No. _____

IN THE

Supreme Court of the United States

David Anson Alandt,

Petitioner

v.

State of Arkansas,

Respondent

On Petition for Writ of Certiorari to the Arkansas Supreme Court

Appendix

David Anson Alandt
Petitioner Pro Se
2323 Clear Lake City Blvd
Suite 180 #269,
Houston, TX 77062
DaveAlandt@gmail.com
(346) 235-4903

**Denied Defense Counsel and Record by the State of Arkansas*

Index to Appendix

FORMAL ORDER

FILED
SALINE COUNTY
CIRCUIT CLERK

2019 AUG -2 PM 3:48

BY: _____

STATE OF ARKANSAS,)
) SCT.
SUPREME COURT)

BE IT REMEMBERED, THAT A SESSION OF THE SUPREME COURT BEGUN AND HELD IN THE CITY OF LITTLE ROCK, ON AUGUST 1, 2019, AMONGST OTHERS WERE THE FOLLOWING PROCEEDINGS, TO-WIT:

SUPREME COURT CASE NO. CR-19-525

DAVID A. ALANDT — APPELLANT

V. APPEAL FROM SALINE COUNTY CIRCUIT COURT - 63CR-14-745

STATE OF ARKANSAS — APPELLEE

APPELLANT'S PRO SE PETITION AND AMENDED PETITION FOR LEAVE TO PROCEED IN FORMA PAUPERIS. PETITION MOOT; AMENDED PETITION DENIED. HART, J., WOULD GRANT PETITION AND AMENDED PETITION.

APPELLANT'S PRO SE PETITION, AMENDED PETITION, AND SECOND AMENDED PETITION FOR WRIT OF CERTIORARI TO COMPLETE THE RECORD. PETITION AND AMENDED PETITION MOOT; SECOND AMENDED PETITION DENIED. BAKER AND WOMACK, JJ., WOULD DENY PETITION. HART, J., WOULD GRANT SECOND AMENDED PETITION.

IN TESTIMONY, THAT THE ABOVE IS A TRUE COPY OF THE ORDER OF SAID SUPREME COURT, RENDERED IN THE CASE HEREIN STATED, I, STACEY PECTOL, CLERK OF SAID SUPREME COURT, HEREUNTO SET MY HAND AND AFFIX THE SEAL OF SAID SUPREME COURT, AT MY OFFICE IN THE CITY OF LITTLE ROCK, THIS 1ST DAY OF AUGUST, 2019.

Stacey Pectol
CLERK

BY: _____
DEPUTY CLERK

ORIGINAL TO CLERK

CC: DAVID A. ALANDT
VADA BERGER, SENIOR ASSISTANT ATTORNEY GENERAL
HON. GARY ARNOLD, CIRCUIT JUDGE

FILED
SALINE COUNTY
CIRCUIT CLERK
2019 JUN 11 PM 12:19

IN THE CIRCUIT COURT OF SALINE COUNTY, ARKANSAS
CRIMINAL DIVISION

STATE OF ARKANSAS PLAINTIFF

BY: JM

VS. NO. 63CR-14-745

DAVID A. ALANDT

PETITIONER

ORDER FOR EXTENSION OF TIME TO FILE APPELLATE RECORD

On this 11th day of June, 2019 comes on for consideration the Motion of the Court Reporter, Mallory A. Kidd, for Extension of Time to File Record with the Clerk of the Supreme Court and Court of Appeals, states the following:

1. Pro Se Petitioner filed his Notice of Appeal on March 27th, 2019;

2. The record on appeal is Due on June 27th, 2019;

3. The time to file the record on appeal is not yet expired;

4. That pursuant to A.R.A.P. Civil 5(b), the court reporter requests an extension of time to file the record on appeal;

6. An extension is necessary for the court reporter to include stenographically reported material in the record on appeal due to lack of timeliness to prepare the record within the original ninety-day time period prescribed by law because the Petitioner notified the court reporter on June 6th, 2019, twenty-one days before the record of appeal is due;

