

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONALD EDWARD SUFF,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 49217

**FILED**

AUG 14 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of open or gross lewdness. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On March 23, 2007, the district court entered a judgment of conviction sentencing appellant Donald Edward Suff to 365 days flat time in the Clark County Detention Center. On appeal, Suff challenges the flat time sentence. This court recently held in Haney v. State that “there is no statutory basis for flat time sentencing” and noted that “the Legislature has clearly evinced its intention to confer authority upon the sheriff’s office to determine whether an individual inmate is eligible for good time [and work time] credits and that allowing flat time sentencing is contrary to that intent.”<sup>1</sup> However, based on the sentence imposed in this case, it appeared likely that Suff had expired his sentence. Accordingly, we

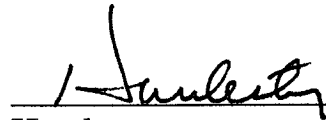
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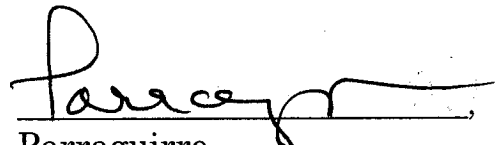
<sup>1</sup>124 Nev. \_\_\_, \_\_\_, \_\_\_, 185 P.3d 350, 352, 353 (2008).

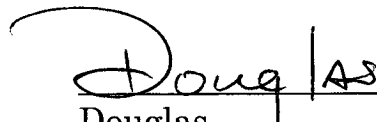
directed counsel for Suff to show cause why this appeal should not be dismissed as moot.<sup>2</sup>

On July 21, 2008, counsel for Suff filed a response to this court's order to show cause. In the response, counsel notes that Suff is no longer incarcerated and "does not oppose dismissal" because "the issues in this case are truly moot." Accordingly, having considered Suff's response to this court's order and concluding that this appeal is moot, we

ORDER this appeal DISMISSED.

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

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

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

cc: Hon. Donald M. Mosley, District Judge  
Clark County Public Defender Philip J. Kohn  
Donald Edward Suff  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk

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<sup>2</sup>See Johnson v. Director, Dep't Prisons, 105 Nev. 314, 316, 774 P.2d 1047, 1049 (1989) (stating that expiration of a defendant's sentence rendered moot any question concerning computation of the sentence).