UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-7364

MARVIN EDWARD PATRICK,

Petitioner - Appellant,

v.

H. JOYNER, Warden, Federal Correctional Institution,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Rock Hill. David C. Norton, District Judge. (0:15-cv-03507-DCN)

Submitted: January 28, 2021 Decided: February 8, 2021

Before MOTZ, DIAZ, and RUSHING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Marvin Edward Patrick, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marvin Edward Patrick seeks to appeal the district court's order accepting the magistrate judge's recommendation and dismissing his 28 U.S.C. § 2241 petition, through which Patrick sought relief from his statutorily-mandated sentence of life imprisonment. After Patrick filed this appeal, the United States District Court for the Eastern District of North Carolina partially granted Patrick's motion pursuant to Section 404 of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194, for retroactive application of the Fair Sentencing Act of 2010, Pub. L. No. 111-220, 124 Stat. 2372. The court reduced Patrick's sentence to 360 months' imprisonment. *See United States v. Patrick*, No. 2:05-cr-00016-D-1 (E.D.N.C. Dec. 23, 2020). We previously placed this appeal in abeyance for that decision, and we now dismiss the appeal.

"Because mootness is jurisdictional, we can and must consider it even if neither party has raised it." *United States v. Ketter*, 908 F.3d 61, 65 (4th Cir. 2018). "A case becomes moot—and therefore no longer a Case or Controversy for purposes of Article III—when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome." *Id.* (internal quotation marks omitted). Based on our review, we conclude that this appeal is moot. *See Blount v. Clarke*, 890 F.3d 456, 462 (4th Cir. 2018).

Accordingly, we deny leave to proceed in forma pauperis and dismiss the appeal.[*] We dispense with oral argument because the facts and legal contentions are adequately

[*] This dismissal has no effect on Patrick's pending appeal of the sentencing court's partial grant of his First Step Act motion. *See United States v. Patrick*, No. 21-6031.

presented in the materials before this court and argument would not aid the decisional process.

DISMISSED