

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

OMAR QAZI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 69085

FILED

OCT 19 2016

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

Appellant Omar Qazi argues the district court erred in denying his February 4, 2013, petition and May 20, 2013, supplemental petition.¹ During the litigation of this matter before the district court, Qazi's former postconviction counsel informed the district court Qazi had mailed him a letter in which Qazi stated he wished to abandon his pursuit of postconviction relief and counsel presented the letter to the district

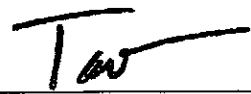
¹The State asserts this appeal has been rendered moot as Qazi has completed his prison sentence and has been released from custody. However, the Nevada Supreme Court has recently held that a postconviction petition for a writ of habeas corpus, which was filed when the petitioner was in custody, does not become moot due to the petitioner's release from custody if collateral consequences exist, and the State does not attempt to rebut the presumption Qazi faces collateral consequences. *Martinez-Hernandez v. State*, 132 Nev. ___, ___, P.3d ___, ___, (Adv. Op. No. 61, August 12, 2016 at 6-7). Therefore, the State fails to demonstrate this matter became moot upon Qazi's release from custody.

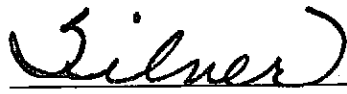
court. The district court concluded Qazi wished to cease the postconviction proceedings and denied the petition on that basis.

Qazi argues the district court erred in determining he wished to abandon the litigation of this matter, particularly in light of Qazi's later court filings that he asserts indicate his intent to further pursue this matter. A review of the letter reveals that Qazi wrote he sought to abandon his habeas petition and no longer wanted to pursue the matter at that time. He then requested his counsel to notify the court of this request. The district court concluded this was a request to abandon this postconviction proceeding and substantial evidence supports that conclusion. *See generally Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005). Therefore, we conclude the district court properly denied the petition.² *See* NRS 34.770(2) (providing that if the district court concludes a petitioner is not entitled to relief or an evidentiary hearing, the district court shall dismiss the petition without a hearing). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

²Qazi argues the district court erred in utilizing the Nevada Rules of Civil Procedure to dismiss this matter. However, the district court's order does not cite those rules when denying the petition and the denial of relief was permitted pursuant to NRS chapter 34. Accordingly, Qazi is not entitled to relief for this issue.

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Matthew D. Carling
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk