

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

November 3, 2016

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DARRELL EUGENE WASHINGTON,

Defendant - Appellant.

No. 16-4001
(D.C. No. 1:02-CR-00034-DB-1)
(D. Utah)

ORDER

Before **MATHESON, McKAY, and O'BRIEN**, Circuit Judges.

Darrell Eugene Washington appeals the district court's denial of his motion for a sentence reduction under 18 U.S.C. § 3582(c)(2) and Amendment 782 to the U.S. Sentencing Guidelines. But while this appeal was pending, the district court vacated Mr. Washington's sentence under 28 U.S.C. § 2255, rendering this appeal moot. *See United States v. Moore*, 83 F.3d 1231, 1235 (10th Cir. 1996) (when a sentence is vacated under § 2255, "the original sentence . . . is eviscerated"). We therefore grant Mr. Washington's motion to dismiss.

We grant Mr. Washington's motion to proceed on appeal without prepayment of costs or fees. The relevant statute, 28 U.S.C. §1915(a)(1), does not permit litigants to avoid payment of filing and docketing fees, only *prepayment* of those fees. Although we

have dismissed this appeal, Mr. Washington remains obligated to pay all filing and docketing fees. He is directed to pay the fees in full to the clerk of the district court.

Entered for the Court

Monroe G. McKay
Circuit Judge