

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 47599

STATE OF IDAHO,)
) **Filed: January 29, 2021**
 Plaintiff-Respondent,)
) **Melanie Gagnepain, Clerk**
 v.)
) **THIS IS AN UNPUBLISHED**
 VINCENT JOSEPH OLSZEWSKI,) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
 Defendant-Appellant.)
)
 _____)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Deborah A. Bail, District Judge.

Appeal from judgment of conviction and unified sentence for possession of a controlled substance, dismissed.

Eric D. Fredericksen, State Appellate Public Defender; Jason C. Pintler, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

Before HUSKEY, Chief Judge; LORELLO, Judge;
and BRAILSFORD, Judge

PER CURIAM

Vincent Joseph Olszewski pled guilty to possession of a controlled substance. I.C. § 37-2732(c). In exchange for his guilty plea, an additional charge was dismissed and the State agreed not to pursue a sentencing enhancement. The State also agreed to recommend a sentence of a unified term of seven years, with a minimum period of confinement of three years, and to recommend retained jurisdiction. Olszewski requested that the district court sentence him to a unified term of five years, with a minimum period of confinement of two years, but place him on probation. The district court sentenced Olszewski to a unified term of five years, with a minimum

period of confinement of two years, and retained jurisdiction. Following completion of his rider, the district court suspended Olszewski's sentence and placed him on probation. Mindful that he is on probation, Olszewski appeals and argues that the district court erred in not imposing probation upon sentencing. The State asserts that Olszewski's appeal is moot.

A case becomes moot when the issues presented are no longer live or the defendant lacks a legally cognizable interest in the outcome. *Murphy v. Hunt*, 455 U.S. 478, 481 (1982); *Bradshaw v. State*, 120 Idaho 429, 432, 816 P.2d 986, 989 (1991). Even where a question is moot, there are three exceptions to the mootness doctrine: (1) when there is the possibility of collateral legal consequences imposed on the person raising the issue; (2) when the challenged conduct is likely to evade judicial review and thus is capable of repetition; and (3) when an otherwise moot issue raises concerns of substantial public interest. *State v. Barclay*, 149 Idaho 6, 8, 232 P.3d 327, 329 (2010). The only relief Olszewski has requested on appeal cannot be granted because he is on probation. Therefore, any judicial relief from this Court would have no effect on either party. *See id.*

Accordingly, Olszewski's appeal from his judgment of conviction and sentence is dismissed.