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July 28, 2015

Via Electronic Filing

Molly Dwyer
Clerk of Court
United States Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

RE: J. B. Norsworthy v. J. Beard, et al.
United States Court of Appeals for the Ninth Circuit, Case No. 15-15712

Dear Ms. Dwyer:

In response to the Court's July 21, 2015 order, Defendants respectfully submit this letter brief regarding Plaintiff-Appellee Michelle-Lael Norsworthy's parole status, and whether it renders this case moot. As Defendants indicated in their reply brief, a panel of the Board of Parole Hearings granted Ms. Norsworthy parole on May 21, 2015. *See* http://www.cdcr.ca.gov/BOPH/docs/PSHR/PSHR_Month_of_May_2015.pdf (last visited July 28, 2015). This provisional grant was reviewed by the Board and has been sent to the Governor's office for final review. *See* Cal. Penal Code § 3041.2. The Governor has been on an overseas trip and will review this case upon his return. Defendants anticipate that a final decision on Ms. Norsworthy's parole grant will issue on or before August 7, 2015. If her grant of parole stands, she should be released from prison in August.

If Ms. Norsworthy's parole grant is permitted to stand and she is released, it will render her claims moot.¹ An inmate-plaintiff's claims for injunctive relief regarding conditions of confinement are rendered moot by her release from prison. *Dilley v. Gunn*, 64 F.3d 1365, 1368 (9th Cir. 1995); *McQuillion v. Schwarzenegger*, 369 F.3d 1091, 1095 (9th Cir. 2004) (holding that inmate-plaintiff's "release extinguishes his legal interest in an injunction because it would have no effect on him."). The appropriate remedy in such circumstance is for an appellate court to vacate the district court's grant of injunctive relief, and remand with instructions to dismiss the action. *Camreta v. Greene*, 131 S. Ct. 2020, 2034-35 (2011). "A party who seeks review of the

¹ Ms. Norsworthy's complaint does not seek money damages. (CD 10, ER 271.)

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merits of an adverse ruling, but is frustrated by the vagaries of circumstance . . . ought not in fairness be forced to acquiesce in that ruling.” *Id.* at 2035 (internal citation omitted).

If Ms. Norsworthy’s grant of parole is finalized, it will be unnecessary for the Court to hold the oral argument scheduled for August 13, 2015. If parole is reversed, however, Defendants are prepared to proceed with oral argument. Defendants will promptly notify the Court and opposing counsel of the Governor’s decision.

Sincerely,

/s/ Jose A. Zelidon-Zepeda

JOSE A. ZELIDON-ZEPEDA
Deputy Attorney General

For KAMALA D. HARRIS
Attorney General

cc: Herman J. Hoying, Morgan Lewis & Bockius LLP

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CERTIFICATE OF SERVICE

Case Name: **Michelle-Lael B. Norsworthy v. J. Beard, et al.** No. **15-15712**

I hereby certify that on July 28, 2015, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

AG Letter to Ninth Circuit dated July 28, 2015 re: Plaintiff-Appellee Michelle-Lael Norsworthy's Parole Status;

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 28, 2015, at San Francisco, California.

C. Look
Declarant

/s/ C. Look
Signature

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