

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1968**

State of Minnesota,
Appellant,

vs.

Devin Dion Tillman,
Respondent.

**Filed June 15, 2026
Appeal dismissed; motion granted
Beane, Judge**

Blue Earth County District Court
File No. 07-CR-21-700

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Patrick R. McDermott, Blue Earth County Attorney, Mankato, Minnesota; and

Scott A. Hersey, Special Assistant County Attorney, St. Paul, Minnesota (for appellant)

Cathryn Middlebrook, Chief Appellate Public Defender, Richard Schmitz, Assistant Public
Defender, St. Paul, Minnesota (for respondent)

Considered and decided by Smith, Tracy M., Presiding Judge; Schmidt, Judge; and
Beane, Judge.

NONPRECEDENTIAL OPINION

BEANE, Judge

Appellant State of Minnesota challenges the district court's decision to award
respondent Devin Dion Tillman custody credit of 424 days at resentencing, following this

court's remand. The state argues that the district court abused its discretion by failing to follow this court's remand instructions. While this appeal was pending, Tillman's sentence expired, and he moved to dismiss the appeal. Because the district court no longer has jurisdiction to modify the expired sentence, we dismiss this appeal as moot.

FACTS

In March 2022, Tillman pleaded guilty to second-degree assault and fleeing a peace officer, but he then failed to appear at his scheduled sentencing hearing in May 2022. Tillman was arrested in Illinois in early 2023 and signed a waiver of extradition to Minnesota. That March, Tillman pleaded guilty to an Illinois charge and received a sentence in Illinois. He remained in Illinois custody until March 2024, and shortly after his release, he appeared in district court in Minnesota for sentencing on the Minnesota offenses. The district court sentenced Tillman to concurrent prison terms for his Minnesota offenses, for a total duration of 36 months, and awarded him 424 days of custody credit, which included the time Tillman served in Illinois custody on his Illinois offenses.

The state appealed, arguing that granting Tillman custody credit for time served in Illinois custody in connection with his Illinois offenses was inconsistent with the holding in *State v. Roy*, 928 N.W.2d 341 (Minn. 2019), which distinguishes between interjurisdictional and intrajurisdictional custody credit. *State v. Tillman*, No. A24-0734, 2025 WL 249617, at *3 (Minn. App. Jan. 21, 2025), *rev. denied* (Minn. May 13, 2025). Under *Roy*, “[f]or a defendant to receive credit on a Minnesota sentence for time spent in another jurisdiction’s custody, the defendant’s Minnesota offense must be the sole reason for the custody.” 928 N.W.2d at 345 (quotation omitted). Tillman raised two constitutional

arguments for the first time on appeal, asserting that denying him credit for his time in Illinois custody violates due process and equal protection. *Tillman*, 2025 WL 249617, at *4. We agreed with the state, declined to address Tillman’s new constitutional arguments, and reversed and remanded with instructions “to recalculate the award of jail credit in a manner consistent with this opinion and the supreme court’s decision in *Roy*.” *Id.* at *6.

The district court held a resentencing hearing. The state argued that, under our remand instructions, the sole purpose of the hearing was to resentence Tillman with custody credit consistent with *Roy*. Tillman presented the same constitutional arguments that we declined to consider in his first appeal. Citing “principles of equal protection and due process,” and reasoning that the *Roy* rule distinguishing between interjurisdictional and intrajurisdictional custody is “unsupportable,” the district court again awarded Tillman 424 days of custody credit.

The state appeals.

DECISION

The state argues that the district court erred by awarding Tillman 424 days of custody credit because that award is inconsistent with *Roy* and violates this court’s remand instructions. In his motion to dismiss, Tillman argues that the expiration of his sentence on January 26, 2026, rendered this appeal moot because the district court now lacks jurisdiction to modify his custody credit, which would increase the amount of time he is required to serve in custody on his sentence.

We have long recognized that “the expiration of a sentence operates as a discharge that bars further sanctions for a criminal conviction.” *State v. Purdy*, 589 N.W.2d 496, 498

(Minn. App. 1999) (citing *State v. Whitfield*, 483 N.W.2d 102, 104 (Minn. App. 1992)). “Once a sentence has expired, the court no longer has jurisdiction to modify even what may be an unauthorized sentence.” *Martinek v. State*, 678 N.W.2d 714, 718 (Minn. App. 2004) (citing *Purdy*, 589 N.W.2d at 498-99). And we recently reaffirmed that under *Purdy* and *Martinek*, which “remain binding precedent,” a district court cannot modify a defendant’s sentence—even an unauthorized sentence—after it expires. *Pizarro-Rios v. State*, 23 N.W.3d 626, 637-38 (Minn. App. 2025).

The state accepts that the general rule articulated in *Purdy* and *Martinek* applies here but argues that we should create an “exception” to that rule for cases in which a district court fails to follow remand instructions. In support of that argument, the state contends that we have previously recognized exceptions to the *Purdy/Martinek* rule in *State v. Franson*, 921 N.W.2d 783, 788 (Minn. App. 2018), *rev. denied* (Minn. Feb. 27, 2019), and *Mason v. State*, 16 N.W.3d 828, 833 (Minn. App. 2025), *rev. denied* (Minn. Apr. 23, 2025). We disagree. *Franson* and *Mason* both expressly distinguished *Purdy* and *Martinek*, concluding that the *Purdy/Martinek* rule did not apply to the unique facts presented in those cases; neither purported to create an exception to *Purdy* and *Martinek*. *Franson*, 921 N.W.2d at 788; *Mason*, 16 N.W.3d at 833. And we decline to create an exception to the *Purdy/Martinek* rule here. We trust that a district court failing to follow our remand instructions will prove to be a sufficiently rare occurrence that adopting a specific exception to address it is unnecessary.

Under *Purdy* and *Martinek*, the district court cannot modify Tillman’s expired sentence. Because the district court can no longer grant the state the relief it seeks, this

appeal is moot. *See Winkowski v. Winkowski*, 989 N.W.2d 302, 308 (Minn. 2023) (stating that appellate courts “will dismiss an appeal as moot when a decision on the merits is no longer necessary or an award of effective relief is no longer possible” (quotation omitted)). We therefore grant Tillman’s motion and dismiss the appeal.

Appeal dismissed; motion granted.