Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

SPENCER *v.* KEMNA, SUPERINTENDENT, WESTERN MISSOURI CORRECTIONAL CENTER, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 96–7171. Argued November 12, 1997– Decided March 3, 1998

On October 17, 1990, petitioner began serving concurrent three-year sentences for convictions of felony stealing and burglary, due to expire on October 16, 1993. On April 16, 1992, he was released on parole, but on September 24, 1992, that parole was revoked and he was returned to prison. Thereafter, he sought to invalidate the parole revocation, first filing habeas petitions in state court, and then the present federal habeas petition. Before the District Court addressed the merits of the habeas petition, petitioner's sentence expired, and so the District Court dismissed the petition as moot. The Eighth Circuit affirmed.

Held: The expiration of petitioner's sentence has caused his petition to be moot because it no longer presents an Article III case or controversy.

(a) An incarcerated convict's (or a parolee's) challenge to his conviction always satisfies the case-or-controversy requirement because the incarceration (or the restriction imposed by the terms of parole) constitutes a concrete injury caused by the conviction and redressable by the conviction's invalidation. Once the sentence has expired, however, the petitioner must show some concrete and continuing injury other than the now-ended incarceration (or parole)– some "collateral consequence" of the conviction– if the suit is to be maintained. In recent decades, this Court has presumed that a wrongful conviction has continuing collateral consequences (or, what is effectively the same, has counted collateral consequences that are remote and unlikely to occur). *Sibron* v. *New York*, 392 U. S. 40, 55–56. However, in *Lane* v. *Williams*, 455 U. S. 624, the Court refused to extend this presumption of collateral consequences to the revocation of parole. The Court

adheres to that refusal, which leaves only the question whether petitioner has demonstrated collateral consequences. Pp. 5–12.

(b) Petitioner's asserted injuries-in-fact do not establish collateral consequences sufficient to state an Article III case or controversy. That his parole revocation could be used to his detriment in a future parole proceeding is merely a possibility rather than a certainty or a probability. That the revocation could be used to increase his sentence in a future sentencing proceeding is, like a similar claim rejected in *Lane*, contingent on petitioner's violating the law, being caught and convicted. Likewise speculative are petitioner's other allegations of collateral consequence– that the parole revocation could be used to impeach him should he appear as a witness in future proceedings, and that it could be used directly against him should he appear as a defendant in a criminal proceeding. Pp. 12–14.

(c) The Court finds no merit in petitioner's remaining arguments– that since he is foreclosed from pursuing a damages action under 42 U. S. C. §1983 unless he can establish his parole revocation's invalidity, see *Heck* v. *Humphrey*, 512 U. S. 477, his action to establish that invalidity cannot be moot; that this case falls within the exception to the mootness doctrine for cases that are "capable of repetition, yet evading review"; and that the mootness of his case should be ignored because it was caused by the dilatory tactics of the state attorney general's office and by district court delays. Pp. 15–16.

91 F. 3d 1114, affirmed.

SCALIA, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, KENNEDY, SOUTER, THOMAS, GINSBURG, and BREYER, JJ., joined. SOUTER, J., filed a concurring opinion, in which O'CONNOR, GINSBURG, and BREYER, JJ., joined. GINSBURG, J., filed a concurring opinion. STEVENS, J., filed a dissenting opinion.