

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY JOSEPH BATOR AND  
ROBERT LINCOLN EDDY,  
Appellants,

vs.

THE STATE OF NEVADA  
DEPARTMENT OF WILDLIFE; THE  
STATE OF NEVADA DEPARTMENT  
OF CONSERVATION AND NATURAL  
RESOURCES; TERRY CRAWFORD;  
AND R. MICHAEL TURNIPSEED,  
Respondents.

No. 41051

FILED

AUG 25 2003

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

ORDER GRANTING MOTION TO  
DISMISS APPEAL

This is a proper person appeal from a district court order granting a change of venue. Appellants filed a complaint for a declaratory judgment in the Fifth Judicial District Court against the State of Nevada Department of Wildlife, State of Nevada Department of Conservation and Natural Resources, Terry Crawford, and R. Michael Turnipseed (collectively "the State"). Appellants' complaint challenged the State's authority to regulate appellants' possession and sale of Australian freshwater lobsters. The State filed a motion in the Fifth Judicial District Court for a change of venue to the Second Judicial District Court. The Fifth Judicial District Court granted the change of venue. Appellants appealed from the order granting the venue change.

However, before appellants filed their complaint, the State filed a similar complaint for declaratory relief in the Second Judicial District Court against appellants. Subsequently, the Second Judicial District Court entered a declaratory judgment and order in the State's action. The order concluded that appellants were operating in violation of Nevada's wildlife laws, which the district court concluded were constitutional. Appellants did not appeal from the Second Judicial District Court's order. Thereafter, the State moved to dismiss this appeal as moot.

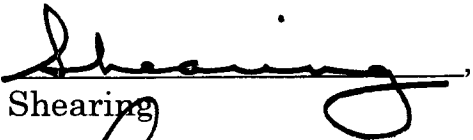
Res judicata precludes parties or those in privity with them from relitigating a cause of action or issue that has been finally determined by a court of competent jurisdiction.<sup>1</sup> Here, the State's action filed in the Second Judicial District Court, and appellants' action originally filed in the Fifth Judicial District Court involved identical issues and identical parties. The Second Judicial District Court's judgment was on the merits and final. Thus, even if this court granted appellants' requested relief in this appeal and reversed the Fifth Judicial District Court's order granting a change of venue, res judicata bars appellants from relitigating the underlying issues. Because this court is unable to

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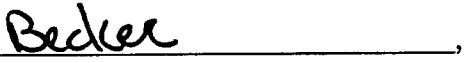
<sup>1</sup>University of Nevada v. Tarkanian, 110 Nev. 581, 598, 879 P.2d 1180, 1191 (1994), modified on other grounds by Executive Mgmt. v. Ticor Title Ins. Co., 114 Nev. 823, 963 P.2d 465 (1998).

grant any effective relief to appellants, this appeal is moot.<sup>2</sup> Accordingly, the State's motion to dismiss is granted.

It is so ORDERED.<sup>3</sup>

  
Shearing, J.

  
Leavitt, J.

  
Becker, J.

cc: Hon. Robert W. Lane, District Judge  
Attorney General Brian Sandoval/Carson City  
Anthony Joseph Bator  
Robert Lincoln Eddy  
Mineral County Clerk

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<sup>2</sup>See Langston v. State, Dep't of Mtr. Vehicles, 110 Nev. 342, 344, 871 P.2d 362, 364 (1994).

<sup>3</sup>Although appellants were not granted leave to proceed in proper person, see NRAP 46(b), we have considered the proper person documents received from appellants. Appellants' documents challenge the Second Judicial District Court's declaratory judgment in the State's action. However, because appellants did not appeal the Second Judicial District Court's judgment, the issues presented by that judgment are not before this court. We direct the clerk of this court to return unfiled the State's answering brief and appendix to answering brief, received May 6, 2003.