

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER ANTHONY JONES,
Petitioner,

vs.

THE SEVENTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF WHITE
PINE, THE HONORABLE DAN L.
PAPEZ, DISTRICT JUDGE; AND
JUSTICE COURT OF WHITE PINE
COUNTY, RON NIMAN, JUSTICE OF
THE PEACE,
Respondents,
and
THE STATE OF NEVADA
DEPARTMENT OF PRISONS, AND ELY
STATE PRISON,
Real Parties in Interest.

No. 45690

FILED

JUL 07 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER DISMISSING PETITION FOR WRIT OF MANDAMUS

In this original proper person petition for a writ of mandamus, petitioner Christopher Anthony Jones challenges a district court order dismissing as untimely Jones's appeal from a justice's court decision in a small claims action. Arguing that his appeal from the justice's court decision was timely filed in the district court, Jones asks this court to compel the district court to consider his appeal. As it appeared that Jones had set forth an issue of arguable merit, this court directed real parties in interest to file an answer.

In the meantime, Jones filed a motion in the district court, seeking reconsideration of the order dismissing his appeal. The district court granted Jones's reconsideration motion after recognizing that Jones's appeal had been timely filed. And upon reviewing Jones's appellate brief and the record, the district court affirmed the justice's court decision, determining that Jones had failed to prove damages to the extent claimed. Real parties in interest then answered Jones's writ petition, asking this court to dismiss it as moot in light of the district court's order granting Jones the relief requested in the petition.

Jones has submitted a motion in this court, seeking leave to reply,¹ along with a proposed reply, in which he argues that the district court's order granting reconsideration and affirming the justice's court's decision was improper, given that the remittitur had already issued, divesting the district court of jurisdiction.² Jones then again asks this court to grant his petition for mandamus relief, to compel the district court to consider his appeal.


As real parties in interest point out, however, Jones has already been afforded the relief he requests; thus, his petition was

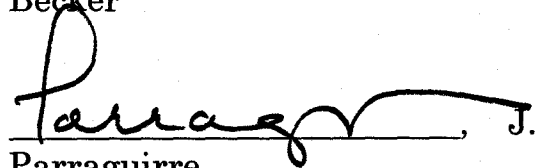
¹We grant Jones's motion for leave to file a reply. The clerk of this court shall file Jones's reply, provisionally received in this court on November 15, 2005.

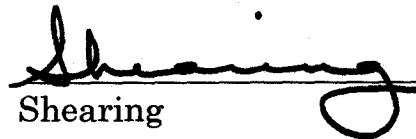
²According to Jones, the district court erroneously issued remittitur on July 22, 2005, after receiving, but without considering, Jones's reconsideration motion, which was served on July 18, 2005.

rendered moot when the district court granted his motion for reconsideration. Even if the remittitur had issued when the district court reconsidered its dismissal order, the court considered the merits of Jones's appeal. Thus, compelling the district court to again consider Jones's appeal would be superfluous. Accordingly, as Jones has been afforded his requested relief, we dismiss this petition as moot.

It is so ORDERED.³

 _____, J.
Becker

 _____, J.
Parraguirre

 _____, Sr. J.
Shearing

cc: Hon. Dan L. Papez, District Judge
Christopher Anthony Jones
Attorney General George Chanos/Ely
White Pine County Clerk

³The Honorable Miriam Shearing, Senior Justice, participated in the decision of this matter under a general order of assignment entered January 6, 2006.