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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

ARTHUR ANGELLE,

Defendant and Appellant.

H040132

(Santa Clara County Super. Ct.  
Nos. C1089418 and C1104664)

In October 2010, in case No. C1089418, defendant Arthur Angelle was charged by felony complaint with one count of gassing by an inmate. (Pen. Code, §§ 242, 243.9.) The complaint alleged prior felony convictions under Penal Code sections 667, subdivisions (b)-(i) and 667.5, subdivision (b). On March 30, 2011, the trial court found defendant incompetent to stand trial, suspended the criminal proceeding, and committed defendant to the state hospital for treatment to restore competency. (Pen. Code, § 1370.) The court's minutes noted that the three-year maximum commitment term would expire on March 30, 2014.

In April 2011, respondent filed a felony complaint against defendant in case No. C1104664. That complaint charged defendant with another incident of gassing by an inmate (Pen. Code, §§ 242, 243.9) and with prior felony convictions. The trial court found defendant incompetent to stand trial in that case, suspended that proceeding, and committed defendant to the state hospital under Penal Code section 1370. The court

noted the three-year maximum term of commitment in that case would expire on April 22, 2014.

In August 2013, the trial court found that defendant had not been restored to competency within the meaning of Penal Code section 1372, and it recommitted defendant to the state hospital in both cases. Defendant appealed from that order, arguing in his opening and reply briefs that substantial evidence did not support the trial court's incompetency finding.

According to the trial court's June 27, 2014 minute orders in both cases, of which we take judicial notice, defendant was released after having served the maximum term on both commitment orders. On October 2, 2014, we invited supplemental briefing to address whether this appeal should be dismissed as moot. The parties agree that this appeal is moot because we cannot provide any effective relief from the August 2013 order. (*Paul v. Milk Depots, Inc.* (1964) 62 Cal.2d 129, 132; *People v. Rish* (2008) 163 Cal.App.4th 1370, 1380.) The proper remedy is dismissal. (*Paul*, at p. 135; *People v. Lindsey* (1971) 20 Cal.App.3d 742, 744.)

#### **DISPOSITION<sup>1</sup>**

The appeal is dismissed.

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<sup>1</sup> This appeal is subject to an abbreviated form of opinion under Standard 8.1 of the California Judicial Council's Standards of Judicial Administration, incorporated into the California Rules of Court effective January 1, 2007.

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Grover, J.

**WE CONCUR:**

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Bamattre-Manoukian, Acting P.J.

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Mihara, J.