

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE COMMISSION ON ETHICS OF  
THE STATE OF NEVADA,  
Appellant/Cross-Respondent,  
vs.  
MICHAEL A. CARRIGAN, FOURTH  
WARD CITY COUNCIL MEMBER, OF  
THE CITY OF SPARKS,  
Respondent/Cross-Appellant.

No. 56462

**FILED**

**DEC 09 2010**

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

ORDER DISMISSING APPEAL AND CROSS-APPEAL

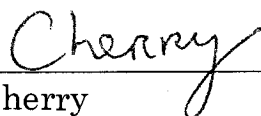
This is an appeal and cross-appeal from a district court order granting a petition for judicial review of an Ethics Commission decision. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge

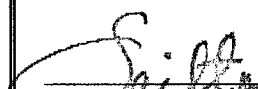
When our preliminary review of the docketing statement and the NRAP 3(g) documents revealed potential justiciability and jurisdictional defects, we ordered appellant and cross-appellant to show cause why this appeal and cross-appeal should not be dismissed. First, according to the documents before us, it appeared that the City Council voting to which the Ethics Commission decision pertained has concluded, with cross-appellant having abstained and, thus, that this appeal was moot. See NCAA v. University of Nevada, 97 Nev. 56, 624 P.2d 10 (1981) (pointing out that this court's duty is to decide actual controversies, not to give opinions on moot questions). Second, cross-appellant prevailed below, and as a result, it appeared that cross-appellant was not an aggrieved party with standing to appeal. See NRAP 3A(a); Ford v. Showboat Operating Co., 110 Nev. 752, 877 P.2d 546 (1994); Valley Bank of Nevada v. Ginsburg, 110 Nev. 440, 874 P.2d 729 (1994).

In response, cross-appellant moved to voluntarily dismiss his cross-appeal, and he also filed a document signed by appellant agreeing to the dismissal. Accordingly, we grant the unopposed motion to voluntarily dismiss the cross-appeal. NRAP 42(b).

Appellant, in its timely response, argues that the appeal is not moot because a legal question involving the constitutionality of its application of the ethics laws remains pending. Appellant also argues that even if the appeal is moot, the issues it raises are capable of repetition, yet evading review, and thus fall within an exception to the mootness doctrine. Having considered appellant's response, we conclude that this appeal is moot. Further, the capable of repetition yet evading review exception is not applicable here. Traffic Control Servs. v. United Rentals, 120 Nev. 168, 171-72, 87 P.3d 1054, 1057 (2004) (recognizing that the capable of repetition yet evading review exception to the mootness doctrine applies when the duration of the challenged action is "relatively short," and there is a "likelihood that a similar issue will arise in the future" (citing, among other opinions, Langston v. State, Dep't of Mtr. Vehicles, 110 Nev. 342, 344, 871 P.2d 362, 363 (1994) (pointing out that facts unique to a particular party will not give rise to the mootness exception)). Accordingly, we

ORDER this appeal and cross-appeal DISMISSED.

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Patrick Flanagan, District Judge  
Yvonne M. Nevarez-Goodson  
Sparks City Attorney  
Washoe District Court Clerk  
Stephanie Koetting, Court Reporter