

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALLEN L. WISDOM,
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF WASHOE,
AND, THE HONORABLE CONNIE J.
STEINHEIMER, DISTRICT JUDGE,
Respondents,

and

JEFFREY A. DICKERSON, AN
INDIVIDUAL; DAVID R. GRUNDY, AN
INDIVIDUAL; DAVID R. GRUNDY,
DIRECTOR OF ATTORNEYS LIABILITY
PROTECTION SOCIETY AND ALPS,
INC.; LEMONS GRUNDY &
EISENBERG, A PROFESSIONAL
CORPORATION; ATTORNEYS
LIABILITY PROTECTION SOCIETY, A
MUTUAL RISK RETENTION GROUP;
ALPS, INC., A MONTANA
CORPORATION; ERNEST ADLER, AN
INDIVIDUAL; KILPATRICK, JOHNSTON
& ADLER, A GENERAL PARTNERSHIP;
AND JOHN ANTHONY FETTO, AN
INDIVIDUAL,
Real Parties in Interest.

No. 46038

FILED

OCT 31 2006

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

ORDER DISMISSING PETITION FOR
WRIT OF PROHIBITION OR MANDAMUS

This original proper person petition for a writ of prohibition or mandamus challenges the district court's refusal to accept an indigent

litigant's demand for a jury trial unless he deposits the first day jury fees in accordance with NRCP 38. On June 30, 2006, real party in interest Jeffrey A. Dickerson notified this court that district court orders had been filed in the underlying case on June 26 and 27, 2006, which (1) struck petitioner Allen L. Wisdom's complaint and dismissed the underlying case for Wisdom's failure to appear at case management conferences and to comply with discovery orders, and (2) declared that Wisdom was not indigent and vacated the prior in forma pauperis order, respectively.

Consequently, real parties in interest David R. Grundy, Lemons, Grundy & Eisenberg, Attorneys Liability Protection Society, and ALPS, Inc., filed a motion to dismiss this writ petition as moot, which motion respondents and real parties in interest Jeffrey A. Dickerson, Ernest Adler, and Kilpatrick, Johnston & Adler have joined. Wisdom has filed an opposition, and Grundy, Lemons, Grundy & Eisenberg, Attorneys Liability Protection Society, and ALPS have moved for leave to file a reply to the opposition.¹

Normally, a controversy must be live through all stages of the proceeding,² since "the duty of every judicial tribunal is to decide actual controversies by a judgment which can be carried into effect, and not to

¹Real parties in interest filed, on July 14, 2006, what appears to be a duplicate copy of their July 13, 2006 motion for leave to file a reply. In light of this order, both motions are denied as moot.

²University Sys. v. Nevadans for Sound Gov't, 120 Nev. 712, 720, 100 P.3d 179, 186 (2004).

give opinions upon moot questions or abstract propositions, or to declare principles of law which cannot affect the matter in issue before it.”³ As a result, this court has long recognized that cases presenting live controversies at the time of their inception may become moot by the occurrence of subsequent events.

Although this petition clearly became moot by the district court’s dismissal of the underlying action, Wisdom argues that the petition’s dismissal is inappropriate because a live controversy continues to exist. In particular, Wisdom notes that he has filed an appeal of the district court’s dismissal order, the resolution of which remains pending. Nevertheless, although the matter technically may not be finally resolved, the district court’s dismissal of the underlying action rendered the relief sought by Wisdom unavailable;⁴ accordingly, this petition is moot.⁵

Further, we decline to recognize any exception to the mootness doctrine in this instance. In particular, there appears no reason why this court’s review of the issues presented in this petition would be unavailable

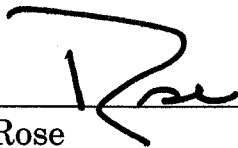
³Id. (quoting NCAA v. University of Nevada, 97 Nev. 56, 57, 624 P.2d 10, 10 (1981)).

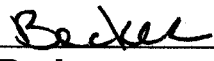
⁴See, e.g., 52 Am. Jur. 2d Mandamus § 25 (2005) (“To warrant the issuance of a writ of mandamus, the act sought to be performed must be capable of being performed.”).

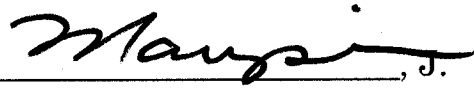
⁵For the same reasons, Wisdom’s assertion that a live controversy continues with respect to Adler and Kilpatrick, Johnston & Adler is unavailing.

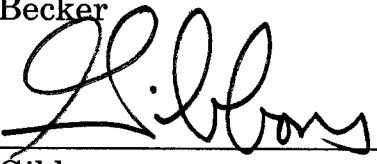
if and when those issues arise again.⁶ Accordingly, we grant real parties in interest's motion to dismiss this petition as moot.

It is so ORDERED.

 _____, C.J.
Rose

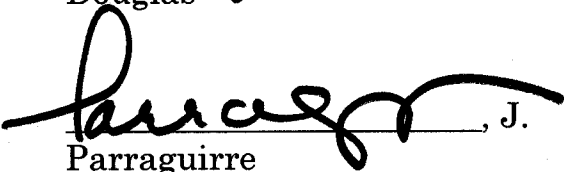
 _____, J.
Becker

 _____, J.
Maupin

 _____, J.
Gibbons

 _____, J.
Douglas

 _____, J.
Hardesty

 _____, J.
Parraguirre

⁶See Nevadans for Sound Gov't, 120 Nev. at 720-21, 100 P.3d at 186 (recognizing when it is appropriate to apply the exception to the mootness doctrine for issues that will be raised again in the future, yet evade review); State of Nevada v. Glusman, 98 Nev. 412, 651 P.2d 639 (1982) (recognizing that it is within this court's inherent discretion to consider issues of substantial public importance which are likely to recur, regardless of mootness).

cc: Hon. Brent T. Adams, District Judge
Hon. Connie J. Steinheimer, District Judge
Allen L. Wisdom
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick /Civil
Division
Burton Bartlett & Glogovac
John Anthony Fetto
Kilpatrick Johnston & Adler
Lemons Grundy & Eisenberg
Wait Law Firm
Clark County Legal Services Program, Inc.
Washoe District Court Clerk