

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICKY DAVID SECHREST,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49573

FILED

JUL 20 2010

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

ORDER DISMISSING APPEAL

This is an appeal from an order of the district court dismissing a post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

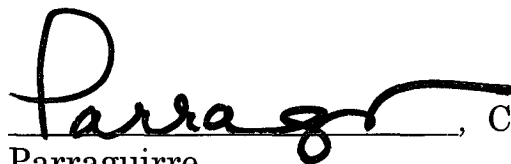
Appellant Ricky David Sechrest killed 9-year-old Carly Villa and 10-year-old Maggie Weaver in 1983 and was sentenced to death for both murders. Following our decision in McConnell v. State, 120 Nev. 1043, 102 P.3d 606 (2004), Sechrest filed the instant post-conviction petition for a writ of habeas corpus. The district court dismissed the petition, and Sechrest appealed.

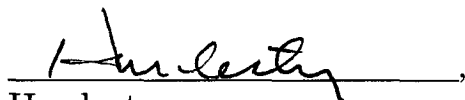
During the pendency of this appeal, the Ninth Circuit Court of Appeals granted Sechrest a new penalty hearing. See Sechrest v. Ignacio, 549 F.3d 789, 817 (9th Cir. 2008), cert. denied, ___ U.S. ___, 130 S. Ct. 243 (2009). Because the relief requested in Sechrest's petition has been granted by the federal court, this appeal is moot. See Great Western Sugar Co. v. Nelson, 442 U.S. 92, 93 (1979); Kallstrom v. City of Columbus, 165 F. Supp. 2d 686, 691 (S.D. Ohio 2001) ("A case is moot if the requested relief has been granted.").

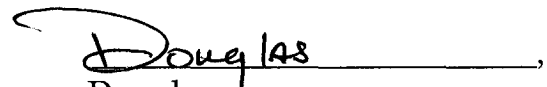
Sechrest nevertheless asks this court to rule on the prospective validity of the aggravating circumstances. We decline to do so.

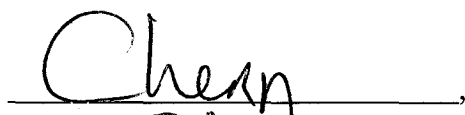
There remains the possibility of a new trial on the issue of guilt, see Sechrest, 549 F.3d at 817-18, which could in turn impact the applicability of certain aggravating circumstances. Moreover, due to continuing review in federal court, a new penalty hearing is not imminent. In the event that the State seeks the death penalty in a future penalty hearing, Sechrest may challenge any alleged aggravators in the district court in the first instance. See Davis v. State, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991) (holding that this court need not consider arguments that were not presented to the district court in the first instance), overruled on other grounds by Means v. State, 120 Nev. 1001, 103 P.3d 25 (2004). Therefore, we conclude that Sechrest's challenges to the aggravators are not ripe for review. See Cote H. v. Dist. Ct., 124 Nev. 36, 38 n.1, 175 P.3d 906, 907 n.1 (2008) ("A case is ripe for review when 'the degree to which the harm alleged by the party seeking review is sufficiently concrete, rather than remote or hypothetical, [and] yield[s] a justiciable controversy.'" (alteration in original) (quoting Herbst Gaming, Inc. v. Sec'y of State, 122 Nev. 877, 887-88, 141 P.3d 1224, 1230-31 (2006))). Accordingly, we

ORDER this appeal DISMISSED.

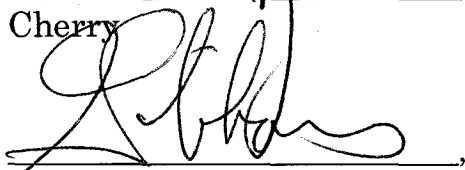

Parraguirre, C.J.

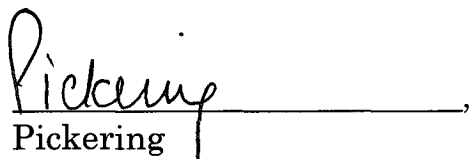

Hardesty, J.


Douglas, J.


Cherry, J.


Saitta, J.


Gibbons, J.


Pickering, J.

cc: Hon. Steven P. Elliott, District Judge
Federal Public Defender/Las Vegas
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk