NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ARTHUR MARCELO, Petitioner - Appellant, v. MATTHEW CATE, Respondent - Appellee.	No. 08-56609 D.C. No. 2:08-cv-01328-CAS MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Christina A. Snyder, District Judge, Presiding

Submitted November 21, 2010**

Before: TASHIMA, BERZON, and TALLMAN, Circuit Judges.

California state prisoner Arthur Marcelo appeals from the district court's judgment dismissing his 28 U.S.C. § 2254 habeas petition challenging the Board of Prison Terms's 2004 and 2005 decisions denying parole. We dismiss.

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* 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).

The record reflects that Marcelo received a new parole hearing in 2010 and has been released on parole. Thus, there is no injury that can be redressed by a favorable decision, and the case is moot. *See Burnett v. Lampert*, 432 F.3d 996, 999-1001 (9th Cir. 2005); *see also Munoz v. Rowland*, 104 F.3d 1096, 1097-98 (9th Cir. 1997) ("Because Munoz has been released . . . , we can no longer provide him the primary relief sought in his habeas corpus petition").

The state's motion for judicial notice is granted.

William Charles Melcher's motion to withdraw as Marcelo's counsel is also granted.

DISMISSED.