

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 19 2017

FOR THE NINTH CIRCUIT

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

MAX LOUMENA,

Plaintiff-Appellant,

v.

EVALINA BARTH,

Defendant-Appellee.

No. 15-17130

D.C. No. 5:14-cv-05423-LHK

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Lucy H. Koh, District Judge, Presiding

Submitted April 11, 2017\*\*

Before: GOULD, CLIFTON, and HURWITZ, Circuit Judges.

Max Loumena appeals pro se from the district court's judgment denying his motion for appointment of a guardian ad litem and subsequent dismissal of his civil rights action. We have jurisdiction under 28 U.S.C. § 1291. We dismiss this appeal as moot.

---

\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

Approximately one month after Loumena filed this appeal, he turned 18 years of age and was no longer required to secure the appointment of a guardian ad litem in order to pursue his claims. *See* Fed. R. Civ. P. 17(b)(1) (the capacity of an individual to sue or be sued is determined by the law of the individual’s domicile); Cal. Civ. P. Code § 372(a) (a *minor* must be represented in court proceedings by a guardian ad litem or guardian or conservator of an estate (emphasis added)).

Accordingly, this appeal is moot because this court cannot grant effective relief regarding the district court’s denial of Loumena’s motion to appoint a guardian ad litem and the resulting dismissal of the action. *See United States v. Tanoue*, 94 F.3d 1342, 1344 (9th Cir. 1996) (“[A]n appeal must be dismissed as moot if an event occurs while the appeal is pending that makes it impossible for the appellate court to grant any effectual relief whatever to the prevailing party.” (citations and internal quotation marks omitted)).

Loumena’s request for a transfer to the Central District of California, raised for the first time in his opening brief, is denied.

In light of our disposition, we do not consider Loumena’s arguments regarding the merits of his claim.

**DISMISSED.**