

**FILED**

FEB 09 2016

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

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FABIAN SANTILLAN,

Defendant - Appellant.

No. 15-50303

D.C. No. 3:13-cr-3519-BEN-1

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
Roger T. Benitez, District Judge, Presiding

Argued and Submitted December 7, 2015  
Pasadena, California

Before: GOULD and BERZON, Circuit Judges, and STEEH,\*\* Senior District Judge.

Fabian Santillan appeals from the revocation of supervised release and eleven-month sentence imposed upon revocation. Following argument and submission of the appeal, the government filed a motion to dismiss the appeal for

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

lack of subject-matter jurisdiction due to mootness based on the fact that Santillan completed his sentence on January 11, 2016, and was released from custody.

Mootness of a pending appeal deprives the court of subject matter jurisdiction to continue hearing that appeal. *McCullough v. Graber*, 726 F.3d 1057, 1059 (9th Cir. 2013) (holding that a case or controversy “must exist at all stages of the proceedings, including appellate review”). We agree that the appeal is moot because Santillan has fully served his custodial sentence and is not subject to an additional term of supervised release. *See Spencer v. Kemna*, 523 U.S. 1, 14, (1998); *United States v. Palomba*, 182 F.3d 1121, 1123 (9th Cir. 1999). We, therefore, dismiss the appeal.

DISMISSED.