

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 18 2026

FOR THE NINTH CIRCUIT

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

MARVIN DESHAWN CAGE,

No. 23-55097

Petitioner-Appellant,

D.C. No.

v.

5:17-cv-01524-PA-AS

WARREN L. MONTGOMERY, Warden,

MEMORANDUM*

Respondent-Appellee.

Appeal from the United States District Court
for the Central District of California
Percy Anderson, District Judge, Presiding

Submitted September 16, 2026**
Pasadena, California

Before: R. NELSON and DESAI, Circuit Judges, and SCHREIER, District Judge.***

The state court judgment Marvin Deshawn Cage challenges in the habeas petition before us no longer exists, so this case is moot. Accordingly, we dismiss

* 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).

*** The Honorable Karen E. Schreier, United States District Judge for the District of South Dakota, sitting by designation.

this appeal.

Cage filed a habeas petition under 28 U.S.C. § 2254 challenging a California state court judgment which sentenced him to 192 years to life in prison for murder, attempted murder, and street terrorism. The district court denied his petition, and Cage appealed. This court granted a certificate of appealability. While his appeal was pending before us, Cage successfully petitioned for resentencing in California state court. The court resentenced him to 172 years to life.

Both parties agree that Cage’s new sentence constitutes a new judgment. *See Clayton v. Biter*, 868 F.3d 840, 844–45 (9th Cir. 2017); *Gonzalez v. Sherman*, 873 F.3d 763, 769–70 (9th Cir. 2017). As a result, Cage is no longer in custody pursuant to the 192-years-to-life judgment at issue in this appeal; he is instead in custody under the new 172-years-to-life judgment. *See Smith v. Williams*, 871 F.3d 684, 687 (9th Cir. 2017); *see also Magwood v. Patterson*, 561 U.S. 320, 332–33 (2010).

Accordingly, both parties correctly agree that this appeal should be dismissed as moot. We cannot grant habeas relief for a state court judgment that no longer exists. *See Knox v. Serv. Emps. Int’l Union, Loc. 1000*, 567 U.S. 298, 307 (2012) (“A case becomes moot only when it is impossible for a court to grant any effectual relief whatever to the prevailing party.” (citation modified)). Thus, the case is moot, and we must dismiss the appeal.

DISMISSED.