

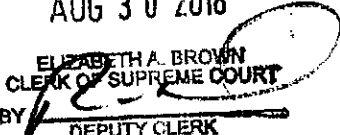
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WES JOSEPH PERTGEN,
Appellant,
vs.
ISIDRO BACA, WARDEN; AND JAMES
DZURENDA, DIRECTOR,
Respondents.

No. 74215

FILED

AUG 30 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Wes Joseph Pertgen appeals from a district court order denying a petition for a writ of mandamus in an inmate litigation matter. First Judicial District Court, Carson City; James Todd Russell, Judge.


Pertgen, an inmate, sought a writ of mandamus directing respondents to respond to his institutional grievance(s). The district court directed an answer, and respondents argued that the petition was moot, as Pertgen's grievance had been responded to. Respondents provided a copy of said response. The district court denied the petition, finding it was moot. This appeal followed.


Pertgen argues on appeal that there were multiple grievances which he sought response to through the petition for writ of mandamus and that not all grievances were responded to. Based upon our review, it appears that Pertgen has obtained the relief sought by his grievances and thus, the issue is moot. Specifically, while Pertgen claims to have filed three grievances which he sought response to, two of the grievances were substantially similar, appear to have been combined, and responded to, such that Pertgen will have his disciplinary matter reheard. As to the other purported grievance, it appears to be asserting that one or both of the grievances noted above were rejected when they should not have been, such that the remedy would be to respond to such grievances. As we noted above, those grievances were responded to. Thus, the issue set forth in this

18-901992

grievance is moot. And because the grievances were responded to or are otherwise moot, Pertgen's underlying writ petition is moot and the district court did not abuse its discretion in denying the petition. See *City of Sparks v. Reno Newspapers, Inc.*, 133 Nev. ___, ___, 399 P.3d 352, 354 (2017) (stating that a district court order resolving a petition for writ of mandamus is reviewed for an abuse of discretion); *Personhood Nev. v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010) (“[A] controversy must be present through all stages of the proceeding and even though a case may present a live controversy at its beginning, subsequent events may render the case moot.” (internal citations omitted)).¹ Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

¹To the extent Pertgen asserts that it was error for the district court to not consider his reply, which was filed after the order denying his petition, it was within the district court's discretion whether to allow a reply, see NRS 34.260, and therefore, there was no error in the court's failure to consider it. Moreover, we note that, even if the district court had considered the reply and documents attached thereto, there is nothing in those documents that would have demonstrated that the petition was not moot.

²In regard to Pertgen's argument that it was error for the district court to not allow him an opportunity to respond to respondents' proposed order prior to the court signing it, any such potential error was harmless and therefore, does not provide a basis for relief. See NRCP 61 (stating that “[t]he court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties”). Finally, to the extent there are any other requests for relief pending in this matter, we deny them as moot in light of this order.

cc: Hon. James Todd Russell, District Judge
Wes Joseph Pertgen
Attorney General/Carson City
Attorney General/Las Vegas
Carson City Clerk