

JAN 13 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBERT EDWIN HOFFMAN,

Petitioner - Appellant,

v.

JOHN MARSHALL,

Respondent - Appellee.

No. 07-56856

D.C. No. CV-07-00340-R

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Manuel L. Real, District Judge, Presiding

Submitted December 15, 2009**

Before: GOODWIN, WALLACE, and LEAVY, Circuit Judges.

Robert Edwin Hoffman, a former California state prisoner, appeals pro se from the district court's judgment denying his 28 U.S.C. § 2254 petition challenging the California Board of Prison Terms' ("the Board") decision

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

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

determining him not suitable for parole.

The Board subsequently determined that Hoffman was suitable for parole, the Governor declined to exercise his discretion to review the decision, and Hoffman has now been released on parole. Therefore, this appeal is moot. *See Burnett v. Lampert*, 432 F.3d 996, 1000-01 (9th Cir. 2005); *see also Fendler v. U.S. Bureau of Prisons*, 846 F.2d 550, 555 (9th Cir. 1988).

AFFIRMED.