NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-13304
Non-Argument Calendar

RALPH E. PINSON,

Plaintiff-Appellant,

versus

UNITED STATES OF AMERICA,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Alabama
D.C. Docket No. 1:24-cv-00278-WS-C

Before JORDAN, KIDD, and TJOFLAT, Circuit Judges.

PER CURIAM:

Ralph Pinson appeals the District Court's order granting summary judgment in favor of the United States. Pinson argues the District Court erred in concluding the restitution lien in this case endured until July 27, 2026, twenty years after his release from prison. Instead, Pinson argues the lien expired on September 19, 2023, twenty years after entry of judgment. Because we find Pinson's claim moot due to the lien's expiration under either party's position, we vacate the judgment of the District Court and remand with directions to dismiss the action.

I. FACTS AND PROCEDURAL HISTORY

On September 17, 2003, the District Court accepted Ralph E. Pinson's plea of guilty to an information charging him with bank fraud in violation of 18 U.S.C. § 1344, sentenced him to prison for a term of 21 months and, pursuant to 18 U.S.C. § 3644, ordered him to pay restitution totaling $1,145,338.07. Pinson began his sentence on January 19, 2005, and was released from custody on July 27, 2006.

On November 18, 2022, the United States, acting pursuant to its 18 U.S.C. § 3664(m)(1)(A)(i) authority, filed a notice of lien with the Clerk in Walton County, Florida, to record the lien provided by 18 U.S.C. § 3613(c). On January 27, 2023, the United States filed two additional notices of lien in the same jurisdiction.[1]

On August 9, 2024, Pinson brought this action in the District Court of the Southern District of Alabama to obtain a declaration of "the expiration, validity and enforceability of certain liens" filed by the United States. He claimed that the liens recorded in Walton

[1] For convenience, we treat the Government's notices of lien as creating one lien.

County were expired based on the plain language of § 3613(c). The United States answered Pinson's complaint and contended that the lien remained in full force and effect until 20 years from the date of Pinson's release from prison—until July 27, 2026.

The parties filed cross-motions for summary judgment. On July 22, 2025, the District Court entered an order granting the Government's motion. Pinson now appeals.

II. MOOTNESS

We must first address whether Pinson's claim is moot. "When addressing mootness, we determine whether judicial activity remains necessary." *Wakefield v. Church of Scientology of California*, 938 F.2d 1226, 1229 (11th Cir. 1991). "A federal court is without power to decide moot questions or to give advisory opinions which cannot affect the rights of the litigants in the case before it." *St. Pierre v. United States*, 319 U.S. 41, 42 S. Ct. 910, 911 (1943). "The case or controversy requirement must be met throughout the entirety of the proceedings." *ACLU v. Florida Bar*, 999 F.2d 1486, 1490 (11th Cir. 1993).

This case is moot. The narrow issue before us is whether the District Court properly found "the restitution lien in this case . . . endures until July 27, 2026," or whether, as Pinson argues, the lien expired on September 23, 2023. When the District Court entered its order, on July 22, 2025, the expiration of the lien presented a live case. However, adopting either party's position on appeal, the restitution lien has now expired by its own terms on July 27, 2026.[2] We reiterate today the Supreme Court's holding in *Burke v. Barnes*: "Article III requires that there be a live case or controversy at the time a federal court decides the case; it is not enough that there may have been a live case or controversy when the case was decided by the court whose judgment this Court is reviewing." 479 U.S. 361, 363, 107 S. Ct. 734, 736 (1987). Thus, under the general test for mootness, Pinson's appeal fails to present a "live" case or controversy for our review.

III. EXCEPTIONS TO MOOTNESS

This does not end our inquiry, however. Three exceptions to the mootness doctrine exist: (1) the issues are capable of repetition, yet evading review; (2) an appellant has taken all steps necessary to perfect the appeal and to preserve the status quo; and (3) the trial court's order will have possible collateral legal consequences. *Wakefield*, 938 F.2d at 1229.

A. First Exception

In order for the "capable of repetition, yet evading review" exception to apply, the Supreme Court has set out two conditions: (1) the challenged action must be of too short a duration to be fully litigated prior to its cessation, and (2) a reasonable expectation

[2] It is uncontested in this case that Pinson's liability to pay restitution also terminated on July 27, 2026.

must exist that the same complaining party will be subject to the same action again. *Id.* at 1230 (quoting *Weinstein v. Bradford*, 423 U.S. 147, 149, 96 S.Ct. 347, 348 (1975)).

