

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES LEE LIKE,

No. 38035

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

**FILED**

**AUG 07 2001**

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's petition for a writ of mandamus.

On March 14, 2001, appellant filed a proper person petition for a writ of mandamus in the district court. In his petition, appellant requested the district court order the Nevada Department of Prisons to temporarily transfer him to Logan, Utah for the purpose of attending a hearing on a petition filed in Utah. Appellant attached to his petition a copy of an order of the Utah court setting a hearing date for May 7, 2001. The State opposed the petition for a writ of mandamus. Appellant filed a reply. On May 22, 2001, the district court denied appellant's petition for a writ of mandamus. This appeal followed.

On July 17, 2001, the State filed a motion to dismiss this appeal because the issue raised is moot. Specifically, the State argues that the issue is moot because the date of the hearing, May 7, 2001, has passed. On July 26, 2001, this court received a proper person opposition to the motion to dismiss. Appellant argues that the appeal is not moot because on April 4, 2001, the Utah court stayed the date of the hearing pending resolution of the petition for a writ of mandamus filed in Nevada.

01-13323

We deny the State's motion to dismiss this appeal as moot because the date of the hearing has been stayed. We have reviewed the record on appeal, and for the reasons stated in the attached order of the district court, we conclude that the district court did not abuse its discretion in denying appellant's petition.<sup>1</sup>

Having reviewed the record on appeal and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.<sup>2</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

Young, J.  
Young

Leavitt, J.  
Leavitt

Becker, J.  
Becker

cc: Hon. Richard A. Wagner, District Judge  
Attorney General  
James Lee Like  
Pershing County Clerk

<sup>1</sup>See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981); see also Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982).

<sup>2</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976).

<sup>3</sup>We have considered all proper person documents filed or received in this matter.



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1 requires Nevada to finance that challenge or transport him to Utah so that he can pursue his  
2 challenge. Neither *Barrett v. Baird*, 111 Nev. 1496, 908 P.2d 689 (1995), nor the other cases  
3 cited by Like support his proposition. Like initiated the challenge to his conviction in Utah. He  
4 must bear the expense of it.

5 In the Utah court's order attached to his petition, the court notes that it is up to Like to  
6 arrange his appearance there. The Utah court also notes that its order shall in no way be  
7 construed to create any duty on the part of the State of Utah or any other law enforcement agency  
8 of the State of Utah or any of its political subdivisions to pay for Like's transportation costs. Just  
9 as obviously, none of the costs are Nevada's.

10 If the Utah court deems Like's presence necessary, it is up to that court or to Like to  
11 ensure his presence there. Contrary to Like's representation, there may be a plain, speedy and  
12 adequate remedy. It is at least remotely conceivable that Like or the Utah court could utilize the  
13 process for the interstate rendition of a material witness. Of course, it remains to be seen  
14 whether the Utah court would authorize such a process if it knew the true state of affairs  
15 regarding Like's status as an inmate.

16 If Utah believes that Like needs to be at that or any other hearing, that State can make  
17 arrangements for his appearance and bear the cost.

18 It is hereby ORDERED, ADJUDGED and DECREED, that the petition for writ of  
19 mandamus is DENIED.

20 DATED this 25<sup>th</sup> day of May, 2001.

21 Richard A. Wagner  
22 DISTRICT JUDGE  
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