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USA v. Alvin Simmons, Jr.

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 08-2427

UNITED STATES OF AMERICA

v.

ALVIN R. SIMMONS, Jr.,
Appellant

On Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. No. 2-04-cr-00278)
District Judge: Honorable Donetta W. Ambrose

Submitted Under Third Circuit LAR 34.1(a)
December 1, 2009

Before: FISHER, HARDIMAN and STAPLETON, *Circuit Judges*.

(Filed: December 2, 2009)

OPINION OF THE COURT

HARDIMAN, *Circuit Judge*.

On April 23, 2008, the District Court revoked Appellant Alvin R. Simmons's supervised release and sentenced him to twenty-one months incarceration. The District Court further directed that Simmons was not subject to supervised release following his release from custody. Counsel subsequently filed this appeal at Simmons's request, but moved to withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967).

Bureau of Prisons records indicate—and Simmons's counsel confirms—that Simmons was released from federal custody on November 6, 2009. Because a defendant's unconditional release typically renders moot an appeal of a district court's imposition of a term of incarceration for a supervised release violation, *United States v. Kissinger*, 309 F.3d 179, 182 (3d Cir. 2002), we directed Simmons's counsel to explain why Simmons's release would not require dismissal of his appeal. In response, Simmons's counsel concedes that the present appeal is moot under *Kissinger*. Accordingly, we will enter an order dismissing Simmons's appeal as moot.