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USA v. Koreen Higgs

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 13-2419

UNITED STATES OF AMERICA

v.

KOREEN V. HIGGS,

Appellant

Appeal from the United States District Court
for the District of New Jersey
(D.NJ. Crim. No. 2-06-00560-001)
District Judge: Honorable William H. Walls

Submitted Under Third Circuit LAR 34.1(a)
January 22, 2014

Before: FUENTES, FISHER, *Circuit Judges*
and JONES, II, ** District Judge.*

(Opinion Filed: September 8, 2014)

*The Honorable C. Darnell Jones, II, District Judge for the United States District Court for the Eastern District of Pennsylvania, sitting by designation.

OPINION

Jones, II, *District Judge*.

Appellant's counsel informed the Court by Rule 28(j) letter that Appellant was released from custody on February 26, 2014 and is not subject to a term of supervised release. "[W]e are precluded by Article III, § 2 of the Constitution from entertaining an appeal if there is no longer a live case or controversy." *United States v. Kissinger*, 309 F.3d 179, 180 (3d Cir. 2002). "Although this action was live when filed and may have become moot only during the pendency of this appeal, Article III requires that an actual controversy exist through all stages of litigation, including appellate review." *Id.* We must determine whether the appeal is moot even if the parties have not raised the issue. *Id.*

"Generally, once a litigant is unconditionally released from criminal confinement, the litigant must prove that he or she suffers a continuing injury from the collateral consequences attaching to the challenged act." *Id.* at 181. There is a presumption of collateral consequences when a litigant challenges his criminal conviction. *Sibron v. New York*, 392 U.S. 40, 55-56 (1968). We have concluded that there is no such presumption for a probation revocation. *Kissinger*, 309 F.3d at 182. Because Higgs has not claimed or proven any collateral consequences of his probation revocation and incarceration, we conclude that his appeal is moot.