

JUL 22 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p>v.</p> <p>JOHN S. PANGELINAN,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 07-17395

D.C. Nos. CV-07-00027-DAW  
CR-06-00012-DAW

MEMORANDUM\*

Appeal from the United States District Court  
for the District of the Northern Mariana Islands  
David A. Wiseman, District Judge, Presiding

Submitted July 14, 2008\*\*

Before: SCHROEDER, LEAVY and IKUTA, Circuit Judges.

This is an appeal of the district court’s denial of a motion to vacate or correct sentence under 28 U.S.C. § 2255 because petitioner was no longer in custody.

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Upon review of the record, the opening brief, and the May 19, 2008 letter from the United States Attorney, the court summarily reverses and remands this appeal to the district court. *See Matus-Leva v. United States*, 287 F.3d 758, 761 (9th Cir. 2002) (an individual subject to supervised release is in custody for purposes of 28 U.S.C. § 2255 petitions).

All pending motions are denied as moot.

**REVERSED AND REMANDED.**