

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

AUG 27 2025

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

BENANCIO GARCIA III,

Plaintiff - Appellant,

v.

STEVEN HOBBS, in his official capacity
as Secretary of State of Washington and
STATE OF WASHINGTON,

Defendants - Appellees.

No. 24-2603

D.C. No.

3:22-cv-05152-RSL-DGE-LJCV

Western District of Washington,
Tacoma

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Robert S. Lasnik, District Judge, Presiding

Argued and Submitted March 27, 2025; Submission Vacated March 28, 2025;
Submitted August 27, 2025
Seattle, Washington

Before: McKEOWN, GOULD, and OWENS, Circuit Judges.

Benancio Garcia III sued the State of Washington and its Secretary of State, Steven Hobbs, alleging that Legislative District 15 (“LD 15”), drawn by an independent state redistricting commission (the “Commission”), was an illegal racial gerrymander in violation of the Equal Protection Clause of the Fourteenth Amendment. Submission was vacated pending this court’s resolution of *Palmer, et al. v. Trevino, et al.*, Nos. 23-35595 & 24-1602. Because the court has issued its decision in *Palmer v. Trevino*, we now turn to the merits of this appeal.

We have jurisdiction under 28 U.S.C. § 1291. Reviewing the district court’s dismissal for mootness, *Rosemere Neighborhood Ass’n v. U.S. Env’t Prot. Agency*, 581 F.3d 1169, 1172 (9th Cir. 2009), we affirm. Because the parties are familiar with the facts, we need not recount them here.

In *Palmer v. Trevino*, we affirmed the district court’s invalidation of LD 15 and the adoption of a remedial map that invalidated LD 15 and replaced it with a new legislative district, Legislative District 14 (“LD 14”). No. 23-35595 (9th Cir. Aug. 27, 2025). Garcia’s action, which challenges LD 15 on equal protection grounds, is therefore moot.

“[T]he repeal, amendment, or expiration of challenged legislation is generally enough to render a case moot” *Teter v. Lopez*, 125 F.4th 1301, 1306 (9th Cir. 2025) (en banc) (quoting *Bd. of Trs. of Glazing Health & Welfare Tr. v. Chambers*, 941 F.3d 1195, 1198 (9th Cir. 2019) (en banc)). Garcia, citing *North Carolina v. Covington*, 585 U.S. 969 (2018), argues that even though LD 14 has replaced LD 15, he experiences a “continuing injury” of racial segregation. To avoid mootness, the plaintiffs in *Covington* specifically argued “that some of the new districts were *mere continuations* of the old, gerrymandered districts.” *Covington*, 585 U.S. at 976 (emphasis added).

To determine whether LD 14 is a continuation of LD 15, “the case or controversy giving rise to jurisdiction is the touchstone.” *Chem. Producers &*

Distribs. Ass’n v. Helliker, 463 F.3d 871, 875 (9th Cir. 2006), *overruled on other grounds by Bd. of Trs. of Glazing Health & Welfare*, 941 F.3d 1195. At the district court, this case was centered entirely on the Commission’s actions. The operative complaint alleged that “[r]ace was the predominant factor motivating the Commission’s decision to draw the lines encompassing Legislative District 15.” At trial, the parties submitted extensive trial exhibits, including expert reports, proposed maps, communications between commissioners, recordings of committee meetings, and notes from negotiations. Such evidence is plainly directed towards the intent of the Commission and does not bear on whether the district court similarly considered race as a predominant factor in drawing LD 14.

LD 14 was crafted by an entirely different party—the district court—from the Commission, the party that drew LD 15, and thus the “character of the system” has been “alter[ed] significantly.” *Fusari v. Steinberg*, 419 U.S. 379, 386–87 (1975). Consequently, it is no longer “permissible to say that the [Commission’s] challenged conduct continues.” *Chem. Producers & Distribs.*, 463 F.3d at 875 (internal quotations omitted). The case is moot.

AFFIRMED.

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Information Regarding Judgment and Post-Judgment Proceedings

Judgment

- This Court has filed and entered the attached judgment in your case. Fed. R. App. P. 36. Please note the filed date on the attached decision because all of the dates described below run from that date, not from the date you receive this notice.

Mandate (Fed. R. App. P. 41; 9th Cir. R. 41-1 & -2)

- The mandate will issue 7 days after the expiration of the time for filing a petition for rehearing or 7 days from the denial of a petition for rehearing, unless the Court directs otherwise. To file a motion to stay the mandate, file it electronically via the appellate electronic filing system or, if you are a pro se litigant or an attorney with an exemption from the electronic filing requirement, file one original motion on paper.

