

[Cite as *State v. Hawkins*, 2005-Ohio-5434.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 85457

STATE OF OHIO	:	
	:	
Plaintiff-appellee	:	
	:	JOURNAL ENTRY
vs.	:	and
	:	OPINION
BRANDON HAWKINS	:	
	:	
Defendant-appellant	:	
DATE OF ANNOUNCEMENT OF DECISION	:	OCTOBER 13, 2005
CHARACTER OF PROCEEDING	:	Criminal appeal from
	:	Cuyahoga County Court of
	:	Common Pleas
	:	Case No. CR-439044 & 451872
JUDGMENT	:	DISMISSED.
DATE OF JOURNALIZATION	:	
APPEARANCES:		
For plaintiff-appellee	:	WILLIAM D. MASON Cuyahoga County Prosecutor AMY E. VENESILE, Assistant Justice Center, 8 TH Floor 1200 Ontario Street Cleveland, Ohio 44113
For defendant-appellant	:	KEVIN CAFFERKEY 1370 Ontario Street 2000 Standard Building Cleveland, OH 44113

KENNETH A. ROCCO, J.:

{¶ 1} Defendant-appellant Brandon Hawkins appeals the sentences imposed by the trial court in two cases. However, he has completed serving his sentences; consequently, his appeal must be dismissed as moot.

{¶ 2} The record reflects that in case number CR-439044 Hawkins entered a plea of guilty on August 11, 2003 to one count of possession of crack cocaine in an amount less than a gram. The trial court initially placed him on community control sanctions. This placement was revoked on June 23, 2004 when, in case number CR-451872, Hawkins entered a guilty plea to one count of trafficking in crack cocaine in an amount less than a gram.

{¶ 3} On July 24, 2004 the trial court sentenced Hawkins in both cases to serve consecutive terms of incarceration of twelve months in the more recent case and six months in the earlier case, with credit for time served.

{¶ 4} On October 29, 2004 Hawkins filed a request for leave to present a delayed appeal. This court granted his request, and he ultimately filed his appellate brief on May 25, 2005.

{¶ 5} In his appellate brief, Hawkins presents two assignments of error as follows:

{¶ 6} "I. The trial court erred in sentencing [defendant] to a

term of incarceration beyond the minimum and the aggravating facts were not found beyond a reasonable doubt by a jury. (Tr. 43-45).

{¶ 7} "II. The trial court failed to make a finding that the defendant's sentence is consistent with similarly situated offenders. (Tr. 43-46)."

{¶ 8} As set forth above, Hawkins presents an appeal which challenges only the sentences imposed in these two cases. A check of the Ohio Department of Corrections' computer website confirms that Hawkins was released from prison with no post-release control on May 9, 2005. *State v. Hagwood*, Cuyahoga App. No. 83701, 2004-Ohio-5967, ¶5. When a defendant has already served his sentence, any issue related to that sentence on appeal is moot. *State v. Adams*, Cuyahoga App. No. 85267, 2005-Ohio-3837, ¶5.

{¶ 9} Since this case was set for oral hearing on October 3, 2005, it is clear Hawkins' appeal of his sentence is moot. *Id.*

{¶ 10} This case, therefore, is dismissed.

It is ordered that appellee recover of appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the Cuyahoga County Court of Common Pleas to carry this

judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

KENNETH A. ROCCO
JUDGE

SEAN C. GALLAGHER, P.J. and

MARY EILEEN KILBANE, J. CONCUR

N.B. This entry is an announcement of the court's decision. See App.R. 22(B), 22(D) and 26(A); Loc. App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(E) unless a motion for reconsideration with supporting brief, per App.R. 26(A), is filed within ten (10) days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(E). See, also, S.Ct.Prac.R. II, Section 2(A)(1).