

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARIA HERNANDEZ CASTRO;
HERNANDEZ CASTRO
CORPORATION, D/B/A DON TORTACO
MEXICAN GRILL #18,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
MARK R. DENTON, DISTRICT JUDGE,
Respondents,

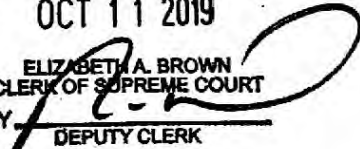
and

APOLINAR IBARRA; DON TORTACO
CORPORATION; AND DON TORTACO
FRANCHISING INC.,
Real Parties in Interest.

No. 79497

FILED

OCT 11 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

*ORDER DISMISSING PETITION FOR WRIT OF PROHIBITION
AND IMPOSING SANCTIONS*

This emergency petition for a writ of prohibition challenges a district court order granting real parties in interest's motion to evict petitioners from the subject premises. The petition was filed on August 29, 2019, and petitioners sought immediate stay relief because the district court's 14-day stay was set to expire the same day. We entered a temporary stay pending receipt and consideration of any opposition and directed an answer to the petition. On September 11, 2019, after considering real parties in interest's opposition to petitioners' stay motion, we denied a stay.

Real parties in interest have now filed their answer to the petition, in which they assert that petitioners have been evicted, such that the petition is moot, and they seek sanctions under NRAP 38 for having to respond to a frivolous motion and petition. Petitioners have filed a reply.

In the reply, petitioners concede that the writ petition is moot, and they oppose the request that NRAP 38 sanctions be imposed.

Having reviewed the parties' arguments, we agree that this writ petition is moot. *Personhood Nev. v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010) (holding that a case that initially presents a live controversy may be rendered moot by subsequent events). Under NRAP 38, attorney fees may be awarded if a writ proceeding is frivolous or frivolously processed by the petitioner. *Breeden v. Eighth Judicial Dist. Court*, 131 Nev. 96, 98, 343 P.3d 1242, 1243 (2015). We agree with real parties in interest that the motion and petition as presented were frivolous, given the procedural history below, *see* NRS 40.251; NRS 40.390; *Callie v. Bowling*, 123 Nev. 181, 183, 160 P.3d 878, 879 (2007) ("This court has recognized that procedural due process requires notice and an opportunity to be heard." (internal quotation marks omitted)), the last-minute timing, and that petitioners failed to include in the appendix their opposition to the district court motion to evict, which, as real parties in interest point out, raised arguments different than those raised before this court. Therefore, we grant the request for NRAP 38 sanctions and award \$500 to real parties in interest in order to help defray the expenses and costs that they have incurred in responding to the stay motion and petition. Petitioners shall have 14 days from the date of this order to file in this court proof of the sanctions' payment. We thus

ORDER this petition DISMISSED.

Hardesty, J.
Hardesty

Stiglich, J.
Stiglich

Silver, J.
Silver

cc: Hon. Mark R. Denton, District Judge
Sgro & Roger
Howard & Howard Attorneys PLLC
Eighth District Court Clerk