7. It is unclear what is all to be in the record on appeal;

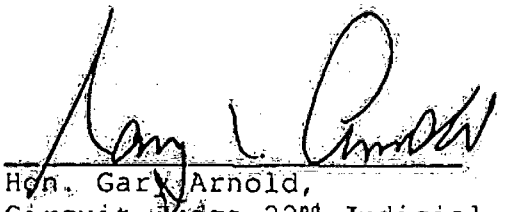
8. The court reporter has indicated that she needs

additional time up to and including September 27, 2019;

9. The time for extension to file record on or before September 27th, 2019 is within seven months from the filing of the Notice Of Appeal on March 27th, 2019.

WHEREFORE, the court reporter moves the Court to issue an Order Extending Time to File the Record on Appeal in the above styled case.

IT IS SO ORDERED.



Hon. Gary Arnold,
Circuit Judge 22nd Judicial
For the State of Arkansas

Prepared by:

Mallory A. Kidd, CCR
P.O. Box 21043
Little Rock, AR 72221
(501)303-5664

From: Gary Arnold gary.arnold@salinecounty.org
Subject: Re: 63CR-14-745
Date: June 18, 2019 at 2:44 PM
To: D Alandt davealandt@gmail.com

Mr. Alandt,
The record is in the process of being compiled in its entirety, as you've requested.

On Tue, Jun 18, 2019 at 12:50 PM D Alandt <davealandt@gmail.com> wrote:

Mr. Arnold,

Thank you for starting an open dialog with me on this case. With all do respect to you and your public office appointment, please re-consider setting aside the Order after you have time to review **Spurlock v. Riddell, 280 SW 3d 18 - Ark: Supreme Court 2008**. Please further assist my efforts in correcting the miscarriages of justice in violation of both the State of Arkansas Constitution and the U.S. Federal Constitution. You instructed me to visit the local Law library back in March of 2015 to further support my efforts in better understanding the practical application of laws and rules of procedures in Arkansas. I have done what you have asked me to do and now I need your public office support in correcting all actions not in accordance with local State and Federal laws and rights never afford to me in your court room.

All I need at this time is for the record to be retrieved and compiled in its entirety as stated in the Notice of Appeal dated March 27, 2019 so I can deliver it to the Ark. Supreme Court Clerk for review and submission. I am in need of your assistance in correcting misunderstood Court functions contrary to Supreme Court opinions and both Civil and Criminal procedures established by your State's public offices. Your Order is in violation due to the fact we never had a hearing on the Notice of Appeal or the Petition for Rule 37:

Spurlock v. Riddell, 280 SW 3d 18 - Ark: Supreme Court 2008:

280 S.W.3d 18 (2008)
373 Ark. 38

Michael H. SPURLOCK and Lindsey L. Spurlock, Appellants,

v.

C. Michael RIDDELL, Appellee.

No. 08-217.

Supreme Court of Arkansas.

March 13, 2008.

MOTION FOR RULE ON CLERK

PER CURIAM.

FILED
SALINE COUNTY
CIRCUIT CLERK

2019 APR 15 AM 11:18

BY: _____

IN THE CIRCUIT COURT OF SALINE COUNTY, ARKANSAS
SECOND DIVISION

STATE OF ARKANSAS — PLAINTIFF

V. — NO. 63CR 14-745A-2

DAVID ALANDT — AMENDED — DEFENDANT

ORDER DENYING RULE 37 PETITION

Petitioner David Alandt has filed a Rule 37 petition claiming that he is entitled to post-conviction relief for various reasons. For the reasons that follow, the petition should be denied without a hearing because the petition, the files and the records of the case conclusively show that the Petitioner is not incarcerated, is entitled to no relief and the petition is untimely. See Rule 37.1(a) 37.2 (c), and 37.3(a).

