

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHANE MARK BEALS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 36036

FILED

JUL 26 2000

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

ORDER DISMISSING APPEAL

This is an appeal from an order of the district court granting respondent's motion to dismiss appellant's petition for a writ of habeas corpus or, in the alternative, petition for a writ of mandamus.

On October 12, 1988, appellant pleaded guilty to one count of causing substantial bodily harm to another while driving under the influence. The district court sentenced appellant to 15 years in prison. In November 1997, appellant was released on parole. On March 25, 1998, appellant was arrested for speeding, driving without a safety belt and driving under the influence. The Board of Parole Commissioners conducted a hearing on May 22, 1998 and revoked appellant's parole.

Appellant thereafter filed a "petition for a writ of habeas corpus or, in the alternative, a writ of mandamus; denial of right to counsel; motion to stay proceedings." The district court appointed counsel to represent appellant.

Counsel filed a supplemental petition for a writ of habeas corpus.

In January 2000, while the habeas corpus petition was pending, appellant exhausted his sentence and was released from prison. The State then filed a motion to dismiss the petition as moot. Appellant opposed the motion. The district court granted the State's motion, concluding that appellant's discharge from prison upon expiration of his sentence rendered the petition moot. This appeal followed.

Appellant contends that the district court erred in dismissing the petition. Appellant argues, in a rather conclusory fashion, that a valid issue existed on the date the petition was filed and, therefore, the petition is not moot. We disagree.

Although appellant has not provided this court with a copy of his original petition or the supplemental petition, the district court's order indicates that the petition did not attack the conviction. Rather, the petition only challenged the revocation of appellant's parole and alleged, among other things, that the State violated his constitutional rights by refusing to provide counsel to represent appellant at the revocation hearing. We conclude that because the petition challenged the revocation proceedings and appellant is no longer in custody as he has expired his sentence, the petition is moot. See *Spencer v. Kemna*, 523 U.S. 1 (1998).

Accordingly, we conclude that the district court did not err in dismissing the petition.¹ We therefore

ORDER this appeal dismissed.

Young J.
Young

Agosti J.
Agosti

Leavitt J.
Leavitt

cc: Hon. Dan L. Papez, District Judge
Attorney General
Marc P. Picker
Carson City Clerk

¹We note that appellant's reliance on *Stevens v. Warden*, 114 Nev. 1217, 969 P.2d 945 (1998) is misplaced. Stevens does not involve the same issue raised in this appeal.