IN THE COURT OF APPEALS OF THE STATE OF NEVADA

IN THE MATTER OF THE GUARDIANSHIP OF THE PERSON OF C. W., A PROTECTED MINOR.

MICHELE LYNN WILSON; AND ROBERT CHARLES WILSON,
Appellants,
vs.
C. W., A PROTECTED MINOR; CHRISTINA CASTELLANOS-WILSON; EDWARD HILL; AND MEGAN HILL,
Respondents.

No. 81628-COA

FILED

OCT 25 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER DISMISSING APPEAL

Michele Lynn Wilson and Robert Charles Wilson (hereinafter appellants) appeal from a district court order granting a petition for guardianship. Second Judicial District Court, Family Court Division, Washoe County; Tamatha Schreinert, Judge.

By way of background, the Plumas County Sherriff's Office found 16-year-old C.W. in a remote wooded part of Plumas County, California, having been missing from his home in Reno, Nevada, for eight days. Deputies questioned C.W., who reported that he had run away due to physical and emotional abuse and neglect by appellants. The matter was referred to the proper authorities and ultimately the district court granted guardianship of C.W. to his grandmother over appellants' objections. Appellants appealed the district court's order, arguing that the court's findings that appellants posed a significant safety risk of physical and emotional danger to C.W. were not supported by substantial evidence in the

record sufficient to overcome the parental preference for returning C.W. to them under NRS 159A.061(1).

While their appeal was pending, C.W. turned 18 years old,[1] which automatically terminated the guardianship pursuant to NRS 159A.191, unless there was a consent to continue the guardianship filed with the district court at least 14 days before the date that C.W. turned 18. *See* NRS 159A.191(d)-(e). If the guardianship had automatically terminated, it appeared the present appeal would be moot. As it was unclear whether the guardianship had automatically terminated or had been continued by consent, this court entered an order to show cause as to why the appeal should not be dismissed for mootness, and appellants filed a response. No reply was filed by respondents. Appellants' response did not argue or provide any documentation that the guardianship had been continued by consent. Rather, appellants argue that their appeal is not moot because it involves a matter of widespread importance, which is capable of repetition, yet evading review. Specifically, appellants contend that the district court's order impacts their fundamental rights as parents and may adversely affect them in future litigation or in seeking licensure. We are not persuaded.

Under Nevada law, "[a] moot case is one which seeks to determine an abstract question which does not rest upon existing facts or rights." *NCAA v. Univ. of Nev., Reno*, 97 Nev. 56, 58, 624 P.2d 10, 11 (1981). "Cases presenting real controversies at the time of their institution may become moot by the happening of subsequent events." *Id.* "Generally, this

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[1]C.W.'s date of birth is August 13, 2003.

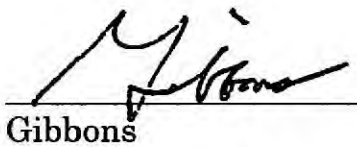
court refuses to determine questions presented in purely moot cases." *In re Guardianship of L.S. & H.S.*, 120 Nev. 157, 161, 87 P.3d 521, 523 (2004) (internal quotation marks omitted). However, "where an issue is capable of repetition, yet will evade review because of the nature of its timing, we will not treat the issue as moot." *Id.* at 161, 87 P.3d at 524. The capable-of-repetition-yet-evading-review doctrine is applicable "only in exceptional situations." *Id.* "The challenged action must be too short in its duration to be fully litigated prior to its natural expiration, and a reasonable expectation must exist that the same complaining party will suffer the harm again." *Id.*

Here, appellants' argument fails to meet the capable-of-repetition-yet-evading-review exception. As of August 13, 2021, the minor guardianship of C.W. expired, and is not capable of being reinstated based on future events, because C.W. is no longer a minor as he has reached the age of majority. To the extent that appellants suggest that there is ongoing harm to them as a result of the district court's order, they have failed to point to any existing controversy that this court could consider. *See Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 887, 141 P.3d 1224, 1231 (2006) (noting that "[a]lleged harm that is speculative or hypothetical is insufficient: an existing controversy must be present"). Based on the record, the district court's order establishing a guardianship over C.W. is no longer in effect. Appellants' only identified existing controversy—whether C.W.'s

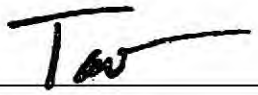
guardianship was proper—is no longer at issue, and thus, this appeal is moot.[2]

Therefore, we

ORDER this appeal DISMISSED.



_____, C.J.
Gibbons



_____, J.
Tao

_____, J.
Bulla

cc: Hon. Tamatha Schreinert, District Judge, Family Court Division
Jonathan H. King
Christina Castellanos-Wilson
Edward Hill
Washoe Legal Services
Megan Hill
Washoe District Court Clerk

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[2]Appellants alternatively argue that this court should vacate the below order, even if it is considered moot, pursuant to the voluntary-cessation exception of the mootness doctrine. *See Rio Grande Silvery Minnow v. Bureau of Reclamation*, 601 F.3d 1096, 1121 (10th Cir. 2010). The voluntary cessation exception is inapplicable here, as the matter was mooted by C.W. reaching the age of majority, and the issue is now incapable of repetition.