Petitioner entered a negotiated guilty plea on October 3, 2017. On October 12, 2017, a judgment was entered sentencing Petitioner to 72 months suspended imposition of sentence for Possession of Marijuana with Intent to Deliver. His sentence also included fines, costs and restitution to the county for extradition costs and 540 days jail credit. He was sentenced under Act 531. On June 21, 2018, an amended sentencing order was entered checking the necessary box for Petitioner to be allowed Act 531 relief. As per the negotiated sentence the Petitioner received a suspended imposition of sentence and therefore is not entitled to any relief as per A.R.Cr.P Rule 37(a).

Petitioner signed his petition for post-conviction relief on January 4, 2019, and it was filed with the clerk on January 7, 2019. In order to be timely filed, the petition must be filed within 90 days of the date the judgment was entered. *See* A.R.Cr.P. Rule 37.2 (c). The petition

is therefore untimely. Even if the petition was timely filed, Petitioner claims that his lawyers, David Cannon and Stephen Davis was inadequate and unprepared and otherwise ineffective.

The law on the subject of ineffectiveness of counsel is well settled.

Counsel is presumed to be competent. *Russell v. State,* 302 Ark. 274, 789 S.W.2d 720 (1990). A reviewing court indulges a strong presumption that counsel's conduct falls within a wide range of "reasonable professional assistance." *Missildine v. State,* 314 Ark. 500, 508, 863 S.W.2d 813, 818 (1993). To prevail on an argument of ineffective assistance, an appellant must show not only that counsel's performance fell below an objective standard of competence, but he must also show that but for counsel's errors, there is a reasonable probability that the jury would have decided differently. *Strickland,* 466 U.S. at 687. A general claim of ineffectiveness with no showing of actual prejudice will not warrant relief. *Malone v. State,* 294 Ark. 376, 742 S.W.2d 945 (1988). Judicial review of counsel's performance is highly deferential, and "a fair assessment of counsel's performance under *Strickland* requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time." *Missildine,* 314 Ark. at 508, 863 S.W.2d at 814. A court considering a claim of ineffective assistance must view it through the perspective of the totality of the evidence put before the jury. Id.

To demonstrate prejudice in the context of a guilty plea, the defendant must show that there is a reasonable probability that, but for counsel's errors, he would not have pled guilty and would have insisted on going to trial. *Buchheit v. State,* 339 Ark. 481, 6 S.W.3d 109 (1999) (*per curiam*); *Propst v. State,* 335 Ark. 448, 983 S.W.2d 405 (1998) (*per curiam*). *See also Hill v. Lockhart,* 474 U.S. 52, 88 L. Ed. 2d 203, 106 S. Ct. 366 (1985). Bare assertions of ineffectiveness are not enough. Conclusory statements that counsel was ineffective will not sustain a Rule 37 petition; *Anderson,* 2011 Ark. 488, at 5. The circuit court need not hold an evidentiary hearing where it can be conclusively shown on the record, or the face of the petition itself, that the allegations have no merit. *Bienemy v. State,* 2011 Ark. 320, at 5.

The Petitioner had a suppression hearing August 18, 2015, in which he was represented by David Cannon. At this hearing, Petitioner was afforded the opportunity to question each officer involved in the traffic stop. Upon conclusion of the hearing the Court denied Petitioner's Motion to Suppress and the case was set for trial on September 24, 2015. On September 24,

2015, defense counsel David Cannon as well as the State were present and ready for trial, a jury was called in and the Petitioner failed to appear and was later found to be out of the country. His bond was revoked and a warrant was issued and after some time the Petitioner was found and extradited back to the United States and more specifically Saline County. Mr. Stephen Davis was then appointed to represent Petitioner and negotiated the aforementioned plea. The Petitioner was given a plea statement and conditions of his suspended imposition of sentence and signed both documents stating he understood both.

