

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

DOUGLAS G. RINGGOLD,                    )  
  )  
                  Petitioner,                )  
  )  
                  v.                         ) Civil Action No. 00-696-SLR  
  )  
ROBERT GEORGE, Warden, and            )  
ATTORNEY GENERAL OF THE             )  
STATE OF DELAWARE,                    )  
  )  
                  Respondents.            )

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Douglas G. Ringgold, New Castle, Delaware. Petitioner, pro se.

Loren C. Meyers, Esquire, Chief of Appeals Division, Delaware  
Department of Justice, Wilmington, Delaware. Counsel for  
Respondents.

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**MEMORANDUM OPINION**

Dated: February 21, 2002  
Wilmington, Delaware

**ROBINSON, Chief Judge**

**I. INTRODUCTION**

Petitioner Douglas G. Ringgold is a former inmate at the Sussex Correctional Institution in Georgetown, Delaware. Currently before the court is petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, filed when he was in custody for violating the terms of his probation. Petitioner has since been released from custody and discharged from probation. Because his application for habeas relief is now moot, the court will dismiss it without reaching the merits of his claims.

**II. BACKGROUND**

On June 17, 1999, petitioner pleaded guilty in the Delaware Superior Court to indecent exposure in the first degree. The Superior Court (Goldstein, J.) sentenced petitioner that same day to one year imprisonment suspended for probation. (D.I. 12, Sentence Order, June 17, 1999.) On February 2, 2000, after a hearing, the Superior Court revoked petitioner's probation due to a violation of probation ("VOP"), and sentenced him to one year in prison. (D.I. 12, Violation of Probation Order, Feb. 2, 2000.) The Superior Court suspended petitioner's sentence for one year to participate in the Crest program, and upon successful completion of the program, for probation. (Id.)

In May 2000, petitioner filed in the Superior Court a motion to modify his sentence, as well as a petition for a writ of

habeas corpus. (D.I. 12, Superior Court Criminal Docket, Nos. 16 and 17.) On May 22, 2000, the Superior Court modified petitioner's sentence to allow him to be released on probation while awaiting placement in the Crest program. (Id. at No. 18.) The Superior Court then denied his habeas petition as moot. (D.I. 12, Order, May 23, 2000.) Petitioner did not appeal to the Delaware Supreme Court.

On July 10, 2000, petitioner filed with this court the current application for habeas relief. (D.I. 2.) In his application, petitioner alleges that: (1) he was not advised of his Miranda rights when arrested for VOP; (2) the bail set for his VOP was excessive; and (3) he was denied adequate legal counsel in his VOP proceedings. (Id. at 1-2.) He asks the court to order his release from custody. (Id. at 3.)

On November 8, 2000, petitioner was seriously injured in an accident while working at the Sussex Work Release Center. (D.I. 12, Progress Report, Dec. 11, 2000.) Due to his serious medical condition, the Superior Court discharged petitioner's remaining term of probation on January 2, 2001. (D.I. 12, Progress Report Disposition, Jan. 2, 2001.) Because petitioner's probation has been discharged, the respondents ask the court to dismiss his habeas petition as moot.

### III. DISCUSSION

#### A. Mootness

Before considering the merits of petitioner's claims, the court must address respondents' contention that his petition is moot. As described above, petitioner was discharged from probation after filing his habeas petition. If this renders petitioner's application moot, the court lacks jurisdiction and must dismiss it. Chong v. District Director, INS, 264 F.3d 378, 383-84 (3d Cir. 2001) (citing Steel Co. v. Citizens for a Better Environment, 523 U.S. 83, 90 (1998)). Federal courts must resolve mootness issues, "even when not raised by the parties, before turning to the merits." Chong, 264 F.3d at 383.

Pursuant to Article III, the power of federal courts extends only to cases and controversies. U.S. Const. art. III; Chong, 264 F.3d at 383. A litigant has standing to pursue a case or controversy in federal court only if he "has suffered, or is threatened with, an actual injury traceable to the [respondent] that is likely to be redressed by a favorable decision." Id. at 384. If this "personal stake in the outcome" of a case does not continue throughout the litigation, the case becomes moot. Spencer v. Kemna, 523 U.S. 1, 7 (1998).

An individual who has been convicted and is incarcerated as a result of his conviction always has standing to challenge his incarceration. Id. If his sentence expires while the litigation

is pending, he must demonstrate a "concrete and continuing injury" in order to maintain standing in federal court. Id. Federal courts presume that "a wrongful criminal conviction has continuing collateral consequences" sufficient to satisfy the injury requirement, even after the sentence expires. Id. at 8. Where a petitioner does not attack his conviction, however, the injury requirement is not presumed; rather, the petitioner must demonstrate continuing collateral consequences adequate to meet the injury requirement. Id. at 14; Chong, 264 F.3d at 384.

In the matter at hand, petitioner does not challenge his conviction in any way. His habeas petition attacks only the revocation of his probation. Plainly, the alleged unlawful period of probation ceased once he was discharged. To maintain standing to challenge the revocation of his probation, then, petitioner must demonstrate continuing collateral consequences sufficient to meet the injury requirement. See United States v. Prober, 170 F.3d 345, 348 (2d Cir. 1999) (refusing under Spencer to presume collateral consequences where petitioner violated terms of supervised release).

Petitioner has failed to identify any such continuing collateral consequences. Moreover, now that petitioner has been discharged from probation, the court cannot discern any injury that could be redressed by a favorable decision in the current habeas petition. In the absence of any conceivable continuing

injury, petitioner no longer has standing to maintain this action. For this reason, the court will dismiss his petition as moot.<sup>1</sup>

**B. Certificate of Appealability**

Finally, the court must determine whether a certificate of appealability should issue. See Third Circuit Local Appellate Rule 22.2. The court may issue a certificate of appealability only if petitioner "has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

When a federal court dismisses a habeas petition on procedural grounds without reaching the underlying constitutional claims, the petitioner must demonstrate that jurists of reason would find it debatable: (1) whether the petition states a valid claim of the denial of a constitutional right; and (2) whether the court was correct in its procedural ruling. Slack v. McDaniel, 529 U.S. 473, 484 (2000). "Where a plain procedural bar is present and the district court is correct to invoke it to dispose of the case, a reasonable jurist could not conclude either that the district court erred in dismissing the petition

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<sup>1</sup> In reaching this conclusion, the court does not suggest that the petition is moot because petitioner no longer satisfies the "in custody" requirement. Without question, petitioner satisfies the "in custody" prerequisite because he was in custody when he filed his petition. See Spencer, 523 U.S. at 7 (stating that petitioner satisfies the "in custody" requirement if he was incarcerated at the time the petition was filed).

or that the petitioner should be allowed to proceed further."

Id.

For the reasons discussed above, the court has concluded that petitioner's application for habeas relief is moot. The court is persuaded that reasonable jurists would not debate otherwise. Petitioner has, therefore, failed to make a substantial showing of the denial of a constitutional right, and a certificate of appealability is not warranted.

#### **IV. CONCLUSION**

For the reasons stated, the court will dismiss petitioner's application for a writ of habeas corpus as moot, and will not issue a certificate of appealability. An appropriate order shall issue.

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                  Respondents.            )

**O R D E R**

At Wilmington, this 21st day of February, 2002, consistent with the memorandum opinion issued this same day;

IT IS HEREBY ORDERED that:

1. Petitioner Douglas G. Ringgold's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (D.I. 2) is dismissed as moot.
2. The court declines to issue a certificate of appealability for failure to satisfy the standard set forth in 28 U.S.C. § 2253(c) (2).

Sue L. Robinson  
United States District Judge