Petition for Panel Rehearing and Petition for Rehearing En Banc (Fed. R. App. P. 40; 9th Cir. R. 40-1 to 40-4)

(1) Purpose

A. Panel Rehearing:

- A party should seek panel rehearing only if one or more of the following grounds exist:
 - A material point of fact or law was overlooked in the decision;
 - A change in the law occurred after the case was submitted which appears to have been overlooked by the panel; or
 - An apparent conflict with another decision of the Court was not addressed in the opinion.
- Do not file a petition for panel rehearing merely to reargue the case.

B. Rehearing En Banc

- A party should seek en banc rehearing only if one or more of the following grounds exist:
 - Consideration by the full Court is necessary to secure or maintain uniformity of the Court's decisions; or
 - The proceeding involves a question of exceptional importance; or

- The opinion directly conflicts with an existing opinion by another court of appeals or the Supreme Court and substantially affects a rule of national application in which there is an overriding need for national uniformity.

(2) Deadlines for Filing:

- A petition for rehearing or rehearing en banc must be filed within 14 days after entry of judgment. Fed. R. App. P. 40(d).
- If the United States or an agency or officer thereof is a party in a civil case, the time for filing a petition for rehearing is 45 days after entry of judgment. Fed. R. App. P. 40(d). The deadlines for seeking reconsideration of a non-dispositive order are set forth in 9th Cir. R. 27-10(a)(2).
- If the mandate has issued, the petition for rehearing should be accompanied by a motion to recall the mandate.
- See Advisory Note to 9th Cir. R. 40-1 (petitions must be received on the due date).
- An order to publish a previously unpublished memorandum disposition extends the time to file a petition for rehearing to 14 days after the date of the order of publication or, in all civil cases in which the United States or an agency or officer thereof is a party, 45 days after the date of the order of publication. 9th Cir. R. 40-4.

(3) Statement of Counsel

- A petition should contain an introduction stating that, in counsel's judgment, one or more of the situations described in the "purpose" section above exist. The points to be raised must be stated clearly.

(4) Form & Number of Copies (9th Cir. R. 40-1; Fed. R. App. P. 32(c)(2))

- The petition shall not exceed 15 pages unless it complies with the alternative length limitations of 4,200 words or 390 lines of text.
- The petition must be accompanied by a copy of the panel's decision being challenged.
- An answer, when ordered by the Court, shall comply with the same length limitations as the petition.
- If a pro se litigant elects to file a form brief pursuant to Circuit Rule 28-1, a petition for panel rehearing or for rehearing en banc need not comply with Fed. R. App. P. 32.

- The petition or answer must be accompanied by a Certificate of Compliance found at Form 11, available on our website at www.ca9.uscourts.gov under *Forms*.
- Attorneys must file the petition electronically via the appellate electronic filing system. No paper copies are required unless the Court orders otherwise. If you are a pro se litigant or an attorney exempted from using the appellate ECF system, file one original petition on paper. No additional paper copies are required unless the Court orders otherwise.

Bill of Costs (Fed. R. App. P. 39, 9th Cir. R. 39-1)

- The Bill of Costs must be filed within 14 days after entry of judgment.
- See Form 10 for additional information, available on our website at www.ca9.uscourts.gov under *Forms*.

Attorneys Fees

- Ninth Circuit Rule 39-1 describes the content and due dates for attorneys fees applications.
- All relevant forms are available on our website at www.ca9.uscourts.gov under *Forms* or by telephoning (415) 355-8000.

Petition for a Writ of Certiorari

- The petition must be filed with the Supreme Court, not this Court. Please refer to the Rules of the United States Supreme Court at www.supremecourt.gov.

Counsel Listing in Published Opinions

- Please check counsel listing on the attached decision.
- If there are any errors in a published opinion, please send a letter **in writing within 10 days** to:
 - Thomson Reuters; 610 Opperman Drive; PO Box 64526; Eagan, MN 55123 (Attn: Maria Evangelista, maria.b.evangelista@tr.com);
 - **and** electronically file a copy of the letter via the appellate electronic filing system by using the Correspondence filing category, or if you are an attorney exempted from electronic filing, mail the Court one copy of the letter.

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 10. Bill of Costs

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form10instructions.pdf>

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The Clerk is requested to award costs to *(party name(s))*:

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