

IN THE SUPREME COURT OF THE STATE OF NEVADA

NEVADA DEPARTMENT OF PRISONS,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK, AND THE HONORABLE  
JACKIE GLASS, DISTRICT JUDGE,  
Respondents,

and

RONALD O'NEAL CALVIN,  
Real Party in Interest.

No. 46144

**FILED**

NOV 01 2005

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

ORDER DENYING PETITION AS MOOT

This original petition for a writ of prohibition or mandamus challenges an order of the district court entered May 16, 2005, allowing the real party in interest Ronal O'Neal Calvin and his counsel access to Ely State Prison and its facilities. The petition was filed in this court on October 20, 2005, along with an emergency motion for a stay. Upon the filing of the petition, this court promptly entered an order staying the district court's order of May 16, 2005, and directing Calvin to file an answer. On October 26, 2005, Calvin submitted an answer via telephonic facsimile transmission to the clerk of this court. On October 27, 2005, petitioner filed a supplement to the petition, and on October 31, 2005, Calvin filed a supplemental answer.

The filings recently received in this court relate that, on the morning prior to this court's issuance of the order granting a stay, Calvin's defense counsel and his expert witness, James Esten, were allowed access to the Ely State Prison as provided by the district court's rulings below. Additionally, in the underlying criminal proceedings, a plea agreement was filed in open court on October 20, 2005, wherein Calvin agreed to plead guilty to two counts of murder with the use of a deadly weapon in exchange for the State's agreement that it would not seek the death penalty.

This court has also been informed that the district court has scheduled a sentencing hearing for November 2, 2005, at which time the district court will receive evidence and testimony relating to the district court's imposition of sentence. In the supplemental answer of October 31, 2005, however, Calvin's counsel represents: "Mr. Calvin does not intend to call Mr. Esten as a witness at any hearing prior to, or at the time of, his upcoming sentencing."


Under these circumstances, we conclude that the issues presented in this petition are moot.<sup>1</sup> Moreover, we are confident that, at any hearings relating to sentencing, the district court will take appropriate measures to prevent disclosure of any sensitive or

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<sup>1</sup>We emphasize that petitioner's claim that this court's intervention is urgently required is undermined by petitioner's failure to challenge the district court's order in this court in sufficient time to prevent the inspection at issue.

confidential prison information that could irreparably harm petitioner's interests. Accordingly, we deny the instant petition as moot.<sup>2</sup>

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Reese

  
\_\_\_\_\_, J.  
Parraguirre

cc: Honorable Jackie Glass, District Judge  
Attorney General George Chanos/Carson City  
Clark County Public Defender Philip J. Kohn  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>2</sup>We further conclude that this court's order of October 20, 2005, granting a stay of the district court's order of May 16, 2005, has been rendered moot by subsequent events.