

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals**For the Seventh Circuit****Chicago, Illinois 60604**

Submitted July 17, 2025

Decided July 17, 2025

BeforeTHOMAS L. KIRSCH II, *Circuit Judge*JOHN Z. LEE, *Circuit Judge*DORIS L. PRYOR, *Circuit Judge*

No. 25-1103

UNITED STATES OF AMERICA,

*Plaintiff-Appellee,**v.*

TYRONE WALLACE,

*Defendant-Appellant.*Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division.

No. 1:01-CR-00196(1)

Lindsay C. Jenkins,
*Judge.***ORDER**

Tyrone Wallace was convicted by a jury of possessing a firearm as a felon and, after successfully challenging his original sentence, was resentenced to 120 months' imprisonment. He appeals, but his appointed counsel asserts that the appeal is frivolous and moves to withdraw. *See Anders v. California*, 386 U.S. 738, 744 (1967). Counsel's brief explains the nature of the case and raises potential issues that an appeal of this kind might be expected to involve. Because counsel's brief appears thorough, we limit our review to the subjects discussed in the brief and Wallace's response under Circuit

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Rule 51(b). *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014). We grant the motion and dismiss the appeal.

In 2001, a jury convicted Wallace of violating 18 U.S.C. § 922(g)(1) for possessing a firearm after a felony conviction. At sentencing, the district court found that Wallace had three prior Illinois convictions for violent felonies—aggravated battery, second-degree murder, and unlawful restraint—and on that basis concluded that he was an armed career criminal as defined by 18 U.S.C. § 924(e). The court sentenced Wallace to 300 months' imprisonment followed by five years' supervised release. We affirmed both the conviction and sentence. *United States v. Wallace*, 326 F.3d 881, 886–87 (7th Cir. 2003).

Twelve years later, the Supreme Court invalidated the Armed Career Criminal Act's residual clause as unconstitutionally vague. *Johnson v. United States*, 576 U.S. 591, 606 (2015). The next year, the Court made that decision retroactive. *Welch v. United States*, 578 U.S. 120, 130 (2016). Based on those developments, Wallace sought collateral relief under 28 U.S.C. § 2255. The district court granted Wallace's motion and vacated his sentence.

The district court resentenced Wallace in December 2024. The court adopted the presentence investigation report from Wallace's original sentencing with the understanding that some of the information may not be current. The court calculated a total offense level of 31 and a criminal history category of VI, which yielded a guidelines range of 188 to 235 months. *See* U.S.S.G. § 5A. But because Wallace no longer qualified as an armed career criminal, his statutory maximum term of imprisonment was 120 months. 18 U.S.C. § 924(a)(2) (1998). Wallace had by that point served nearly 14 years—about 40% beyond the new statutory maximum. The court therefore sentenced him to 120 months' time served with no supervised release to follow. It explained that “it would be a further injustice to sentence [him] to any more time.”

In his *Anders* brief, counsel first considers but rightly rejects the possibility that Wallace could challenge the court's grant of his § 2255 motion. In that motion, Wallace never raised any challenge to his conviction. Instead, he argued only that his sentence was unconstitutional. Because the district court granted in full the relief Wallace sought in his § 2255 motion, there would be no other relief available to him now. *See Garner v. United States*, 808 F.3d 716, 718 (7th Cir. 2015).

Counsel informs us that Wallace now wishes to challenge his original conviction, but rightly determines that any such challenge would be frivolous. Challenges arising

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from trial must be raised as soon as possible, *Dahler v. United States*, 259 F.3d 763, 765 (7th Cir. 2001), but Wallace was tried more than two decades ago, *Wallace*, 326 F.3d at 883–84. Accordingly, we would treat such a challenge as a collateral attack. *See Dahler*, 259 F.3d at 765. Section 2255(f) imposes a strict one-year time limit on collateral challenges to federal convictions or sentences. The one-year period began when Wallace’s conviction became final after the Supreme Court denied his petition for certiorari in 2003. *Wallace v. United States*, 540 U.S. 905 (2003); *see Robinson v. United States*, 416 F.3d 645, 646 (7th Cir. 2005). Thus, although Wallace urges counsel to examine the trial record, counsel has permissibly focused on the timeliness issue because it is a threshold matter—errors in the trial record are not serious candidates for appellate review when raised too late. *See Bey*, 748 F.3d at 776.

With respect to Wallace’s sentence, we agree with counsel that any challenge would be moot, and we would therefore lack jurisdiction to consider it. To challenge an already-completed sentence, a defendant must show that he suffered some “continuing injury” or “collateral consequence.” *Spencer v. Kemna*, 523 U.S. 1, 7–8 (1998). Neither Wallace nor his counsel identify a continuing injury—and we do not see one—so we would lack jurisdiction to consider any challenge to Wallace’s completed sentence. *See id.* at 8, 14.

Therefore, we GRANT counsel’s motion to withdraw and DISMISS the appeal.