Moreover he admitted to the Court the facts which established his guilt beyond a reasonable doubt. He also was extensively questioned by the Court during his guilty plea colloquy concerning the voluntariness of his plea and he agreed that his guilty plea was voluntary and not the result of coercion. He signed the guilty plea statement explaining his rights to him. He assured the Court that he understood the rights as explained and that he waived those rights and wanted to enter a guilty plea.

His conclusory claims, which are specifically rebutted by the record, cannot sustain his burden of showing ineffectiveness. Moreover, the Petitioner cannot show that he would not have pled guilty but for counsel's errors. After the Court's meticulous questioning of Petitioner at the time of the plea and detailed explanations to him of both the benefits and pitfalls of pleading, the Petitioner made an informed and voluntary decision to plead guilty. The fact that he is second guessing his guilty plea now is no basis for post-conviction relief. These allegations, not supported by facts or the record, are simply insufficient to justify relief or a hearing. The Petitioner's Rule 37 Petition is wholly without merit, and should be denied.

IT IS THEREFORE CONSIDERED, ORDERED AND ADJUDGED that the Rule 37 Petition is wholly without merit, and is denied without a hearing.

IT IS SO ORDERED this 15 day of April, 2019.

Gary Arnold

Gary Arnold

CIRCUIT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

DAVID ANSON ALANDT — PETITIONER

V. — NO. 4:17CV00633-BSM-JTR

RODNEY WRIGHT,
Saline County Sheriff — RESPONDENT

RECOMMENDED DISPOSITION

The following Recommended Disposition ("Recommendation") has been sent to Chief United States District Judge Brian S. Miller. You may file written objections to all or part of this Recommendation. If you do so, those objections must: (1) specifically explain the factual and/or legal basis for your objection; and (2) be received by the Clerk of this Court within fourteen (14) days of this Recommendation. By not objecting, you may waive the right to appeal questions of fact.

I. Introduction

On September 29, 2017, David Anson Alandt ("Alandt") filed a § 2241 Petition for a Writ of Habeas Corpus attacking his pretrial detention in the Saline

County Detention Center on unspecified criminal charges in Saline Co. Cir. Ct. No. 63CR-14-745.[1] *Doc. 2.*

In his habeas Petition, Alandt alleged that:

(1) He was being held in violation of the international extradition treaty between the United States-United Kingdom and the Kingdom of Swaziland, and "Section 10 of the Extradition Act, 1968";

(2) His right to a speedy trial had been violated;

(3) He was being denied due process because his public defender "continually [sought] to be relieved" and the trial judge "refuse[d] to grant relief";

(4) His attorney refused to subpoena witnesses on his behalf, in violation of the Compulsory Process Clause;

(5) The trial court committed "illegal extradition procedures";

(6) His attorney refused to follow his instructions or comply with Arkansas's rules of criminal procedure and evidentiary rules, and the trial judge refused to grant relief;

(7) His extradition proceedings were improper because he was denied access to certain evidence and was denied counsel; and

(8) State and federal officials made false statements to him prior to and during his extradition proceedings.

---

[1]The Saline County Circuit Court's public records in Alandt's criminal case are accessible at https://caseinfo.aoc.arkansas.gov. According to those records: (1) on December 10, 2014, Alandt was charged in a criminal information with felony possession of 540 pounds of marijuana with intent to deliver; (2) he failed to appear for his scheduled jury trial on September 24, 2015; (3) it was later discovered that he had fled the country; (4) he was extradited back to Arkansas on May 12, 2017; and (5) he pled guilty to the charge on October 3, 2017, receiving a 72-month suspended imposition of sentence. *See State v. David Alandt,* Saline Co. Cir. Ct. No. 63CR-14-745 docket sheet & 09/29/17 docket entry (State's Resp. to Motion to Dismiss for Lack of Speedy Trial).

Doc. 2 at 6-11.

For the reasons discussed below, the Court recommends that Alandt's § 2241 Petition be dismissed. *See* Rule 4, Rules Governing § 2254 Cases in United States District Courts (a federal court should summarily dismiss a habeas petition if "it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court"); § 2254 Rule 1(b) (§ 2254 Rules may be applied to other habeas corpus petitions).

