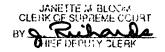
IN THE SUPREME COURT OF THE STATE OF NEVADA

RANDY STALEY, Petitioner, vs. THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK, AND THE HONORABLE MICHAEL CHERRY, DISTRICT JUDGE. Respondents. and JENSON TOTAL SERVICES, INC., Real Party in Interest.

No. 45159

FILED

JUL 2 8 2005



ORDER DISMISSING PETITION FOR WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or, alternatively, prohibition challenges a district court order that restrains and enjoins petitioner, a non-party witness in the underlying case, from taking certain actions. We previously directed the real party in interest to file an answer to the instant petition. The real party in interest has filed a response to our order, indicating that the instant petition is now moot. According to the response, the real party in interest is dismissing its action against petitioner because petitioner passed away shortly after the instant petition was filed. Counsel for petitioner has not sought leave to reply to the real party in interest's response or otherwise sought to dispute the contentions made by the real party in interest.

SUPREME COURT NEVADA

(O) 1947A

We construe the real party in interest's response to our May 24 order as a motion to dismiss the instant petition. As it appears that the petition is now moot, we grant the motion and dismiss the petition.¹

It is so ORDERED.

Rose J.

Lillow J.

Gibbons

Hardesty J.

cc: Hon. Michael A. Cherry, District Judge Brooks & Associates Levine, Garfinkel & Katz Clark County Clerk

¹See <u>University of Nevada v. Tarkanian</u>, 95 Nev. 389, 394, 594 P.2d 1159, 1162 (1979).