

FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 20 2022

FOR THE NINTH CIRCUIT

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

FREDDIE CRESPIAN,

No. 18-15073

Petitioner-Appellee,

D.C. No. 2:15-cv-00992-SPL

v.

District of Arizona,
Phoenix

CHARLES L. RYAN; ATTORNEY
GENERAL FOR THE STATE OF
ARIZONA,

ORDER

Respondents-Appellants.

Before: HAWKINS, M. SMITH, and HURWITZ, Circuit Judges.

SUMMARY*

Habeas Corpus

In light of petitioner-appellee's death on September 7, 2022, in this case in which the panel issued an opinion on August 19, 2022, the panel issued an order remanding to the district court with instructions to dismiss the petition for writ of habeas corpus as moot.

Noting that the decision whether to vacate a filed opinion based on post hoc mootness is within its discretion based on equity, and that no party sought vacatur, the panel, in the exercise of its discretion, declined to vacate the opinion.

The petition for rehearing and rehearing en banc remains pending.

* This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

ORDER

The opinion in this case was issued on August 19, 2022. *Crespin v. Ryan*, 46 F.4th 803 (9th Cir. 2022). Petitioner-Appellee Freddie Crespin died on September 7, 2022. In light of Crespin’s death, we remand to the district court with instructions to dismiss the petition for writ of habeas corpus as moot. *See Farmer v. McDaniel*, 692 F.3d 1052 (9th Cir. 2012); *Griffey v. Lindsey*, 349 F.3d 1157 (9th Cir. 2003).

“The decision whether to vacate a filed opinion based on post hoc mootness ‘is within our discretion based on equity.’” *Dickens v. Ryan*, 744 F.3d 1147, 1148 (9th Cir. 2014) (en banc) (quoting *United States v. Payton*, 593 F.3d 881, 885 (9th Cir. 2010)). No party has sought vacatur, and in the exercise of our discretion, we decline to vacate the filed opinion. *See id.* (noting that “judicial precedents ‘are not merely the property of private litigants,’ but are ‘valuable to the legal community as a whole’” (quoting *U.S. Bancorp Mortg. Co. v. Bonner Mall P’ship*, 513 U.S. 18, 26 (1994))).

The petition for rehearing and rehearing en banc remains pending.

REMANDED WITH INSTRUCTIONS.