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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CHARLES DANIEL CARL,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>ROBERT HOREL; ATTORNEY GENERAL,</p> <p>Respondents - Appellees.</p>

No. 08-17183

D.C. No. 2:07-CV-001122-MCE

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, District Judge, Presiding

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

California state prisoner Charles Daniel Carl appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2254 habeas petition challenging a prison disciplinary decision for possession of a controlled substance. We have

* 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).

jurisdiction under 28 U.S.C. § 2253¹, and we affirm.

The district court properly dismissed Carl's petition as moot because the possibility that the disciplinary violation may impair his future parole eligibility is too speculative to constitute a collateral consequence sufficient to meet Article III's case-or-controversy requirement. *See Wilson v. Terhune*, 319 F.3d 477, 481-82 (9th Cir. 2003).

AFFIRMED.

¹ We certify for appeal, on our own motion, the issue of whether the district court properly dismissed Carl's habeas petition as moot. The state has fully briefed the issue that we certify for appeal.