(A). The remaining charge was dismissed. As memorialized in a Judgment Entry filed on January 23, 2013, appellant was sentenced to six (6) months in prison and fined \$500.00. In addition, appellant's operator's license was suspended for a period of five (5) years. The trial court denied appellant's motion for a stay of execution. A Nunc Pro Tunc Judgment Entry was filed on February 5, 2013.

{¶4} Appellant now raises the following assignment of error on appeal:

{¶5} THE COURT OF COMMON PLEAS OF ASHLAND COUNTY, OHIO IMPOSED A SENTENCE UPON DEFENDANT/APPELLANT THAT WAS CLEARLY AND CONVINCINGLY CONTRARY TO LAW AND/OR AN ABUSE OF SAID COURT'S DISCRETION.

{¶6} Appellant, in her sole assignment of error, challenges the length of her sentence.

{¶7} Because appellant has completed the sentence imposed by the Ashland County Common Pleas Court, the issue for determination is whether appellant's appeal in this matter is moot.

{¶8} An appeal challenging a conviction is not moot even if the entire sentence has been served before the appeal is heard, because “[a] person convicted of a felony has a substantial stake in the judgment of conviction which survives the satisfaction of the judgment imposed upon him or her.” *State v. Golston*, 71 Ohio St.3d 224, 1994-Ohio-109, 643 N.E.2d 109, paragraph one of the syllabus. “However, this logic does not apply if appellant is appealing solely on the issue of the length of his sentence and not on the underlying conviction. If an individual has already served his sentence, there is no collateral disability or loss of civil rights that can be remedied by a modification of the length of that sentence in the absence of a reversal of the underlying conviction.” *State v. Campbell*, 166 Ohio App.3d 363, 2006-Ohio-2294, 850 N.E.2d 799, paragraph eight, citing *State v. Beamon*, 11th Dist. Lake No.2000-L-160, 2001-Ohio-8712.

{¶9} Appellant, who has already served her sentence, is not challenging her underlying conviction. While appellant requests that the case be remanded for resentencing, an appeal in her favor would grant her no relief as she has already been released from incarceration on this charge. Appellant's assignment of error is, therefore, moot. The appeal from the judgment of the Ashland County Court of Common Pleas is dismissed. See, for example, *State v. Howell*, 5th Dist. Stark No. 2001CA00346, 2002-Ohio-3947.

By: Baldwin, J.

Hoffman, P. J. and

Farmer, J. concur.

HON. CRAIG R. BALDWIN

HON. WILLIAM B. HOFFMAN

HON. SHEILA G. FARMER

