

SEP 19 2011

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

FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JERRY ARBERT POOL,

Defendant - Appellant.

No. 09-10303

D.C. No. 2:09-cr-00015-EJG-1

ORDER

Before: **KOZINSKI**, Chief Judge, **PREGERSON**, **RYMER**, **GRABER**, **W. FLETCHER**, **PAEZ**, **BEA**, **M. SMITH**, **IKUTA**, **N.R. SMITH** and **MURGUIA**, Circuit Judges.

We have been advised that Pool has entered a guilty plea. The parties agree there is no longer a live controversy, and the case is moot. See In re Pattullo, 271 F.3d 898, 900 (9th Cir. 2001) (“If a case becomes moot while pending on appeal, it must be dismissed.”). Accordingly, we dismiss the appeal, vacate the panel’s opinion, vacate the district court’s and magistrate judge’s orders and remand with instructions to dismiss the action. See United States v. Munsingwear, Inc., 340 U.S. 36, 39 (1950).

The oral argument set for September 20, 2011 in San Francisco, California is vacated.