

Uldaho Law

## Digital Commons @ Uldaho Law

---

Not Reported

Idaho Supreme Court Records & Briefs

---

7-13-2021

### State v. Beck Respondent's Brief Dckt. 48261

Follow this and additional works at: [https://digitalcommons.law.uidaho.edu/not\\_reported](https://digitalcommons.law.uidaho.edu/not_reported)

---

#### Recommended Citation

"State v. Beck Respondent's Brief Dckt. 48261" (2021). *Not Reported*. 7051.  
[https://digitalcommons.law.uidaho.edu/not\\_reported/7051](https://digitalcommons.law.uidaho.edu/not_reported/7051)

This Court Document is brought to you for free and open access by the Idaho Supreme Court Records & Briefs at Digital Commons @ Uldaho Law. It has been accepted for inclusion in Not Reported by an authorized administrator of Digital Commons @ Uldaho Law. For more information, please contact [annablaine@uidaho.edu](mailto:annablaine@uidaho.edu).

LAWRENCE G. WASDEN  
Attorney General  
State of Idaho

MARK A. KUBINSKI  
Deputy Attorney General  
Chief, Criminal Law Division

KACEY L. JONES  
Deputy Attorney General  
P. O. Box 83720  
Boise, Idaho 83720-0010  
(208) 334-4534  
E-mail: [ecf@ag.idaho.gov](mailto:ecf@ag.idaho.gov)

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NO. 48261-2020
Plaintiff-Respondent,	)	
	)	Ada County Case No.
v.	)	CR01-17-46637
	)	
KALI DEONE BECK,	)	
	)	RESPONDENT'S BRIEF
Defendant-Appellant.	)	
_____	)	

Is Beck's appeal moot because she received her requested relief when the district court granted her Rule 35 motion?

Beck's Appeal Is Moot And Should Be Dismissed

The state charged Beck with operating a motor vehicle without the owner's consent. (R., pp.32-33.) Pursuant to a plea agreement, Beck pleaded guilty. (R., pp.37-40.) The district court sentenced Beck to five years with two years fixed, and suspended the sentence. (R., pp.49-53.) Later, the state filed a motion, alleging that Beck violated the terms of her probation. (R., pp.70-

72.) After finding that Beck violated her probation, the district court imposed the underlying sentence. (R., pp.93-95, 114-16.)

Thereafter, Beck filed a Rule 35 motion requesting the district court “commute her previously imposed sentence in the amount of 172 days, consistent with the time she was in custody” on another case. (R., pp.120-21.) Although the state initially objected on timeliness grounds, in its amended response the state “d[id] not object to the Court reducing Beck’s fixed portion of her sentence in this case by 172 days to achieve the Court’s goal at the time of the probation violation disposition.” (R., pp.123-27 (footnote omitted).) The district court granted Beck’s motion and “commute[d] 172 days from her sentence in this case.” (R., pp.131-33.) Beck filed a timely notice of appeal. (Aug., pp.1-4.)

On appeal, Beck is “[m]indful that she was granted the sentence reduction that she requested,” but nonetheless argues that “the district court did not exercise reason, and therefore abused its discretion, by not further reducing her sentence.” (Appellant’s brief, p.5.) Because the district court granted Beck’s motion and she received the relief she sought, her claim is moot.

“To raise an issue on appeal, the record must contain an adverse ruling to form the basis for assignment of error.” State v. Hoyle, 140 Idaho 679, 687, 99 P.3d 1069, 1077 (2004) (citation and quotation marks omitted). Moreover, appellate review of an issue will be precluded where that issue is deemed moot. State v. Vasquez, 163 Idaho 557, 560, 416 P.3d 108, 111 (2018) (citing State v. Manley, 142 Idaho 338, 344, 127 P.3d 954, 959 (2005)). An issue is moot “if it does not present a real and substantial controversy that is capable of being concluded through judicial decree of specific relief.” Id. “This Court may dismiss an appeal when it appears that the case involves only a moot question.” State v. Manzanares, 152 Idaho 410, 419, 272 P.3d 382, 391 (2012)

(quoting Goodson v. Nez Perce Cnty. Bd. Of Cnty. Comm'rs, 133 Idaho 851, 853, 993 P.2d 614, 616 (2000)).

Here, Beck received the sentence reduction she requested when the district court granted her Rule 35 motion. (R., pp.120-21, 131-33.) Therefore, her appeal is moot and should be dismissed. See State v. Gallipeau, 128 Idaho 1, 5, 909 P.2d 619, 623 (Ct. App. 1994) (claim of error on appeal was moot where defendant obtained requested relief from the district court pursuant to a Rule 35 motion).

#### CONCLUSION

The state respectfully requests this Court to dismiss Beck's appeal.

DATED this 13th day of July, 2021.

/s/ Kacey L. Jones  
KACEY L. JONES  
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 13th day of July, 2021, served a true and correct copy of the foregoing RESPONDENT'S BRIEF to the attorney listed below by means of iCourt File and Serve:

JACOB L. WESTERFIELD  
DEPUTY STATE APPELLATE PUBLIC DEFENDER  
[documents@sapd.state.id.us](mailto:documents@sapd.state.id.us)

/s/ Kacey L. Jones  
KACEY L. JONES  
Deputy Attorney General

KLJ/zh