

IN THE SUPREME COURT OF THE STATE OF NEVADA

STATE OF NEVADA, DEPARTMENT
OF HUMAN RESOURCES, DIVISION
OF CHILD AND FAMILY SERVICES,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
ROBERT E. GASTON, DISTRICT
JUDGE,
Respondents.

No. 36893

FILED

FEB 05 2003

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

ORDER DISMISSING PETITION

This is a petition for extraordinary relief challenging a district court order that committed a juvenile delinquent to the Summit View Youth Correction Facility and directed that petitioner be responsible for the cost of the juvenile's care.¹ On October 28, 2002, respondents moved to dismiss this petition as moot. They contend that there is no longer an actual controversy before this court because the respondent judge has been transferred from the juvenile court, Summit View has closed to youth offenders, and the juvenile has been released from parole. Respondents further contend that even if petitioner prevails, there is no person or entity in this case that can be ordered to pay a judgment. In response,

¹This matter began as an appeal, and after determining that we lacked jurisdiction over the appeal, we construed the appeal as a petition for extraordinary relief on June 7, 2002.

petitioner does not dispute that subsequent events have rendered this petition moot, but rather argues that the issues presented by this petition are capable of repetition yet evading review, and thus fall within an exception to the mootness doctrine.

We have held that “the duty of every judicial tribunal is to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles of law which cannot affect the matter in issue before it.”² A case may become moot by events that take place after the initial controversy.³ However, this court may consider a moot question if it is capable of repetition yet evading review.⁴ This doctrine is used when the question of law could never be decided because of the nature of its timing.⁵

Petitioner has not persuaded us that the issues involved are capable of repetition yet evading review. Petitioner has not indicated that other district judges have been or will continue to make similar rulings in juvenile delinquency cases. Additionally, the issues evaded review in this case because petitioner initially pursued this matter as an appeal, and the jurisdictional problem was not apparent until briefing began. But there is

²NCAA v. University of Nevada, 97 Nev. 56, 57, 624 P.2d 10, 10 (1981).

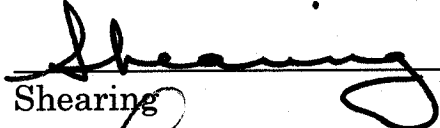
³See Bd. of Cty. Comm’rs. v. White, 102 Nev. 587, 589, 729 P.2d 1347, 1349 (1986).

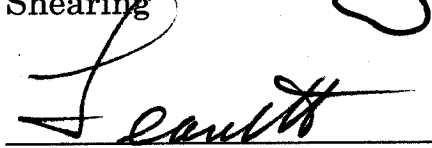
⁴Langston v. State, Dep’t of Mtr. Vehicles, 110 Nev. 342, 871 P.2d 362 (1994); State v. Washoe Co. Public Defender, 105 Nev. 299, 775 P.2d 217 (1989).


⁵Public Defender, 105 Nev. at 301, 775 P.2d at 218.

no indication that the issue is likely to evade review in the future. Accordingly, we grant respondents' motion and dismiss this petition as moot.⁶

It is so ORDERED.


_____, J.
Shearing


_____, J.
Leavitt


_____, J.
Becker

cc: Hon. Robert E. Gaston, District Judge, Family Court Division
Attorney General Brian Sandoval/Carson City
Bruce I. Shapiro, Ltd.
Clark County District Attorney
Clark County Clerk

⁶In light of our order, we deny as moot respondents' September 23, 2002 petition for extension of time and October 28, 2002 motion to appear through private counsel and motion for extension of time, petitioner's November 7, 2002 motion for enlargement of time, and the Clark County District Attorney's September 25, 2002 request for clarification.

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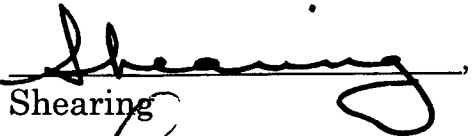
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It is so ORDERED.


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