II. Discussion

A. Alandt's Challenges to His Extradition Procedures Are Moot

Alandt asserts that his extradition proceedings concluded on May 12, 2017. *Doc. 2 at 7.* Once a prisoner has been returned to the jurisdiction seeking extradition, a federal writ of habeas corpus is no longer available to challenge the validity of the extradition or the legality of his detention in the jurisdiction from which he was extradited. *Beachem v. Attorney General of Missouri,* 808 F.2d 1303, 1304 (8th Cir. 1987); *Brown v. Nutsch,* 619 F.2d 758, 763 (8th Cir.1980); *see also Jackson v. Clements,* 796 F.3d 841, 843 (7th Cir. 2015) (once a defendant has been convicted of the crime that prompted extradition, any § 2241 claims concerning his pretrial confinement become moot); *Weilburg v. Shapiro,* 488 F.3d 1202, 1206 (9th Cir.

2007) (invalid extradition is not a sufficient ground for habeas relief "once the fugitive is present in the jurisdiction from which he fled").

Furthermore, alleged improprieties in Alandt's extradition proceedings could have no effect on the validity of any subsequent conviction. In *Frisbie v. Collins*, 342 U.S. 519, 522 (1952), the Court held that "the power of a court to try a person for crime is not impaired by the fact that he has been brought within the court's jurisdiction by reason of a 'forcible abduction.' ... There is nothing in the Constitution that requires a court to permit a guilty person rightfully convicted to escape justice because he was brought to trial against his will.'" The same reasoning applies to alleged violations of extradition procedures. *See Harden v. Pataki*, 320 F.3d 1289, 1296-98 (11th Cir. 2003) (violations of extradition procedures "in no way relate to Harden's guilt or innocence and therefore do not impugn his conviction or sentence"); *Mosby v. Mabry*, 625 F.2d 809, 810 (8th Cir. 1980) (rejecting habeas petitioner's claim that unlawful extradition voided his subsequent conviction, citing *Frisbie*).

Because Alandt's claims challenging his extradition proceedings clearly do not entitle him to federal habeas relief, they should be dismissed with prejudice.

B. Alandt's Remaining Claims are Unexhausted

Before a state prisoner can seek federal habeas relief, he ordinarily must "exhaust[t] the remedies available in the courts of the State." 28 U.S.C. §

2254(b)(1)(A), thereby affording those courts "the first opportunity to review [a federal constitutional] claim and provide any necessary relief" for alleged violations of a prisoner's federal constitutional rights. *O'Sullivan v. Boerckel*, 526 U.S. 838, 844-45 (1999). State remedies are not exhausted if a petitioner "has the right under the law of the State to raise, by any available procedure, the question presented." 28 U.S.C. § 2254(c). This requires state prisoners to "give the state courts one full opportunity to resolve any constitutional issues by invoking one complete round of the State's established appellate review process." *O'Sullivan*, 526 U.S. at 845.

The exhaustion requirement applies not only to habeas petitions challenging state-court *convictions* following a trial or guilty plea, but also to § 2241 habeas petitions challenging a *pending or future* state criminal conviction. *Sacco v. Falke*, 649 F.2d 634, 635-37 (8th Cir. 1981); *Davis v. Muellar*, 643 F.2d 521, 525 (8th Cir. 1981). In addition, "[a]bsent extraordinary circumstances, federal courts should not interfere with the states' pending judicial processes prior to trial and conviction, even though the prisoner claims he is being held in violation of the Constitution." *Sacco*, 649 F.2d at 636 (quoting *Wingo v. Ciccone*, 507 F.2d 34, 357 (8th Cir. 1974)).

