

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 15, 2021

Lyle W. Cayce
Clerk

No. 21-10070
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

CARL HAMILTON,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:14-CR-244-3

Before WIENER, DENNIS, and HAYNES, *Circuit Judges.*

PER CURIAM:*

In 2015, Carl Hamilton pleaded guilty to maintaining a drug premises, in violation of 21 U.S.C. § 856(a)(1), and he now appeals the imposition of a seven-month prison term following the revocation of his supervised release. He argues that the district court violated his Fifth and Sixth Amendment

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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rights by treating his revocation as mandatory and not requiring the Government to provide a jury with proof beyond a reasonable doubt. The Government moves for summary affirmance or, in the alternative, an extension of time to file a brief. Hamilton concedes that the issue is foreclosed by *United States v. Garner*, 969 F.3d 550 (5th Cir. 2020), *cert. denied*, 141 S. Ct. 1439 (2021).

We must examine the basis of our jurisdiction sua sponte if necessary. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). Article III, § 2 of the Constitution limits federal court jurisdiction to actual cases and controversies. *See Spencer v. Kemna*, 523 U.S. 1, 7 (1998). If a case is moot, there is no case or controversy and thus, no jurisdiction. *See United States v. Heredia-Holguin*, 823 F.3d 337, 340 (5th Cir. 2016) (en banc). Because Hamilton's sentence has been discharged and he is not subject to an additional term of supervised release or any continuing collateral consequences of the revocation, this case is moot. *See Spencer*, 523 U.S. at 7-8; *Heredia-Holguin*, 823 F.3d at 340. Accordingly, the appeal is DISMISSED AS MOOT, and the Government's motion is DENIED.