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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PHILLIP J. SEILER,

Petitioner - Appellant,

v.

ROBERT L. AYERS, Jr.,

Respondent - Appellee.

No. 07-16675

D.C. No. CV-04-02911-PJH

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Phyllis J. Hamilton, District Judge, Presiding

Submitted June 16, 2009**

Before: PAEZ, TALLMAN, and N.R. SMITH, Circuit Judges.

California state prisoner Phillip J. Seiler appeals from the district court's judgment denying his 28 U.S.C. § 2254 habeas petition, challenging the Governor

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of California's decision to deny him parole. The state moved to dismiss the appeal for lack of jurisdiction, on the ground that Seiler has been released on parole. By order filed October 17, 2008, this court directed appellant to move for voluntary dismissal of the appeal or show cause why it should not be dismissed for lack of jurisdiction. To date, appellant has not responded.

Because Seiler has been released on parole, we lack jurisdiction to grant the relief requested. *See Calderon v. Moore*, 518 U.S. 149, 150 (1996) (per curiam) (noting that an appeal is moot "when, by virtue of an intervening event, a court of appeals cannot grant any effectual relief whatever in favor of the appellant) (internal quotation marks and citation omitted). Accordingly, we dismiss this appeal as moot.

DISMISSED.