UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

MARIO ARCIGA,

          Petitioner,

    v.

SCOTT FRAUENHEIM, *Warden*,

          Respondent.

No. 1:15-cv-01372-DAD-CDB (HC)

ORDER VACATING THE COURT'S NOVEMBER 21, 2022 ORDER GRANTING HABEAS RELIEF AND DISMISSING HABEAS PETITION

This matter is before the court on remand from the Ninth Circuit. On April 17, 2023, the Ninth Circuit issued an order dismissing respondent's appeal of this court's November 21, 2022 order granting petitioner Mario Arciga's petition for federal habeas relief (Doc. No. 68) and remanding this case to this court with instructions to vacate the November 21, 2022 order and dismiss Arciga's petition. (Doc. No. 78.) Specifically, the Ninth Circuit explained that "[t]his vacatur should not be read as expressing an opinion on the merits of the district court's orders," but rather, this case simply became moot during the pendency of the appeal because the state court vacated petitioner's original conviction.[1] (*Id.* at 4–5.)
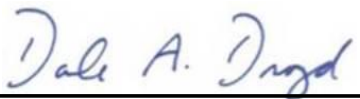
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[1] The docket in the appeal reflects that petitioner was re-tried and convicted, and he was sentenced following his conviction on retrial on March 14, 2023. *See* Appellant's Citation of Suppl. Auth., Doc. No. 30, *Arciga v. Frauenheim* (9th Cir. Mar. 15, 2023).

1 Pursuant to the Ninth Circuit's instructions on remand, this court hereby orders that its

2 November 21, 2022 order granting federal habeas relief (Doc No. 68) is vacated, and petitioner's

3 federal habeas petition (Doc. No. 1) is dismissed.

4 IT IS SO ORDERED.

5 Dated: **April 18, 2023**

6 _____
   UNITED STATES DISTRICT JUDGE