We cannot expect this issue to evade future review. The roughly three-year window between Pinson's proposed expiration date, September 23, 2023, and the Government's proposed expiration date, July 27, 2026, is merely a function of the time elapsed between the entry of judgment and Pinson's release from prison. Just because Pinson's case did not reach this Court until the eve of the expiration of Pinson's liability, it hardly follows that the issue he raises will evade future review. *See DeFunis v. Odegaard*, 416 U.S. 312, 319, 94 S. Ct. 1704, 1707 (1974). *Cf. Roe v. Wade*, 410 U.S. 113, 125, 93 S. Ct. 705, 713 (1973) (applying the "capable of repetition, yet evading review" exception because "the normal 266-day human gestation period is so short that the pregnancy will come to term before the usual appellate process is complete").

Nor can we reasonably expect Pinson to be subject to the same action again. To hold otherwise would be to base our reasoning on a series of theoretical possibilities: that Pinson be arrested at a future date, ordered to pay restitution, and have a subsequent lien placed on his property. That hypothetical goes too far, and it cannot support a departure from "[t]he usual rule in federal cases . . . that an actual controversy must exist at stages of appellate or certiorari review, and not simply at the date the action is initiated." *DeFunis*, 416 U.S. at 319, 94 S. Ct. at 1707.

B. Second Exception

Pinson's appeal cannot satisfy the second exception. "The second exception to mootness occurs where an appellant has taken all steps necessary to perfect the appeal and to preserve the status quo before the dispute becomes moot." *B & B Chem. Co. v. U.S. E.P.A.*, 806 F.2d 987, 990 (11th Cir. 1986). The issue on appeal is whether the District Court properly concluded the restitution lien "endure[d]" until July 27, 2026. Pinson did not appeal to this Court the denial of a motion to stay execution of the lien. *See id.* at 990. Nor do the facts before us indicate the District Court order contemplated the enforceability of the lien following its expiration on July 27, 2026. As such, the District Court's ruling on the expiration of the lien has become mooted by the lien's expiration on its own terms.

C. Third Exception

Finally, Pinson has raised no possible collateral legal consequences arising from the District Court's order. "The last exception to the mootness doctrine occurs where the trial court's order will have possible collateral legal consequences." *Id.* at 990. In the present case, if the Government were to attempt to enforce the expired lien following the termination of Pinson's restitution order, then Pinson could contest the Government's action on the theory that the lien is unenforceable following the termination of the restitution order. It could be argued that this collateral consequence is sufficient to invoke the exception. We disagree. The hypothetical occurrence of future actions brought by Pinson following hypothetical Government action resulting from the District Court's order is at this stage too speculative to preclude a finding of mootness. *See id.* at 991.

D. Vacatur

A finding of mootness does not preclude the parties before us from relitigating the issue of enforceability should it present itself in the future. "'When a civil case from a court in the federal system . . . has become moot while on its way here,' [the Supreme Court's] 'established practice is to reverse or vacate the judgment below and remand with a direction to dismiss.'" *Azar v. Garza*, 584 U.S. 726, 729, 138 S. Ct. 1790, 1792 (2018) (per curiam) (quoting *United States v. Munsingwear, Inc.*, 340 U.S. 36, 39, 71 S. Ct. 104, 107 (1950)). *See Duke Power Co. v. Greenwood Cnty.*, 299 U.S. 259, 267, 57 S. Ct. 202, 205 (1936) ("Where it appears upon appeal that the controversy has become entirely moot, it is the duty of the appellate court to set aside the decree below and to remand the cause with directions to dismiss."). In the event that a collateral legal consequence appears, this procedure "clears the path for future relitigation of the issues between the parties" and ensures "the rights of all parties are preserved."[3] *Munsingwear*, 340 U.S. at 40, 71 S. Ct. at 107.

[3] *See* RESTATEMENT (FIRST) OF JUDGMENTS § 69 (A. L. I. 1942) ("Where a party to a judgment cannot obtain the decision of an appellate court because the matter determined against him is immaterial or moot, the judgment is not conclusive against him in a subsequent action on a different cause of action.").

IV. CONCLUSION

We hold that Pinson's appeal is moot because it presents no "live" case or controversy for adjudication. Pinson's appeal does not fall within the three exceptions to the mootness doctrine. We are thus unable to reach Pinson's claims on the merits.

Accordingly, we **VACATE** the judgment below and **REMAND** with instructions to the District Court to dismiss the action without prejudice as moot.