

FILED

MAR 12 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RENE ALBERTO HERRERA-
CASTANOLA,

Petitioner - Appellee,

v.

NANCY ALCANTAR, Bureau of
Immigration and Customs Enforcement,
Department of Homeland Security;
JANET NAPOLITANO,* United States
Department of Homeland Security
CURTIS HEMPHILL, Bureau of
Immigration and Customs Enforcement,
Department of Homeland Security; ERIC
H. HOLDER, Jr., Attorney General,

Respondents - Appellants.

No. 07-17334

D.C. No. CV-04-00227-ECR

ORDER **

Appeal from the United States District Court
for the District of Nevada
Edward C. Reed, Senior District Judge, Presiding

Argued and Submitted March 9, 2009
San Francisco, California

Before: McKEOWN and IKUTA, Circuit Judges, and BLOCK,^{***} Senior District Judge.

The parties agree that Rene Alberto Herrera-Castanola is no longer in federal custody. This appeal is therefore dismissed as moot. Accordingly, we vacate the judgment below and remand for dismissal. Each party shall bear its own costs on appeal.

VACATED AND REMANDED.

* Janet Napolitano has been substituted for her predecessor, Michael Chertoff, as Secretary of Homeland Security. Fed. R. App. P. 43(c)(2).

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

*** The Honorable Frederic Block, Senior United States District Judge for the Eastern District of New York, sitting by designation.