

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 23 2018

FOR THE NINTH CIRCUIT

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

In re: FRANCISCO JAVIER
HERNANDEZ and JACQUELINE MARIE
HERNANDEZ,

Debtors.

FRANCISCO JAVIER HERNANDEZ,
AKA Francisco Hernandez; JACQUELINE
MARIE HERNANDEZ, AKA Jacqueline
Hernandez,

Appellants,

v.

MARTHA G. BRONITSKY, Chapter 13
Trustee,

Appellee.

No. 17-60043

BAP No. 17-1041

MEMORANDUM*

Appeal from the Ninth Circuit
Bankruptcy Appellate Panel
Brand, Kurtz, and Faris, Bankruptcy Judges, Presiding

Submitted March 13, 2018**

* 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).

Before: LEAVY, M. SMITH, and CHRISTEN, Circuit Judges.

Chapter 13 debtors Francisco Javier Hernandez and Jacqueline Marie Hernandez appeal pro se from the Bankruptcy Appellate Panel's ("BAP") order dismissing their appeal for failure to prosecute. We have jurisdiction under 28 U.S.C. § 158(a). We have an independent obligation to determine our jurisdiction over this appeal before proceeding to the merits. *Golden v. California Emergency Physicians Med. Grp.*, 782 F.3d 1083, 1086 (9th Cir. 2015). We dismiss this appeal as moot.

During the pendency of this appeal, we dismissed for lack of jurisdiction debtors' separate appeal challenging the bankruptcy court's order dismissing their bankruptcy case. Because the bankruptcy court's dismissal order has become final, there is no effective relief we can give to debtors in this appeal and we dismiss this appeal as moot. *See Castaic Partners II, LLC v. Daca-Castaic, LLC (In re Castaic Partners II, LLC)*, 823 F.3d 966, 968-69 (9th Cir. 2016) ("The test for mootness of an appeal is whether the appellate court can give the appellant any effective relief in the event that it decides the matter on the merits in his favor" (citation omitted)).

Because we dismiss the appeal as moot, we do not consider debtors' arguments addressing the underlying merits of the appeal.

DISMISSED.