

AMERICAN CONSTITUTIONALISM
VOLUME I: STRUCTURES OF GOVERNMENT
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Supplementary Material

Chapter 9: Liberalism Divided – Judicial Power and Constitutional Authority

North Carolina v. Rice, 404 U.S. 244 (1971)

In North Carolina v. Pearce (1971), the U.S. Supreme Court ruled that criminal defendants who win a new trial on appeal may not be given a greater sentence at retrial where “vindictiveness” on the part of the prosecutor or judge played any role in the resentencing procedure. Wayne Claude Rice had been convicted in a North Carolina county court of driving while intoxicated and sentenced to nine months in prison. He appealed to the superior court and was tried de novo there. He was again found guilty, but this time he was sentenced to two years in prison. On the basis of the Pearce decision, Rice filed a habeas corpus petition in federal district court requesting that his conviction be overturned. The district court denied the petition, and he appealed to the federal circuit court. By the time his appeal was heard in the U.S. Court of Appeals, he had completed his sentence and been released. The Court of Appeals accepted the case, held that Rice’s situation fell under the Pearce doctrine and that the superior court had committed an error in sentencing him, and expunged Rice’s conviction. The state appealed to the U.S. Supreme Court, which ruled that the case was moot in a 6–1 decision. Under Pearce, the Court held, Rice was at most entitled to a reduction of sentence, but he was not entitled to have the conviction overturned. Unless there were some additional consequences under state law to preserving the longer sentence on the record, there was nothing more that the courts could do to remedy any potential injury to Rice. The circuit court should not have accepted the case for resolution. Having found the case moot, the Court did not answer the substantive legal question of whether a de novo trial by a superior court fell under the Pearce doctrine.

What is the significance of mootness being regarded as a jurisdictional question? Why does the question of mootness have constitutional significance? Are there ways in which Rice might still have gotten his case heard by the appellate courts? Why should courts not issue opinions to resolve uncertain legal issues in cases of this sort? Why did the Court not first need to decide whether the Pearce ruling applied to Rice’s case before it could determine the question of mootness?

PER CURIAM

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. . . . Although neither party has urged that this case is moot, resolution of the question is essential if federal courts are to function within their constitutional sphere of authority. Early in its history, this Court held that it had no power to issue advisory opinions . . . and it has frequently repeated that federal courts are without power to decide questions that cannot affect the rights of litigants in the case before them. To be cognizable in a federal court, a suit “must be definite and concrete, touching the legal relations of parties having adverse legal interests. . . . It must be a real and substantial controversy admitting of specific relief through a decree of a conclusive character, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts.” *Aetna Life Insurance Co. v. Haworth* (1937). However, “moot questions require no answer.” . . . Mootness is a jurisdictional question because the Court “is not empowered to decide moot questions or abstract propositions” . . . ; our impotence “to review moot cases derives from the requirement of Article III of the Constitution under which the exercise of judicial power depends upon the existence of a case or controversy.” . . . Even in cases arising

in the state courts, the question of mootness is a federal one which a federal court must resolve before it assumes jurisdiction. . . .

The Court of Appeals held that the case was not moot because it assumed that *Pearce* mandated expunction of Rice's conviction and because the conviction, unexpunged, would have collateral consequences entitling Rice to challenge it. A number of disabilities may attach to a convicted defendant even after he has left prison, and the Court has recognized the standing of such persons to challenge the legality of their convictions even when their sentences have been served. It could not be clearer, however, that *Pearce* does not invalidate the conviction that resulted from Rice's second trial . . . *Pearce*, in short, requires only resentencing; the conviction is not ipso facto set aside and a new trial required. . . . Even if the higher sentence imposed after Rice's trial *de novo* was vulnerable under *Pearce*, Rice was entitled neither to have his conviction erased nor to avoid the collateral consequences flowing from that conviction and a proper sentence.

. . . . Nullification of a conviction may have important benefits for a defendant, as outlined above, but urging in a habeas corpus proceeding the correction of a sentence already served is another matter. . . . Accordingly, we vacate the judgment of the Court of Appeals and remand the case to that court for reconsideration of the question of mootness.

JUSTICE DOUGLAS would affirm the judgment below on the opinion of the Court of Appeals. . . .



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