counterpart in civil litigation in which a lower court judgment may still have certain present or future adverse effects on the challenging party.[563]

A second exception, the "voluntary cessation" doctrine, focuses on the likelihood of discontinued conduct recurring or a superseded statute being renewed.[564] Cessation of a challenged activity by voluntary choice, especially of an activity the actor claims was proper, will moot a case only if it can be said with assurance "that 'there is no reasonable expectation that the wrong will be repeated.'" [565] A person asserting mootness through voluntary cessation bears the "formidable burden" of showing with absolute clarity that there is no reasonable prospect of renewed activity.[566] Otherwise, "[t]he defendant is free to return to his old ways" and this fact would be enough to prevent mootness because of the "public interest in having the legality of the practices settled." [567]

Still a third exception concerns the ability to challenge short-term conduct which may recur in the future, which has been denominated as disputes "capable of repetition, yet evading review." [568] Thus, in cases in which (1) the challenged action is too short in its duration to be fully litigated prior to its cessation or expiration, and (2) there is a reasonable expectation that the same

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review at the instance of the prosecution as well as defendant. Pennsylvania v. Mimms, 434 U.S. 106 (1977). When a convicted defendant dies while his case is on direct review, the Court's present practice is to dismiss the petition for certiorari. Dove v. United States, 423 U.S. 325 (1976), overruling Durham v. United States, 401 U.S. 481 (1971).

[563] Southern Pacific Terminal Co. v. ICC, 219 U.S. 433, 452 (1911); Carroll v. President & Commr's of Princess Anne, 393 U.S. 175 (1968). *See* Super Tire Engineering Co. v. McCorkle, 416 U.S. 115 (1974) (holding that expiration of strike did not moot employer challenge to state regulations entitling strikers to state welfare assistance since the consequences of the regulations would continue).

[564] United States v. Trans-Missouri Freight Ass'n, 166 U.S. 290 (1897); Walling v. Helmerich & Payne, 323 U.S. 37 (1944); Porter v. Lee, 328 U.S. 246 (1946); United States v. W.T. Grant Co., 345 U.S. 629 (1953); Gray v. Sanders, 372 U.S. 368 (1963); United States v. Concentrated Phosphate Export Ass'n, 393 U.S. 199, 202–04 (1969); DeFunis v. Odegaard, 416 U.S. 312, 318 (1974); County of Los Angeles v. Davis, 440 U.S. 625, 631–34 (1979), and id. at 641–46 (Justice Powell dissenting); Vitek v. Jones, 445 U.S. 480, 486–487 (1980), and id. at 500–01 (Justice Stewart dissenting); Princeton University v. Schmidt, 455 U.S. 100 (1982); City of Mesquite v. Aladdin's Castle, Inc., 455 U.S. 283, 288–289 (1982).

[565] United States v. W.T. Grant Co., 345 U.S. 629, 633 (1953) (quoting United States v. Aluminum Co. of America, 148 F.2d 416, 448 (2d. Cir. 1945)).

[566] Already, LLC v. Nike, Inc., 568 U.S. ___, No. 11–982, slip op. at 4 (2013) (trademark holder seeking to moot invalidation claim against it: assessing the effect of the holder's dismissal of its trademark infringement claim against rival and submittal of a covenant not to sue), citing Friends of the Earth v. Laidlaw Envtl. Servs., 528 U.S. 167, 190 (2000)

[567] United States v. W.T. Grant Co., 345 U.S. 629, 632 (1953). *But see* A.L. Mechling Barge Lines v. United States, 368 U.S. 324 (1961).

[568] Southern Pacific Terminal Co. v. ICC, 219 U.S. 498, 515 (1911).