

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

DEC 9 2021

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

A. W. CLARK,

Plaintiff-Appellant,

v.

SHIRLEY WEBER, as California Secretary  
of State,

Defendant-Appellee.

No. 21-55930

D.C. No. 2:21-cv-06558-MWF-KS  
Central District of California,  
Los Angeles

ORDER

Before: O'SCANNLAIN, THOMAS, and TALLMAN, Circuit Judges.

This appeal challenges the district court's August 27, 2021 denial of appellant's motion for preliminary injunction. A review of the record reflects that on October 27, 2021, the district court dismissed the underlying action and entered final judgment. Accordingly, the denial of the motion for preliminary injunction merges into the final judgment, and we grant appellee's motion to dismiss this preliminary injunction appeal (Docket Entry No. 34). *See SEC v. Mount Vernon Mem'l Park*, 664 F.2d 1358, 1361 (9th Cir. 1982) (dismissing an appeal from an order denying a motion for preliminary injunction as merged following final judgment); *see also Nationwide Biweekly Admin., Inc. v. Owen*, 873 F.3d 716, 730 (9th Cir. 2017) ("When a case is dismissed while an appeal of an order on a preliminary injunction is pending, the preliminary injunction order 'merges' into

the final judgment.”); *Evans v. Shoshone-Bannock Land Use Policy Comm’n*, 736 F.3d 1298, 1301 n.4 (9th Cir. 2013) (“The district court’s denial of Evans’ motion for preliminary injunction merged into the final judgment.”).

The Clerk will open a new appeal pursuant to appellant’s October 28, 2021 notice of appeal from the district court’s final judgment.

**DISMISSED.**