In his § 2241 habeas Petition, Alandt stated that, on September 15, 2017, he filed a motion to dismiss the charges pending against him in Saline County due to a speedy trial violation, but his attorney refused to "appeal decisions" or otherwise exhaust state remedies. *Doc 2 ¶¶ 7-8, 12*. He admitted that he had not filed anything

else in state court. *Id. ¶¶ 8-9, 12.* In Alandt's § 2241 habeas Petition, which he filed on September 29, 2017, he explicitly alleged that his state court trial was scheduled for October 4, 2017. *Id. at 7.* Thus, when he initiated this action, Alandt's state criminal proceedings in Saline County were still ongoing and he had *not* exhausted his state court remedies. Finally, Alandt has made no showing that the existing state criminal procedures were ineffective to protect his constitutional rights or that extraordinary circumstances warranted federal intervention with the state's pending judicial proceedings.

According to the Saline County Circuit Court's public case records, on October 3, 2017, Alandt appeared in the trial court and entered a guilty plea to the pending charge in No. 63CR-14-745 (felony possession of marijuana with intent to deliver). The same day, an Order was entered suspending imposition of sentence for 72 months. The court records show that, since entry of his guilty plea on October 3, 2017, Alandt has not appealed or filed any post-trial or post-conviction motions in the trial court.[2] Because it is clear that Alandt has not exhausted available state court

[2]*See* Ark. Code Ann. § 5-4-305 (providing that "the fact that a judgment of conviction is not entered does not preclude ... an appeal [from a suspended imposition of sentence] on the basis of any error in the adjudication of guilt or any error in the entry of the order of the suspension"; notice of appeal must be filed within 30 days after the docket entry of the suspension); Ark. R. App. P.-Crim 1(a) (a criminal defendant has no right to an appeal from an unconditional guilty plea); *Burns v. State*, 2017 Ark. 280, at 2-3 (noting that appeals are allowed from unconditional guilty pleas *only if* the defendant challenges the legality of his sentence or the admission of evidence during sentencing); *see also* Ark. R. Crim. P. 37.2(c)(i) (where conviction was obtained on a plea of guilty, post-conviction petition must be filed within 90 days of entry of judgment); *Graham v. State*, 358 Ark. 296, 298, 188 S.W.3d 893, 895 (Ark. 2004) (challenges to effectiveness

remedies regarding his recently imposed conviction and sentence, the Court declines to construe this as a § 2254 Petition challenging that conviction. Alandt is free to file a § 2254 Petition for Writ of Habeas Corpus, *in a new action*, after he fully exhausts his remedies at every level of the state court system.

Accordingly, Alandt's remaining claims should be dismissed without prejudice for failure to exhaust.

III. Conclusion

IT IS THEREFORE RECOMMENDED that this 28 U.S.C. § 2241 Petition for a Writ of Habeas Corpus (*Doc. 2*) be DENIED, and that the case be DISMISSED in its entirety. Alandt's claims challenging his extradition should be dismissed with prejudice, and his remaining claims should be dismissed without prejudice.

IT IS FURTHER RECOMMENDED that a Certificate of Appealability be DENIED. *See* 28 U.S.C. § 2253(c)(1)-(2); Rule 11(a), Rules Governing § 2254 Cases in United States District Courts.

DATED this 13th day of November, 2017.

UNITED STATES MAGISTRATE JUDGE

of counsel in connection with entry of a guilty plea "could, and should" be raised in a Rule 37 petition). The Court is unable to ascertain from the limited record whether Alandt would have any basis for pursuing any of these state court remedies.

