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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ORVAL D. FLANNERY,  
Petitioner,  
v.  
JAMES WALKER, Warden,  
Respondent.

No. 2:10-cv-0950 MCE AC P

ORDER

An evidentiary hearing has been ordered on Claim Three of petitioner’s application for a writ of habeas corpus. ECF No. 30. The matter has been set for status conference. Claim Three alleges the ineffective assistance of counsel in relation to a plea offer, and seeks the benefit of the seven year term allegedly forfeited by counsel’s ineffectiveness. In a status report filed on July 8, 2013 (ECF No. 31), respondent indicates that petitioner was re-sentenced to a seven-year term on June 14, 2013 and has been released from prison.

Counsel should be prepared to discuss at the July 31, 2013 status conference whether Claim Three is moot on grounds that the alleged injury can no longer be redressed by a favorable judicial decision. See Spencer v. Kemna, 523 U.S. 1, 7 (1998) (for habeas case to remain justiciable, petitioner must continue to suffer redressable injury) (citing Lewis v. Cont. Bank


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1 Corp., 494 U.S. 472, 477 (1990)).

2 IT IS SO ORDERED.

3 DATED: July 11, 2013

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ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE