

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN LUCKETT,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
KATHY A. HARDCASTLE, DISTRICT
JUDGE,
Respondents.

No. 45400

FILED

AUG 08 2005

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

ORDER DISMISSING PETITION
FOR EMERGENCY WRIT OF MANDAMUS

This original proper person petition for an emergency writ of mandamus seeks to vacate district court orders imposing pre-filing requirements and directing petitioner to show cause why he should not be held in contempt of court for failing to obtain leave from the Eighth Judicial District Court's Chief Judge to file John Lockett v. Barrick Gaming Corporation, et al., Case No. A500914.

This matter arises within the context of a prior district court order imposing pre-filing restrictions on petitioner John Lockett. In In re Matter of John Lockett, District Court Case No. 429810, an order was entered prohibiting Lockett from filing any new litigation in Nevada without first obtaining permission from the chief judge. This court, in considering the matter on appeal, recognized that the threat of monetary sanctions is an ineffective deterrent to abusive litigation when that litigation is carried out by proper person litigants proceeding in forma

pauperis.¹ We further established that a court has authority to impose restrictions limiting a litigant's court access when economic deterrents or other sanctions are ineffective to curb abusive litigation. Accordingly, we upheld, with certain modifications, the district court's restrictive order prohibiting Lockett "from filing any new litigation in Nevada state courts in forma pauperis without first obtaining leave of the presiding judge of the court."² Consequently, Lockett's request to vacate all district court orders imposing upon him pre-filing requirements constitutes an improper request for reconsideration of this court's prior opinion, and we decline to further address it.

Because this court's affirmance was primarily based on court-access restrictions applied to litigants proceeding in forma pauperis, however, we directed Chief Judge Hardcastle to file an answer to Lockett's petition, addressing whether the district court's order to show cause for contempt was properly issued after petitioner had allegedly paid the necessary filing fees in the case underlying this petition, Case No. A500914. In response, Chief Judge Hardcastle has indicated that the show cause hearing was vacated and that Lockett is not facing the imposition of fines or imprisonment, but that a hearing will be scheduled in order to address issues concerning modification of the restrictive order, in addition to indications that Lockett is continuing to violate the order in other instances.

¹See Jordan v. State, Dep't of Motor Vehicles, 121 Nev. ___, 110 P.3d 30 (2005), rehearing denied June 6, 2005.

²Id. at ___, 110 P.3d at 45.

As the show cause hearing has been appropriately vacated and a hearing will properly be scheduled to address clarifying and modifying the restrictive order to conform to the requirements outlined by this court in Lockett's appeal, the issues raised in Lockett's petition are moot.³ Accordingly, we dismiss Lockett's petition for an emergency writ of mandamus.

It is so ORDERED.⁴

Becker _____, C.J.
Becker

Rose _____, J.
Rose

Hardesty _____, J.
Hardesty

cc: Hon. Kathy A. Hardcastle, District Judge
John Lockett
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger/Civil Division
Clark County Clerk

³NCAA v. University of Nevada, 97 Nev. 56, 624 P.2d 10 (1981).

⁴We vacate the temporary stay entered on June 17, 2005. Although petitioner was not granted leave to proceed in proper person, see NRAP 46(b), we have considered the documents received from him. We deny the relief requested therein.