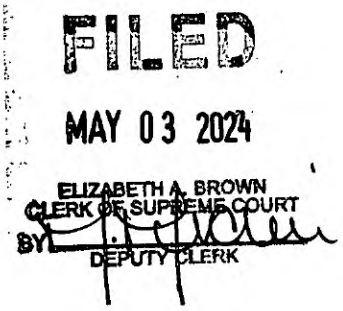
IN THE SUPREME COURT OF THE STATE OF NEVADA

CLARK COUNTY EDUCATION ASSOCIATION; MARIE NEISESS, IN HER CAPACITY AS PRESIDENT OF THE CLARK COUNTY EDUCATION ASSOCIATION; JAMES FRAZEE, IN HIS CAPACITY AS VICE PRESIDENT OF THE CLARK COUNTY EDUCATION ASSOCIATION; AND JOHN VELLARDITA, IN HIS CAPACITY AS EXECUTIVE DIRECTOR OF THE CLARK COUNTY EDUCATION ASSOCIATION,
Appellants,
vs.
CLARK COUNTY SCHOOL DISTRICT,
Respondent.

No. 87290



ORDER DISMISSING APPEAL

This is an appeal from a district court order granting a preliminary injunction against the continuance of a strike, pursuant to NRS 288.705. Eighth Judicial District Court, Clark County; Crystal Eller, Judge. Appellants challenge the injunction as vague, overbroad, and unsupported by the evidence.

Shortly after briefing was completed, this court granted appellants' motion to remand this matter under NRCP 62.1 and NRAP 12A, because the parties had negotiated a collective bargaining agreement and the district court had certified its inclination to grant their motion to dissolve the preliminary injunction in light of the changed circumstances. In the March 1, 2024, order, this court directed the parties to file and serve responses addressing whether the appeal should be dismissed as moot, if the district court entered an order dissolving the injunction. The district

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court's order on remand dissolving the preliminary injunction was transmitted to this court on March 21, and the parties thereafter timely filed responses addressing mootness.

"This court's duty is . . . to resolve actual controversies by an enforceable judgment." *Personhood Nev. v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010). Thus, when subsequent events render an appeal moot and prevent this court from rendering any effective relief, the appeal typically will be dismissed. *Id.* at 604, 245 P.3d at 575. As respondent points out and appellants do not argue otherwise, this court could grant no effective relief even if appellants were to show that the preliminary injunction was improvidently granted, as the injunction already has been dissolved. As a result, this appeal is moot. *Id.* at 602, 245 P.3d at 574.

Nevertheless, appellants argue that the appeal should not be dismissed because an exception to the mootness doctrine applies here: the challenged matter is capable of repetition yet evading review. In invoking this exception, appellants must show "that (1) the duration of the challenged action is relatively short, (2) there is a likelihood that a similar issue will arise in the future, and (3) the matter is important." *Bisch v. Las Vegas Metro. Police Dep't*, 129 Nev. 328, 334-35, 302 P.3d 1108, 1113 (2013). Respondent argues that appellants have failed to demonstrate the first two factors, duration and likelihood of repetition. In considering the parties' arguments, we agree with respondent as to the second factor, likelihood of repetition, and conclude that this matter is not one of the "exceptional situations" to which the exception applies. *See In re Guardianship of L.S. & H.S.*, 120 Nev. 157, 161, 87 P.3d 521, 524 (2004) (recognizing that the capable-of-repetition-yet-evading-review exception applies only to "exceptional situations," per *Spencer v. Kemna*, 523 U.S. 1, 17 (1998)).

Under the second factor, appellants assert that similar issues are likely to arise in the future because an impasse in the parties' negotiations has

been declared in two of the last three collective bargaining cycles and, in such situations, employers and employees will use the means they have available to their advantage. As all parties acknowledge, however, this appears to be the first time an NRS 288.705 injunction has issued, despite the statute's age. Moreover, the issues underlying this controversy are "highly fact-specific" and thus unlikely to repeat. *Nat'l Treasury Emps. Union v. United States*, 444 F. Supp. 3d 108, 115 (D.D.C. 2020) (quoting *People for Ethical Treatment of Animals, Inc. v. Gittens*, 396 F.3d 416, 424 (D.C. Cir. 2005)). Indeed, for similar issues to recur, government employees must conduct "sick outs" or similar activity in the face of stalled labor negotiations with their employer and the employer must seek an NRS 288.705 injunction against an unlawful strike based on that activity. Whether and under what circumstances a similar issue will arise in the future is speculative, and we thus conclude that the capable-of-repetition-yet-evading-review exception does not apply here. *See Oil Workers Unions v. Missouri*, 361 U.S. 363 (1960) (applying the mootness doctrine and declining to consider the merits of a state court injunction precluding a strike after a new labor agreement was signed and the injunction expired, despite the state supreme court having addressed the issues under an exception to the mootness doctrine, because recurrence would require another strike and discretionary governmental action). Accordingly, this appeal is moot, and we

ORDER this appeal DISMISSED.

Stiglich, J.

Stiglich

Pickering, J.

Pickering

Parraguirre, J.

Parraguirre

cc: Hon. Crystal Eller, District Judge
Bravo Schrager, LLP
Littler Mendelson, P.C./Las Vegas
Clark County School District Office of The General Counsel
Eighth District Court Clerk