ARKANSAS COURT OF APPEALS

DIVISION I
No. CR-18-244

	Opinion Delivered: October 17, 2018
DAVID ANSON ALANDT APPELLANT V. STATE OF ARKANSAS APPELLEE	APPEAL FROM THE SALINE COUNTY CIRCUIT COURT, [NO. 63CR-14-745] HONORABLE GARY ARNOLD, JUDGE DISMISSED

DAVID M. GLOVER, Judge

David Alandt pleaded guilty to the offense of possession of more than 100 pounds of marijuana with the intent to deliver, which is a Class A felony (Ark. Code Ann. § 5-64-436(b)(5) (Repl. 2016)). He was sentenced on October 12, 2017. According to the pertinent portion of the negotiated plea agreement, he received a suspended sentence of seventy-two months in the Arkansas Department of Correction, and pursuant to Act 531, he could later petition to have the record of his offense sealed. But the October 12, 2017 sentencing order failed to provide that the sentence was imposed under Act 531 and that Alandt could petition to seal his record. Alandt petitioned for an amended sentencing order, which was granted and entered on November 20, 2017. But the November 20, 2017, amended sentencing order failed to provide that he could later petition to have the record sealed.

> Civil Procedure, a trial court may at any time correct clerical mistakes in judgments, decrees, orders, or other parts of the record and errors therein arising from oversight or omission. A true clerical error is one that arises, not from an exercise of the court's judicial discretion, but from a mistake on the part of its officers. . . .
>
> A trial court maintains jurisdiction after a record is lodged on appeal to correct a judgment to speak the truth. (Once an appeal has been lodged, a trial court loses jurisdiction except to correct a judgment to speak the truth.) Generally, an issue becomes moot when any judgment rendered would have no practical effect upon a then existing legal controversy. . . . Because the trial court maintained jurisdiction to enter the second amended order that provided Matlock with the remedy he sought in this appeal and because the State concedes that Matlock is entitled to the jail-time credit set forth in the second amended order, the question on appeal is now moot.

Here, the appeal fits squarely within the mootness doctrine, and neither of the exceptions is applicable. The second amended nunc pro tunc sentencing order entered on June 21, 2018, provides the very thing Alandt contends the trial court erred in omitting in the November 20, 2017 amended sentencing order. Deciding this issue will have no practical legal effect because it has already been done. We therefore dismiss this appeal because the issue raised is moot.

Dismissed.

VAUGHT and HIXSON, JJ., agree.

On December 19, 2017, Alandt filed his notice of appeal. After the record for the appeal was lodged in our court (and after Alandt filed his appellate brief on June 6, 2018), a second amended sentencing order was entered, nunc pro tunc, on June 21, 2018. It clarified that Alandt had been sentenced pursuant to Act 531 and that he could later petition the court to seal the record. The State's responsive brief was filed August 1, 2018.

For his sole point of appeal, Alandt contends the trial court erred in failing to grant his motion to modify the November 20, 2017 amended sentencing order to reflect that he could later petition to seal his record. The second amended sentencing order was filed after Alandt filed his brief and before the State filed its brief. In its brief, the State contends that the entry of the second amended nunc pro tunc sentencing order on June 21, 2018, rendered this appeal moot because it provided that Alandt could later petition to have his record sealed. We agree.

As a general rule, our appellate courts will not review issues that are moot. *Trujillo v. State*, 2016 Ark. 49, 483 S.W.3d 801. To do so would be to render advisory opinions, which this court will not do. *Id.* A case becomes moot when any judgment rendered would have no practical legal effect upon a then existing legal controversy. *Id.* Two exceptions to the mootness doctrine have been recognized: 1) issues that are capable of repetition yet evade review and 2) issues that raise considerations of substantial public interest which, if addressed, would prevent future litigation. *Id.*

In *Matlock v. State*, 2017 Ark. 175, at 2, 518 S.W.3d 79, 80–81, our supreme court explained:

> A circuit court has the power to correct clerical errors nunc pro tunc so that the record speaks the truth. Pursuant to Rule 60(b) (2016) of the Arkansas Rules of

IN TESTIMONY, That the above is a true copy of the opinion of said Court of Appeals rendered in the case therein stated, I, Stacey Pectol, Clerk of said Court of Appeals, hereunto set my hand and affix the Seal of said Court of Appeals, at my office in the City of Little Rock this 6th day of November, A.D., 20 18.

Stacey Pectol
Clerk

D.C.

Additional material from this filing is available in the Clerk's Office.