

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 28 2005


JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK


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.

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.<sup>1</sup>

It is so ORDERED.

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Hardesty

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

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